



City of North Port

ORDINANCE NO. 2017-09

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING PART II, CHAPTER 42, ARTICLE II, OF THE CITY OF NORTH PORT CODE, REPEALING ARTICLE II LOT CLEARING IN ITS ENTIRETY, ENACTING A NEW ARTICLE II LOT CLEARING, SECTIONS 42-19 LEGISLATIVE INTENT AND DECLARATION, 42-20 APPLICABILITY, 42-21 DEFINITIONS AND WORD USAGE, 42-22 EXCESSIVE GROWTH AND IMPINGING GROWTH; HAZARDOUS TREES, 42-23 ACCUMULATION OF DEBRIS, 42-24 ~~RESPONSIBILITIES OF LOTS FOR SALE OR RENT~~, 42-25 MAINTENANCE OF STORMWATER DRAINAGE AREA, 42-~~2625~~ ENFORCEMENT AND NOTICE OF PROHIBITED CONDITIONS, 42-~~2726~~ CONDITION MAY BE ABATED BY THE CITY AND LIEN RIGHTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Part II, Chapter 42, Article II, LOT CLEARING is being recreated with revised and updated provisions.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1. The City of North Port Code of Ordinances, Part II, Chapter 42, Article II. LOT CLEARING is hereby repealed in its entirety and recreated as follows:

ARTICLE II. LOT CLEARING

Sec. 42-19. Legislative intent and declaration.

(a) The city commission hereby declares its intent and purpose in adopting this article to protect the health, safety and general welfare of its citizenry and to enhance the properties and premises within this municipality by eliminating impinging growth, excessive growth of grass and nuisance weeds on developed lots, hazardous trees on any lot, the accumulation of unusable household items, trash, lumber or any other building materials or equipment ~~which have no further value for which immediate use cannot be established~~, tires, parts of vehicles or any other items which create a fire and/or health hazard or creates an unnatural breeding place for snakes, rats, mosquitoes or any vermin, emit noxious odors, or other unsanitary or unsafe conditions and in general appearance and condition, creates a slum appearance which tends to have a decreasing value effect on the neighboring property and premises.

(b) The city commission further declares such conditions to be a public nuisance and detrimental to the health, safety and general welfare of the citizenry of this municipality.

Sec. ~~40-20~~ 42-20. Applicability

All property owners who own a lot located within the corporate limits of this municipality shall be subject to and included under the provisions of this article.

Sec. 42-21. Definitions and word usage.

(a) When ~~not inconsistent~~ consistent with the context, words used in the present tense include the future; words in the plural number include the singular number; words in the singular number include the plural; and words in the male gender include the female gender. The word "shall" is always mandatory and not merely directory.

(b) For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings given herein:

Abate. To remove or otherwise remedy a condition by such means and in such manner and to such an extent as necessary in the interest of the general health, safety and welfare of the community as determined by the City.

Accumulation of debris. Includes but is not limited to the accumulation of unusable household items, trash, lumber or any other building materials or equipment ~~which have no further value for which immediate use cannot be established~~, tires, parts of vehicles or any other items which create a fire and/or health hazard or creates an unnatural breeding place for snakes, rats, mosquitoes or any vermin, emit noxious odors, or other unsanitary or unsafe conditions and in general appearance and condition, creates a slum appearance which tends to have a decreasing value effect on the neighboring property and premises.

Commercial building. Includes any structure which is intended to be occupied for business; the rendering of professional services; the sale or display of merchandise; the supplying of food and drink; educational or instructional purposes; penal or correctional purposes, medical, charitable or other care or treatment purposes; amusement purposes; storage of goods, wares or merchandise; the performance of work or labor in connection with the fabrication, assembly, processing, etc., of products or materials; or any other purpose normally recognized as commercial and/or industrial.

Developed. A lot that has been improved and permitted for residential, business or recreational purposes or structures thereon.

Dwelling. Includes any structure in which families or households live or in which sleeping accommodations are provided, including, without limiting the generality of the foregoing, single-family homes, mobile homes, multiple dwellings, hotels, motels, dormitories, lodging houses, convents, apartments, condominiums and monasteries.

Excessive growth. Growth of grass and nuisance weeds in excess of 12 inches in height.

Hazardous tree. A live tree that is unstable due to structural defects, disease or other factors, or a dead tree, either of which a failure to all or part of the tree would be within striking distance of people, structures or other objects.

Impinging growth. The growth of shrubs, trees, branches, bushes or any natural vegetation upon a lot that extends beyond the legal boundaries of that lot.

Improved. Land that its natural state has been altered [and maintained](#).

Lot. Refers to "lot" as shown by a plat of a subdivision, duly recorded in the public records of Sarasota County, Florida, or any other lot, parcel or tract of land located within the municipal boundaries of the City of North Port.

Nuisance Weeds. Uncultivated vegetation that is useless, unintended and invasive to cultivated grasses and landscaped areas.

Occupied. Inhabited as a dwelling or used as a commercial building.

Plastic pipe flowliner. A one-quarter portion of a 12-inch diameter corrugated smooth bore plastic pipe installed in the swale flowline.

Swale. The depressed earthen sodded area immediately adjacent to the paved travel way and used for stormwater drainage purposes; usually located between a street/road and the private property line.

Sec. 42-22. Excessive and impinging growth; hazardous trees.

a) It shall be unlawful for any owner of a lot to permit the excessive growth of grass and nuisance weeds on sodded or seeded grass areas or within cultivated landscaped areas on a developed lot.

(b) It shall be unlawful for any owner of any lot to permit impinging growth upon improved City right-of-way, sidewalks and/or streets, or road right-of-way easement except that branches of trees at least eight (8) feet above the surface of a sidewalk or at least fourteen (14) feet above the surface of the portion of the street used for vehicular traffic, whether planted in the right-of-way area or upon private property, may be permitted with authorization by the City and in accordance with any applicable City Code.

(c) It shall be unlawful for any owner of any lot to permit impinging growth upon an abutting improved or developed lot, provided that:

1) Enforcement of this provision is limited to verified complaints received by the city from an owner of a lot that abuts the rear or side of a lot where there is impinging growth.

~~2) Owners of any lot adjacent to an improved or developed lot may be exempt from this provision providing an affidavit is submitted to the city from an applicable adjacent improved or developed lot owner indicating that said lot owner does not object to the encroachment of shrubs, trees, branches, bushes or any natural vegetation from the abutting lot.~~

(d) A hazardous tree on any lot that poses an actual hazard or damage to the public, rights-of-way or utilities as determined by the City or to an adjacent lot upon a complaint by the adjacent lot owner, tenants, lessees, or occupants, are hereby declared to be a public nuisance. ~~Upon notice it~~ It shall be the responsibility of the owner of any lot to remove or cause to be removed any such hazardous tree on their lot, however the City is empowered at the owner's expense to immediately abate a hazardous tree if it is determined by the city to be an emergency hazardous situation.

~~(e) Owners of any lot shall not be required to remove nuisance weeds, grass, bushes, trees, or other vegetative material if such removal would destroy the existing habitat of the Florida Scrub Jay, gopher tortoise, black indigo snake, or any other state or federally endangered species.~~

~~(f) In the event the lot owner and or responsible party fails to properly maintain their lot in accordance with the standards herein, the City may abate the violation in whole or in part as may be necessary in accordance with sections 42-26 and 42-27 to bring the lot into~~

~~compliance with this section. The City shall not be responsible for any damage to other vegetation that is in the vicinity of such abatement activity.~~

Sec. 42-23. Accumulation of debris.

It shall be unlawful for any owner of any lot to accumulate or permit the accumulation of, including, but not limited to, unusable household items, trash, lumber or any other building materials or equipment ~~which have no further value for which immediate use cannot be established~~, tires, parts of vehicles or any other items which create a fire and/or health hazard or creates an unnatural breeding place for snakes, rats, mosquitoes or any vermin, emit noxious odors, or other unsanitary or unsafe conditions and in general appearance and condition, creates a slum appearance which tends to have a decreasing value effect on the neighboring property and premises.

~~**Sec. 42-24. Responsibilities of lots for sale or rent.**~~

~~(a) Owners of any lot shall continue to be responsible for the proper maintenance of such lot as prescribed herein even if said lot has been listed for sale, rent or lease with any real estate agent or broker.~~

~~(b) Where a real estate agent or broker has contractually accepted any lot for maintenance or management, said real estate agent or broker shall be responsible, together with owner of such lot, for the proper maintenance of said lot as prescribed herein for the duration of such contractual agreements.~~

~~(c) Upon failure of the owner or, where applicable the real estate agent or broker, to properly maintain said lot as prescribed herein, notice of an alleged violation of this article shall be given to both the owner and, where applicable, the real estate agent or broker of such alleged violation in accordance with sections 42-26 and 42-27.~~

Section 42-~~25~~ 24. Maintenance of stormwater drainage area

(a) Owners of all lots shall be responsible for maintaining stormwater drainage systems within the city's road rights-of-way except when otherwise specified in writing by the City. These responsibilities include, but shall not be limited to:

(1) Open swale drainage (without sidewalk) — From the edge of the pavement to the owner's unencumbered lot line (see Exhibit A).

a). Maintain and replace as necessary the lot owner's culvert pipe beneath any driveway crossing the swale, ~~in a manner such as not to impede or interfere with the stormwater drainage function of the swale. Provided, however, that the cost of~~ If culvert replacement ~~as is~~ a result of a drainage improvement or modification initiated by the city, or damaged by public's use of right-of-way, the remedy shall be at the city's expense.

b. Properly mowing the grassed area to maintain a neat appearance free from excessive growth and impinging growth, including the removal of grass, weeds, bushes, sand, silt and debris at both ends of any driveway culvert pipe to effectively maintain flow of stormwater through the culvert, except as otherwise provided for in provision eight (8) of this section or by written agreement by the city or where the city owns the right-of-way in fee title.

c. Lot owners shall not be responsible for regrading swales within the road rights-of-way adjacent to their lot. Upon completion of construction, all regrading of swales to design elevation within city drainage or road rights-of-way (ROW), will be the responsibility of the department of public works. (See chapter 18, B, 7 of the city's Unified Land Development Code). Exception: A lot owner is responsible for repairing damage which they have caused, i.e., ruts from their vehicle 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 B).

a. Maintain and replace as necessary the lot owner's culvert pipe beneath any driveway crossing the swale, ~~in a manner such as not to impede or interfere with the stormwater drainage function of the swale. Provided, however, that the cost of~~ If culvert replacement ~~as is~~ a result of a drainage improvement or modification initiated by the city or ~~damage~~ damaged by public's use of right-of-way, the remedy shall be at the city's expense.

b. Properly mowing the grassed area to maintain a neat appearance free from excessive growth and impinging growth, including the removal of grass, weeds, bushes, sand, silt and debris at both ends of any driveway culvert pipe to effectively maintain flow of stormwater through the culvert, except as otherwise provided for in provision eight (8) of this section or by written agreement by the city or where the city owns the right-of-way in fee title.

c. Maintain the sidewalks adjoining the lot by keeping the sidewalks in a clean and sanitary condition which includes mowing and edging grass and weeds, both

between the sidewalk joints and alongside the edge of pavement, except as otherwise provided for by written agreement or where the City owns right-of-way in fee title.

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

(3) Curb and gutter— From the edge of the curb to the owner's unencumbered property line (See exhibit C). If there is an existing sidewalk, the same requirements shall apply as in subsection (2) Open swale drainage (with sidewalk) above. In addition, curbs, gutters and catch basins shall be kept free of litter and debris.

(4) Fully piped swale— From the edge of the pavement to the owner's unencumbered lot line (See exhibit D). If there is an existing sidewalk, the same requirements shall apply as in subsection (2) Open swale drainage (with sidewalk) above. It shall be the lot owner's responsibility to maintain, repair and replace, when necessary, any structure which they have installed in the city's right-of-way for their special benefit. In addition, lot owners are responsible for the maintenance, repair and replacement of all specially benefitting structures, i.e. culvert pipes, catch basins, etc. which they install in the City's road rights of way.

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

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

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

(8) Where a swale area has a slope greater than a two to one ratio and the lot owner is unable to maintain the swale area, the lot owner may make a written request to the public works director for public works department to maintain this swale area. The public works director or his or her designee shall 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 ratio, the public works director will respond to the lot owner's request in writing and also include a maintenance schedule.

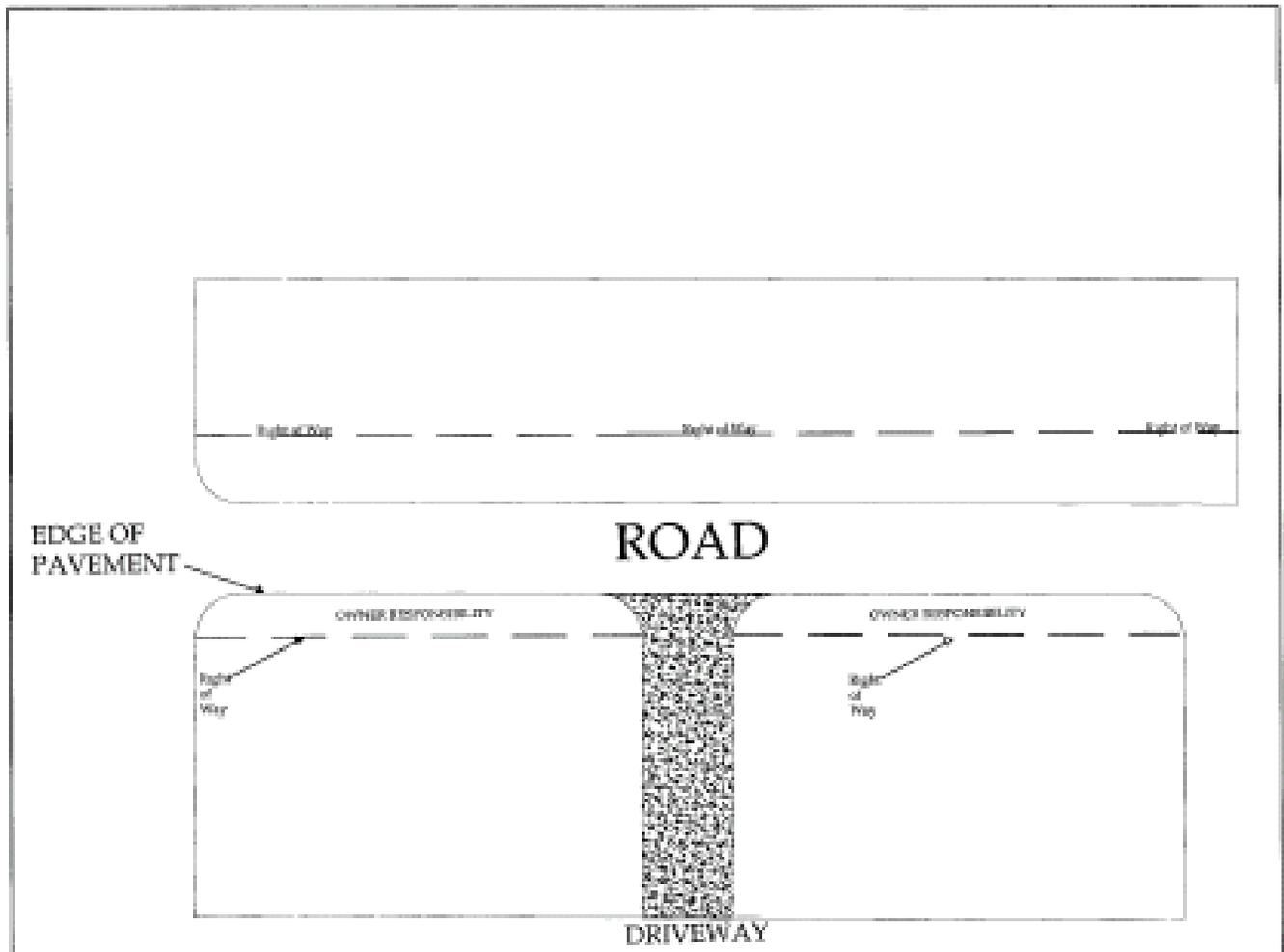


EXHIBIT A

	Open Swale (without sidewalk)				
		DATE APPROVED:	File name OPEN_SWALE	DATE DRAWN 12-08-09	NTS
	CITY OF NORTH PORT PUBLIC WORKS ENGINEERING STANDARD		Right of Way DETAIL		
	DRAWN BY: JON K. ENGINEER:			Sheet 1 OF 4	

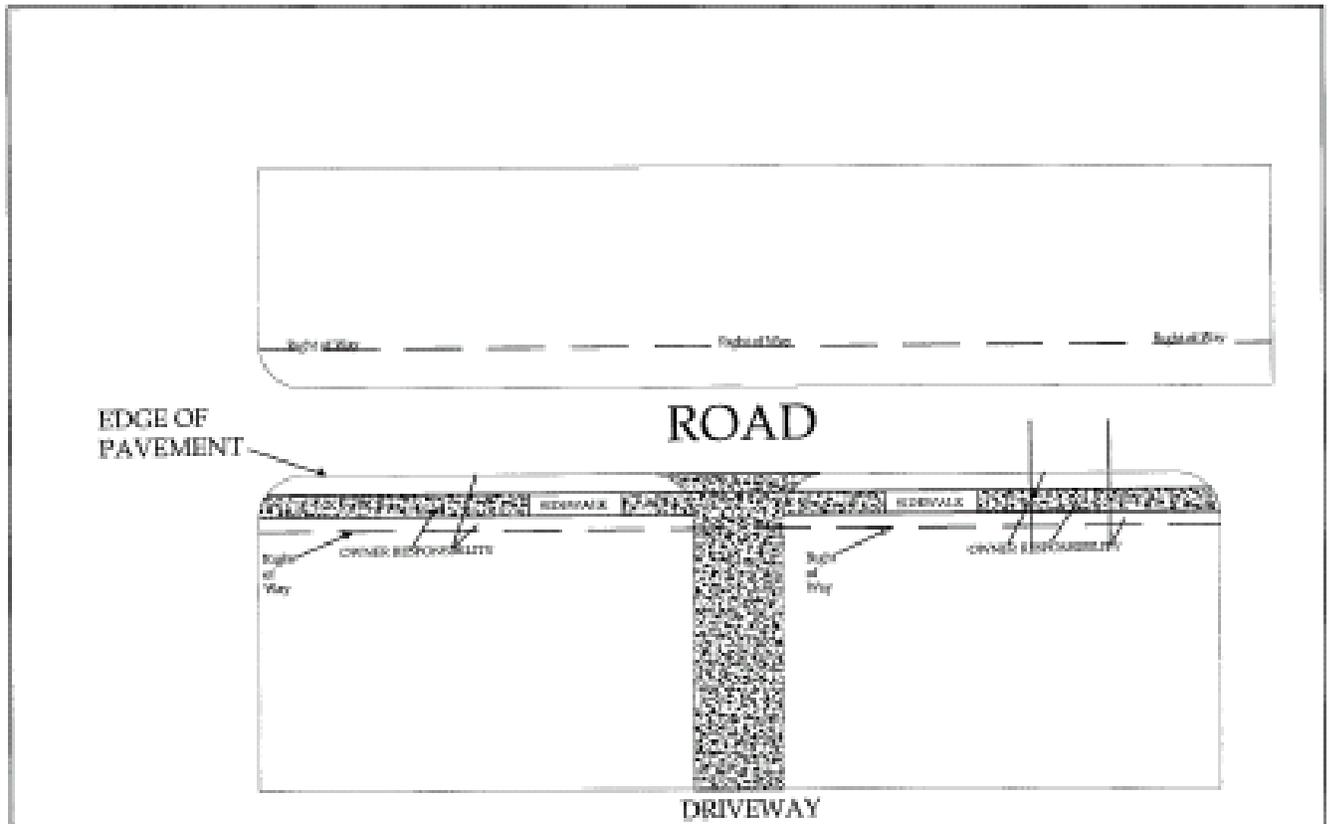


EXHIBIT B

	Open Swale (with Sidewalk)				
		DATE APPROVED:	File name OPEN_SWALE	DATE DRAWN: 12-08-09	NTS
	CITY OF NORTH PORT PUBLIC WORKS ENGINEERING STANDARD	Right of Way DETAIL			
		DRAWN BY: JON K. ENGINEER:		Sheet 2 OF 4	

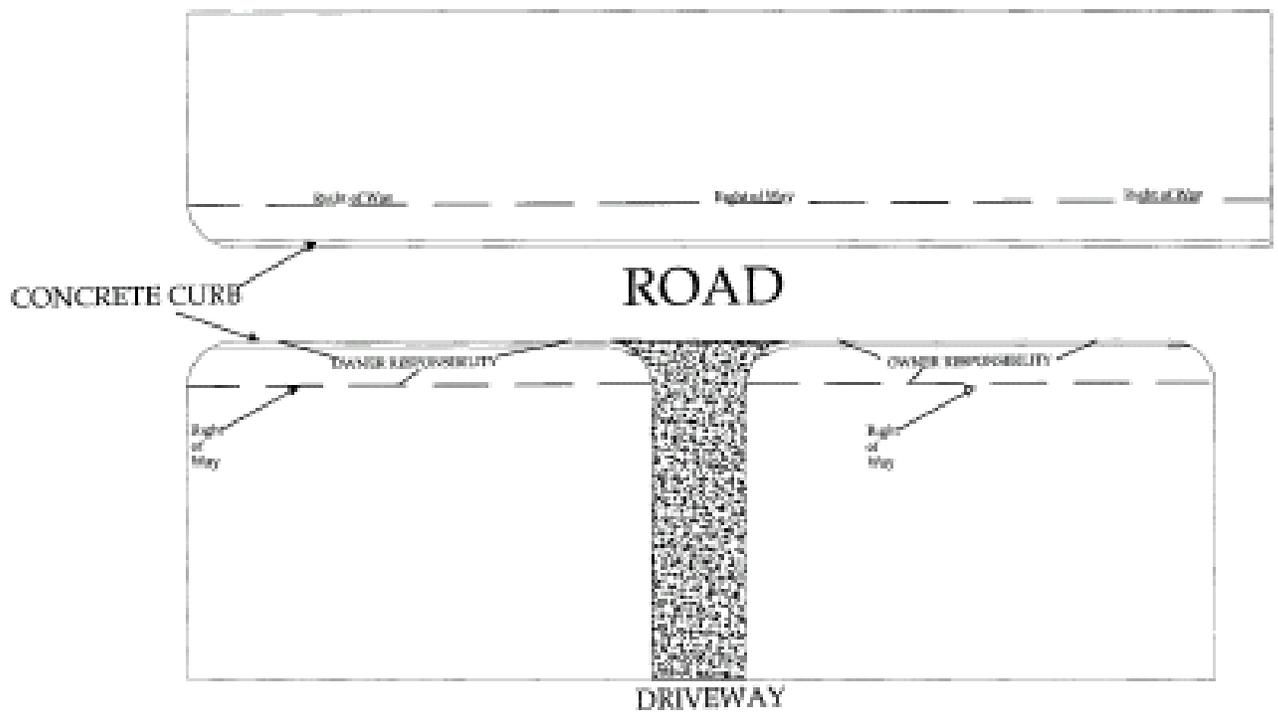


EXHIBIT C

	Curb and Gutter			
		DATE APPROVED:	File name CURB_GUTTER	DATE DRAWN: 12-08-09
	CITY OF NORTH PORT PUBLIC WORKS ENGINEERING STANDARD		Right of Way DETAIL	
		DRAWN BY: JON K. ENGINEER:	Sheet 3 OF 4	

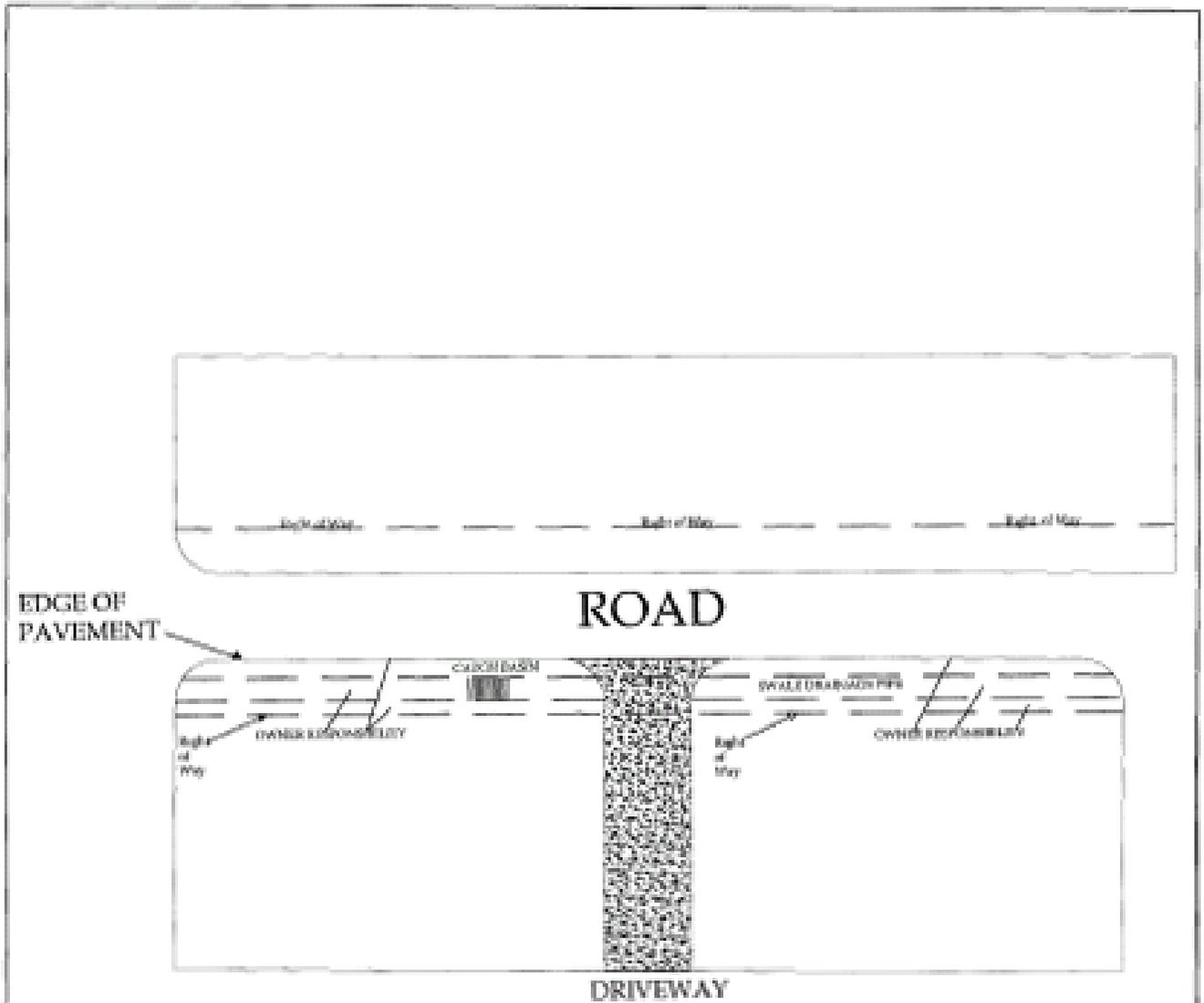


EXHIBIT D

Fully Piped Swale					
		DATE APPROVED:	File name PIPED_SWALE	DATE DRAWN 12-08-09	NTS
	CITY OF NORTH PORT PUBLIC WORKS ENGINEERING STANDARD		Right of Way DETAIL		
				DRAWN BY: JON K. ENGINEER	Sheet 4 OF 4

Sec. 42-~~26~~ 25. Enforcement, notice of prohibited conditions.

(a) Enforcement. Property standards inspectors are directed and empowered to investigate and enforce the provisions of this article. They are authorized to inspect any lot where a violation of this article is alleged to exist. Property standards inspectors are responsible for providing notices of public nuisance to lot owners and the physical property found to be in violation of this article and for taking any other actions necessary to enforce this article. Notices of public nuisance shall provide a reasonable period of time within which violations of this article must be corrected. In determining a reasonable period of time for compliance, the property standards inspector shall consider the following: practicality and ease of correction; the owner's ability to correct the violation; the severity of the violation; the nature, extent, and probability of danger to the public, and other relevant factors.

(b) Notice procedure. If a property standards inspector determines that a public nuisance exists in violation of this article, the property standards inspector shall serve a notice of public nuisance by one of the following methods:

(1) Certified mail, return receipt requested;

(2) By hand delivery by a North Port police officer, property standards inspector or other person authorized to serve process under F.S. ch. 48; or

(3) By leaving the notice at the owner's usual place of residence with any person residing therein who is above ~~15~~ 18 years of age and informing such person of the contents of the notice.

In order to ensure proper notification, notice shall also be posted on lots found to be in violation of the ordinance from which this article is derived in a conspicuous and visible location.

(c) Form of notice. The notice of public nuisance provided pursuant to this section shall:

(1) Be in writing;

(2) Contain the name and address of the lot owner;

(3) Describe the lot on which the public nuisance exists by address, parcel I.D. number, or legal description;

(4) Contain a statement of the conditions existing on the lot that constitute a public nuisance (a description of improper outdoor storage and/or excessive growth);

(5) A statement that the conditions constitute a violation of the City of North Port ~~environmental standards~~ code;

(6) Advise the lot owner that if the violation is not corrected and abated within a specified reasonable period of time, the City of North Port may cause the violation to be corrected and abated, the cost of which may be imposed as a lien upon the lot;

(7) Contain a statement that within the period of time for compliance, the lot owner may request a hearing to show that the condition alleged does not exist or that such a condition does not constitute a public nuisance in violation of the ordinance from which this article is derived. Failure to file a hearing request within said period of time shall constitute a waiver of hearing; and

(8) Contain the name and business address of the property standards inspector.

Sec. 42-~~27~~ 26. Condition may be abated by the city and lien rights.

(a) If the lot owner neither abates the nuisance nor requests a hearing within a reasonable period of time set forth in the notice of public nuisance, or if a hearing has been requested, held, and concluded adverse to the lot owner, the property standards division is authorized to cause the condition to be abated in whole or part at the expense of the lot owner. The City manager is authorized to expend city funds as may be reasonably necessary and available to carry out the provisions of this article, the expenditure of such funds being declared a proper municipal purpose. The City shall not be responsible for any damage to other vegetation that is in the vicinity of such abatement activity.

(b) After causing the condition to be abated, the property standards division shall submit a bill to the lot owner for all expenses incurred abating the condition, and include a copy of the notice of public nuisance and a copy of the decision of the ~~code enforcement board~~ special magistrate and/or hearing officer, when applicable. The bill shall be for actual abatement costs, including related administrative costs, or \$100.00, whichever is greater. It shall be payable within 30 days, after which a special assessment lien will be immediately made upon the lot. Notice of such lien shall be filed in the office of the clerk of the circuit court and recorded in the public records of Sarasota County, Florida, and shall accrue interest at the legal rate from the time of such recording. Such liens shall be prior to all other liens except taxes and shall be of equal dignity with special assessments made for other public purposes. The owner of the assessed property shall be personally liable for the amount of the lien and the cost of collection provided for in this article. Such lien shall be in favor of the City of North Port and may be satisfied at any time by payment thereof, including accrued interest. Upon such payment, the city shall ~~deposit the monies in the~~

~~general fund line item and~~ prepare a satisfaction and release of lien, which shall be recorded in the public records of Sarasota County, Florida.

(c) Any lien filed hereunder may be enforced by filing an appropriate action for foreclosure and enforcement of same in the circuit court in and for Sarasota County, Florida, in accordance with the provisions of F.S. ch. 85.

Secs. 42-~~28~~ 27—42-55. **Reserved.**

SECTION 2 – CONFLICTS:

All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 3 – SEVERABILITY:

If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Commission of the City of North Port that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Commission would have enacted the valid constitutional portions thereof.

SECTION 4 – EFFECTIVE DATE:

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

READ BY TITLE ONLY in public session this _____ day of _____, 2017

PASSED and ADOPTED on second and final reading in public session this ____ day of _____, 2017.

CITY OF NORTH PORT, FLORIDA

LINDA M. YATES,
MAYOR

ATTEST:

PATSY C. ADKINS, MMC
CITY CLERK

APPROVED AS TO FORM AND
CORRECTNESS:

MARK MORIARTY
CITY ATTORNEY