



**STATE OF MISSISSIPPI
OFFICE OF THE STATE AUDITOR
SHAD WHITE
STATE AUDITOR**

Frequently Asked Questions – Work on Private Property

Gravel/Dirt Spread and Other Actions by Local or State Government on Private Property

Article IV, Section 66 of the Mississippi Constitution of 1890 prohibits the government from making a donation unless a law specifically allows it. A donation is something given for the benefit of a private person or company, rather than for the benefit of the public. The following are examples of items often presented to county or city officials which are covered by Section 66 as a donation and therefore prohibited by the law.

Gravel or Dirt Spread on Private Property

Question: "I see that some of my neighbors have gravel spread on their driveway by the County, can I have them come spread gravel on mine?"

Answer: Generally, the answer is no. There are situations where a county or municipality is responsible for a school bus turnaround and therefore has the responsibility to maintain a safe route for the bus and students. The school submits a list every year of places they want the county/city to maintain so that the school bus can turn around. Sometimes these turnarounds are private driveways, but the maintenance is to protect students riding the bus and is not done at the request of the landowner for their benefit, but by the school.

Road and Right of Way Maintenance

Question: "The County did a lot of work on my neighbor's property and even installed a culvert for them. Can I have them come do the same for my property?"

Answer: Some of the work you see on the roadside is perfectly legal and not in violation of Section 66. For example, a county generally has a right-of-way that runs along each side of a public road. That gives them the authority to do things like clearing out the ditches, since the Mississippi Code (Section 19-3-41) makes the supervisors responsible for maintaining public roads (they have "jurisdiction over roads, ferries and bridges"), which includes the road bed and shoulder. This also allows the county to put in a culvert over the right-of-way. A person needs access to his or her property, and if he just dumped a load of dirt in the ditch to gain access, the road would flood at the first rain. So putting in a culvert allows access and protects the road and the drivers on the road. Additional culverts or abnormally long ones are not usually allowed, since those are for the benefit of the landowner (a donation), rather than for the benefit of the public.

Clean Up and Repairs After a Natural Disaster

Question: "After a strong storm that left a lot of property damage, there was some clean up by the City on my neighbor's property but not on mine. How do I get the City to clean up and repair my property?"

Answer: A municipality is authorized, pursuant to Mississippi Code Annotated Section 33-15-49, to use its equipment and employees "as necessary to venture onto private property to remove debris and to perform any other necessary and needed services to prevent the spread of disease or any other health hazard to the community at large." That authority is triggered by an emergency proclamation by the President, Governor or the municipal governing authorities. The authority ceases to be in effect when the removal of the debris and elimination of any other health hazards caused by the emergency have been completed, so not all properties will be included in the needed cleanup process.

Correct Unsafe Conditions and Alleviate Flooding

Question: “The City did a lot of work on and cleaned up the creek behind the houses in our neighborhood one street over from mine, but hasn’t done anything on the one behind my house. Why not?”

Answer: A municipality may perform work on private property for the purpose of maintaining and preventing flooding on city streets and to correct unsafe conditions or alleviate erosion or flooding. In addition (as stated above), a municipality is authorized, upon the issuance of an emergency declaration, to use its equipment and employees to remove debris and to perform any other necessary and needed services to prevent the spread of disease or any other health hazard to the community at large. Depending on the facts of each case, a landowner may have a duty to take measures on his property to mitigate damages to a public street.

The above items are given as examples of frequently asked questions presented to City and County officials.

If you have questions, you can contact the State Auditor’s Office at 1-800-321-1275.

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