



# City of North Port

## ORDINANCE NO. 2020-21

1           **AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE CODE OF THE**  
2           **CITY OF NORTH PORT, FLORIDA, SECTION 42-24 – MAINTENANCE OF STORMWATER**  
3           **DRAINAGE AREA; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY;**  
4           **PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**  
5

6           **WHEREAS**, Section 42-24 of the Code of the City of North Port, Florida requires property owners to  
7           maintain, at their own expense, the swale area from the edge of the pavement to the owner’s property  
8           line; and  
9

10           **WHEREAS**, this maintenance includes mowing and edging grass and weeds and keeping these areas free  
11           of litter and debris; and  
12

13           **WHEREAS**, during the rainy season a swale may become saturated with water, making grass, weeds, and  
14           other plants growing in the center of the swale difficult or impossible for a lot owner to remove before it  
15           become excessive growth, and the City Commission desires to provide lot owners with an exception to  
16           the City’s maintenance requirement when water saturation interferes with proper swale maintenance;  
17           and  
18

19           **WHEREAS**, the City Commission has determined that the proposed amendments serve the public health,  
20           safety, and welfare of the citizens of the City of North Port, Florida.  
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22           **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:**  
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24           **SECTION 1 – FINDINGS**  
25

26           1.01     The recitals outlined above are incorporated by reference as findings of fact as if expressly set  
27           forth herein.  
28

29           **SECTION 2 - ADOPTION**  
30

31           2.01     The City Commission hereby approves and adopts the following amendments to the Code of the  
32           City of North Port, Florida:  
33

34           **“CHAPTER 42 - NUISANCES**  
          ...  
          ...

## ARTICLE II. - LOT CLEARING

...

## Section 42-24 - Maintenance of stormwater drainage area.

(a) ~~Owners of all lots shall be~~ Every lot owner is responsible for ~~maintenance of the maintaining~~ stormwater drainage systems within the city's road rights-of-way located adjacent to their lot, unless excused from this responsibility as further provided by this section. except when otherwise specified in writing by the city. These maintenance responsibilities are include, but shall not be limited to, the following areas:

(1) Open swale drainage (without sidewalk) – From the edge of the pavement to the owner's unencumbered lot line (see ~~exhibit~~ EXHIBIT A).

a. Maintain and replace as necessary the lot owner's culvert pipe beneath any driveway crossing the swale. If culvert replacement is a result of a drainage improvement or modification initiated by the city, or damaged by the public's use of right-of-way, the ~~remedy shall be at the city's expense~~ city will be responsible for the replacement.

b. Properly mowing the grassed area within the swale to effectively maintain the flow of stormwater through the culvert and to maintain a neat appearance free from excessive growth and impinging growth, including the removal of grass, weeds, bushes, sand, silt, and any other debris at both ends of any driveway culvert pipe. ~~to effectively maintain flow of stormwater through the culvert, except as Failure to abide by this maintenance requirement is a violation to this code unless otherwise excused as provided for in subsections (8) and (9) provision eight of this section, or by written agreement by the city~~

c. Lot owners ~~shall not be~~ are not responsible for regrading swales within the city's road rights-of-way adjacent to their lot. ~~Upon following completion of a construction project, all~~ All regrading of swales to design elevation within city drainage or road rights-of-way (ROW), will be is the responsibility of the department of public works. (See ~~chapter 18, B, 7 of the city's Unified Land Development Code~~). Exception: A However, a lot owner is responsible for repairing damage which they or their guests have caused, ~~i.e.,~~ including ruts from ~~their~~ vehicles traversing the swale, but not for damage caused by the public's use of right-of-way.

(2) Open swale drainage (with sidewalk) – From the edge of the pavement to the owner's unencumbered lot line (see ~~exhibit~~ EXHIBIT B).

a. Maintain and replace as necessary the lot owner's culvert pipe beneath any driveway crossing the swale. If culvert replacement is a result of a drainage improvement or modification initiated by the city or damaged by public's use of the right-of-way, the remedy shall be at the city's expense.

b. Properly mowing the grassed area ~~to maintain~~ within the swale to effectively maintain the flow of stormwater through the culvert and to maintain a neat appearance free from excessive growth and impinging growth, including the removal

80 of grass, weeds, bushes, sand, silt, and any other debris at both ends of any driveway  
 81 culvert pipe, ~~to effectively maintain flow of stormwater through the culvert, except~~  
 82 ~~as Failure to abide by this maintenance requirement is a violation to this code unless~~  
 83 otherwise excused as provided for in subsections (8) and (9) ~~provision eight~~ of this  
 84 section, ~~or by written agreement by the city~~ or where the city owns the right-of-way  
 85 in fee title.

86  
 87 c. Maintain the sidewalks adjoining the lot by keeping the sidewalks in a clean and  
 88 sanitary condition, which includes mowing and edging grass and weeds, both  
 89 between the sidewalk joints and alongside the edge of pavement, ~~except as otherwise~~  
 90 ~~provided for by written agreement~~ or where the city owns the right-of-way in fee title.

91  
 92 d. Lot owners ~~shall not be~~ are not responsible for regrading swales within the city's road  
 93 rights-of-way adjacent to their lot. ~~Upon following~~ completion of a construction  
 94 project, ~~all~~ All regrading of swales to design elevation within city drainage or road  
 95 rights-of-way (ROW), ~~will be~~ is the responsibility of the department of public works.  
 96 ~~(See chapter 18, B, 7 of the city's Unified Land Development Code). Exception: A~~  
 97 However, a lot owner is responsible for repairing damage which they or their guests  
 98 have caused, ~~i.e.,~~ including ruts from ~~their~~ vehicles traversing the swale, but not for  
 99 damage caused by the public's use of the right-of-way.

100  
 101 (3) Curb and gutter – From the edge of the curb to the owner's unencumbered property line  
 102 (See ~~exhibit~~ EXHIBIT C). If there is an existing sidewalk, the same requirements shall apply  
 103 as in subsection (a)(2) ~~for~~ open swale drainage (with sidewalk) ~~above~~. In addition, curbs,  
 104 gutters, and catch basins ~~shall~~ must be kept free of litter and debris.

105  
 106 (4) Fully piped swale – From the edge of the pavement to the owner's unencumbered lot line  
 107 (See ~~exhibit~~ EXHIBIT D). If there is an existing sidewalk, the same requirements shall apply  
 108 as in subsection (a)(2) ~~for~~ open swale drainage (with sidewalk) ~~above~~. It ~~shall be~~ is the lot  
 109 owner's responsibility to maintain, repair, and replace, when necessary, any structure  
 110 which they, a previous lot owner, or any entity other than the city or the city's contractor,  
 111 ~~have~~ installed in the city's right-of-way for their special benefit.

112  
 113 (5) Removing trash, debris, litter or other items from the swale area to prevent obstruction  
 114 or partial obstruction of the driveway culvert and swale.

115  
 116 (6) Where a plastic pipe flowliner has been installed in the swale, remove silt, litter, debris,  
 117 grass, and weed clippings from the liner so the flowliner remains unobstructed and allows  
 118 the stormwater to freely flow downstream to the outfall.

119  
 120 (7) The tires of automobiles, trucks, boats, trailers, utility trailers, recreational vehicles and  
 121 travel trailers ~~shall~~ must not be parked directly over the plastic pipe flowliner material.

122  
 123 (8) Where a swale area has a slope greater than a two to one (2:1) ratio and the lot owner is  
 124 unable to maintain the swale area, the lot owner may make a written request to the public  
 125 works director for the public works department to maintain this swale area. The public  
 126 works director or ~~his or her~~ designee ~~shall~~ will conduct an on-site inspection of the subject

swale area. Once there is confirmation that the swale area has a slope greater than a two to one (2:1) ratio, the public works director will respond to the lot owner’s request in writing excusing the lot owner from the maintenance requirement and ~~also~~ include a schedule of city provided maintenance schedule.

(9) When the center of the swale adjacent to a lot owner’s property is saturated with water, the owner is not required to maintain the center of the saturated swale free from excessive growth. However, no later than 30 days after a previously saturated swale has no visible signs of water remaining in it, or within 30 days of the swale being dry enough to resume maintenance the owner’s duty resumes to maintain the swale free from excessive growth in its entirety.”

**SECTION 3 - CONFLICTS**

3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance or portions thereof, the provisions of this ordinance shall prevail to the extent of such conflict.

**SECTION 4 - SEVERABILITY**

4.01 If any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 5 - CODIFICATION**

5.01 In this ordinance, additions are shown as underlined and deletions as ~~strikethrough~~. Any additional codification information and notations appear in italics. These editorial notations shall not appear in the codified text.

**SECTION 6 - EFFECTIVE DATE**

6.01 This ordinance shall take effect immediately upon adoption by the City Commission of the City of North Port, Florida.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public session on the \_\_\_\_ day of \_\_\_\_\_ 2020.

PASSED and DULY ADOPTED by the City Commission of the City of North Port, on the second and final reading in public session this \_\_\_\_ day of \_\_\_\_\_ 2020.

CITY OF NORTH PORT, FLORIDA

\_\_\_\_\_  
DEBBIE MCDOWELL  
MAYOR

174 ATTEST

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178 \_\_\_\_\_  
HEATHER TAYLOR, CMC

179 CITY CLERK

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182 APPROVED AS TO FORM AND CORRECTNESS

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186 \_\_\_\_\_  
AMBER L. SLAYTON

187 CITY ATTORNEY