



Division of Watershed Stewardship  
Drainage Program  
21309 Berlin Rd., Unit 6  
Georgetown, DE 19947

## DNREC Drainage Program's Tax Ditch Guidelines for Land Development Plans

These guidelines are intended to serve as a starting point for any land development plan that is proposed on a parcel or parcels that have tax ditch (TD), tax ditch right-of-way (ROW), and/or tax ditch watershed boundary on or near them. Use of these guidelines can reduce the review time and number of comments from the Delaware Department of Natural Resources and Environmental Control (DNREC) Drainage Program review for tax ditch impacts. These guidelines are not intended to be a comprehensive list of all potential issues.

Please keep in mind that tax ditches and their rights-of-way are legally created entities and can only be changed through legal channels. The following items will necessitate a Court Order Change (COC).

- Relocating, piping, or eliminating a tax ditch section.
- Any changes to the right-of-way.
- Any changes to the drainage boundaries of the tax ditches.

In order to complete a COC, all landowners (including anyone in the upstream drainage area) who will be affected by this change will need to sign the COC. If the parcel is subdivided, prior to the completion of the COC more parcels would then become signers. It will be the requesting party/project owner's responsibility to obtain signatures of all required landowners on the COCs. Our office will assist by drafting the COC documents once we have received the final Sediment and Stormwater Plans for your project. For Sussex County they should be sent to the DNREC Drainage Program from the Sussex Conservation District (SCD). Please be aware the Letter of No Objection will not be issued until the COC documents are signed by all parties. This process takes time.

### General Plan Requirements

- a. Please clearly delineate and label tax ditches, including their section (i.e. Main, Prong 1, etc.) and provide dimensions for associated right-of-way (ROW) on all sheets where it appears, including on adjacent properties that appear on the sheet. Please note that the rights-of-way (ROW) should not be labeled as buffers or easements. Also label if the ROW is centerline (CL) or top of bank (TOB). This information is available on the [Delaware Tax Ditch Map](#) and shapefiles can be obtained from [FirstMap](#).
- b. Permanent obstructions, including but not limited to; stormwater management facilities, buildings, sheds, streets, fences, landscaping, wells, and septic systems are not allowed within the tax ditch ROW. Stormwater facility outfalls may cross the ROW. See Maintenance Structure Responsibilities section.



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- c. The integrity of the tax ditch channel, bank, and right-of-way (ROW) access cannot be compromised by any proposed activities, and the right-of-way must remain traversable for mowing, large maintenance equipment and/or disposal of soil. This includes stockpiles, silt fence and dewatering bags. Tax ditch ROW are utilized for access as well as sediment and debris disposal during tax ditch maintenance activities.

### Utilities

- a. Utilities must be installed with a minimum of 3 ft. of cover beneath the tax ditch as-built elevation/grade or existing ditch bottom, whichever is deeper.
- b. Utility crossing at a proposed or existing culvert is preferred.
- c. If utility cannot be installed a minimum of 3' beneath tax ditch design grade, it must have concrete encasement.
- d. All gas lines **must** have concrete encasement.
- e. Utilities of any kind crossing the tax ditch and/or right-of-way must submit associated profiles.
- f. Utility poles or boxes must be installed a minimum of 25' from top of ditch bank (TOB). A minimum clearance of 25' must remain for any access points to the tax ditch right of way (ROW). If guy wires are required, the guy wires must not encroach into the 25' wide clearance needed between the pole and tax ditch bank or tax ditch ROW access point(s).

### Maintenance/Structure Responsibilities:

*Stormwater Management Facilities and associated infrastructure are the responsibility of the private landowner even if located within the tax ditch channel.*

- a. Any **riprap** installed in the channel should be installed so that the top of the riprap is at or below existing grade as to not create a hydraulic obstruction.
- b. Any **stormwater outfall** open channel located in the ROW must be traversable or a special access right-of-way (SAR) may be required all the way around the facility. "Traversable", for the purpose of mowing equipment, shall mean at least 10:1 slopes or flatter and TRM instead of riprap.



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- c. Maintenance of any **private crossings** (crossings for which are the benefit of the landowner) located within the tax ditch channel and/or rights-of-way are the responsibility of the landowner, not the tax ditch organization.
- d. Maintenance of the **stormwater management facilities** and associated features located within or along the tax ditch channel including the rock outlet protection are the responsibility of the landowner, not the tax ditch organization.
- e. Maintenance and repair of any damage that may occur to roadways, riprap, and any other features within the tax ditch rights-of-way, during tax ditch maintenance, is the responsibility of the landowner, not the tax ditch organization.

### **Tax Ditch Recommendations**

- a. Existing tax ditches on the property should be surveyed and compared to tax ditch design specifications for effective function. The channels should be cleared or excavated prior to the construction of the project if needed. Contact the DNREC Drainage Program for tax ditch design specifications.
- b. Environmental permit coverage or exemptions may be necessary from the County Conservation District (Standard Plan), DNREC Sediment and Stormwater (eNOI/NOT), U.S. Army Corp of Engineers (USACE), and/or DNREC Wetlands and Subaqueous Lands Section (WSLS) prior to clearing and/or excavating tax ditch channels.
- c. All precautions should be taken to ensure the project does not hinder any off-site drainage upstream of the project or create any off-site drainage problems downstream by the release of on-site storm water.
- d. When scheduling the pre-construction meeting for this project, please contact the DNREC Drainage Program.

**Contact the DNREC Drainage Program at (302) 855-1930, [DNREC\\_Drainage@delaware.gov](mailto:DNREC_Drainage@delaware.gov) or [de.gov/taxditch](http://de.gov/taxditch) for questions or to discuss the on-site tax ditch impacts. Please use this form to request our office to review your project.**