



City of North Port

ORDINANCE NO. 2020-21

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

WHEREAS, the City of North Port and Road and Drainage District is responsible for the maintenance and operation of the City's stormwater drainage system; and

WHEREAS, the Road and Drainage District mows the banks of all swales along local roads six (6) times per year and the centers of all swales two (2) times per year. ~~In addition~~Additionally, the Road and Drainage District mows the banks of all swales along arterial and collector roads eight (8) times per year and the centers of all swales two (2) times per year; and

WHEREAS, Section 42-24 of the Code of the City of North Port, Florida requires property owners to ~~maintain, aide aid~~ in the maintenance of the stormwater drainage system at their own expense, the swale area from the edge of the pavement to the owner's property line; and

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

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

WHEREAS, the City Commission has determined that the proposed amendments serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

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

SECTION 1 – FINDINGS

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

SECTION 2 - ADOPTION

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

“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 or where the city owns the right-of-way in fee title.
- 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 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 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~~ the right-of-way in fee title.
 - d. 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 the right-of-way.
- (3) Curb and gutter – From the edge of the curb to the owner's unencumbered property line (See ~~exhibit~~ EXHIBIT C). If there is an existing sidewalk, the same requirements shall apply as in subsection (a)(2) ~~for~~ for open swale drainage (with sidewalk) ~~above~~. In addition, curbs, gutters, and catch basins ~~shall~~ must 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~~ EXHIBIT D). If there is an existing sidewalk, the same requirements shall apply as in subsection (a)(2) ~~for~~ for open swale drainage (with sidewalk) ~~above~~. It ~~shall be~~ is the lot owner's responsibility to maintain, repair, and replace, when necessary, any structure which they, a previous lot owner, or any entity other than the city or the city's contractor, ~~have~~ installed in the city's right-of-way for their special benefit.
- (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~~ must not be parked directly over the plastic pipe flowliner material.
- (8) Where a swale area has a slope greater than a two to one (2:1) 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 the public works department to maintain this swale area. The public 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 28th day of April 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 12th day of May 2020.

CITY OF NORTH PORT, FLORIDA

DEBBIE MCDOWELL
MAYOR

ATTEST

HEATHER TAYLOR, CMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON
CITY ATTORNEY