

**CITY OF BONITA SPRINGS, FLORIDA
ORDINANCE NO. 15-04**

**THE CITY OF BONITA SPRINGS PRIVATE STORMWATER
CONVEYANCE MAINTENANCE ORDINANCE; CREATING AN
ORDINANCE TO ADDRESS UNMANAGED GROWTH OF VEGETATION
WITHIN STORMWATER CONVEYANCE SYSTEMS; PROVIDING
FINDINGS, SHORT TITLE, APPLICABILITY, DEFINITIONS,
DECLARATION OF PUBLIC NUISANCE, PROHIBITED CONDITIONS,
AND ENFORCEMENT; PROVIDING FOR CONFLICT, INCLUSION IN
CODE, SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.**

Whereas, lack of maintenance within a stormwater conveyance system located on private property creates adverse conditions to other private and public properties which are dependent upon these conveyance systems for stormwater runoff; and

Whereas, City Council recognizes the need to update the stormwater pond requirements to address maintenance; and

Whereas, City Council finds it necessary to ensure that the existing stormwater ponds are maintained to a level that promotes successful water quantity and quality treatment within the City of Bonita Springs.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section One: Findings.

City Council hereby finds and determines that:

- (1) Lack of maintenance within a stormwater conveyance system located on private property creates adverse conditions to other private and public properties which are dependent upon these conveyance systems for stormwater runoff.
- (2) City Council desires to inform the public concerning the benefits associated with management of stormwater and to encourage maintenance of stormwater conveyances in a manner compatible and consistent with the maintenance of public drainage systems.
- (3) City Council recognizes that stormwater conveyances on private property and private easements which are in neglected condition, with Excessive Vegetation or blocked Pipes, Ditches, Swales or other conveyances, impede stormwater flow and cause adverse impacts to adjacent and upstream public and private property.
- (4) City Council finds that stormwater conveyance systems which are not adequately maintained and impede or block the flow of stormwater constitute a public nuisance and a threat to public health, safety, and welfare.
- (5) Article 8 of the Florida Constitution and the Bonita Springs City Charter provide the City Council with the power to enact and enforce ordinances to protect the health, safety, and welfare of the public.

- (6) City Council further finds that prompt abatement of inadequate maintenance of such Private Stormwater Conveyance Systems is in the public interest.

Section Two: Short title.

This article shall be known as the "City of Bonita Springs Stormwater Conveyance Maintenance Ordinance."

Section Three: Applicability.

This article shall be applicable to all private property within the corporate boundaries of the City of Bonita Springs. This article shall not relieve any property owner of any existing financial or legal obligations to maintain stormwater drainage systems, nor is it intended to replace or supplant Land Development Code section 3-420.

Section Four: Definitions.

For the purpose of this article, the following terms shall have the meanings set forth below.

Excessive Vegetation shall mean the unmanaged growth of vegetation within a Private Stormwater Conveyance System that impedes or is likely to impede the normal flow of stormwater. Excessive Vegetation shall be determined by the City's Public Works department when at least 50% of the surface area is overgrown with vegetation. Excessive Vegetation does not include the understory of hammocks that are protected through development regulations, conditions, or agreements and managed vegetation within wetlands and stormwater retention pond littoral zones. While the determination of Excessive Vegetation will be made by the City's Public Works department, the limits of protected native habitats located within or near areas of Excessive Vegetation should be made by the appropriate State, County or City regulatory agencies in instances where these understory of hammocks have not been designated or defined in public records.

Pond shall mean a manmade or natural body of water with defined boundaries and which functions to control, detain, retain or convey stormwater runoff.

Private Lands shall mean all real property not owned by the Federal or State governments, Lee County, the City of Bonita Springs, or any other governmental agency, including community development districts (CDD's).

Stormwater Conveyance System shall mean a drainage Ditch/Swale, Pond, Inlet Structure, Outlet Structure, or Pipe located within a drainage easement or other private property and used for transporting stormwater runoff.

Section Five: Declaration of public nuisance; prohibited conditions.

Any Stormwater Conveyance System which is determined to contain Excessive Unmanaged Vegetation and which may cause flooding of other properties, public or private, are hereby declared to be a public nuisance and are prohibited. Declaration of the above conditions will be at the determination of the City's Public Works Director or his designee.

Section Six: Enforcement.

- (1) The Public Works Director or designee will refer cases to the City's code enforcement department when a Stormwater Conveyance System is determined to contain Excessive Vegetation.
- (2) Any person who violates any section of this ordinance or fails to comply with any of its requirements may be prosecuted through code enforcement. The code enforcement officers may, in addition, or alternatively, to pursuing criminal penalties or seeking injunctive relief, bring violations before the code enforcement hearing examiner, in accordance with all of the provisions of, and pursuant to, the enforcement procedures established under section 2-107 et seq. Each separate occurrence of a violation of this article shall constitute a separate violation, and shall be punishable as such.
- (3) A nuisance will be considered abated when less than 25% of the surface area is overgrown with vegetation. The City Manager may enter into compliance agreements in order to achieve abatement and / or long term maintenance.
- (4) In the event the responsible party fails to abate the violation, the City may petition the Code Enforcement Hearing Examiner for relief through the City abating the excessive vegetation violation and billing for all costs of any work to abate the nuisance that is performed by the City, including administrative and/or legal fees/costs and other abatement expenses, and the bill, if not paid, may be imposed as a lien on the property consistent with Florida Statutes Chapter 162.

Section Seven: Conflict

In the event that any provision in this Ordinance is found to be contrary to any other existing City Ordinance covering the same subject matter, then in said event the more restrictive shall apply.

Section Eight: Severability

The provisions of this Ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any of the provisions of this Ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provision not been included therein.

Section Nine: Inclusion in Code

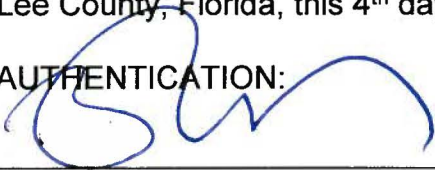
It is the intent of the City Council that the provisions of this Ordinance shall become and be made a part of the City of Bonita Springs Code and that sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions and regardless of whether such inclusion in the Code is accomplished. Sections of this Ordinance may be renumbered or relettered and the correction of typographical errors which do not affect the intent may be authorized by the City Manager or his or her designee, without need of Public Hearing, by filing a corrected or recodified copy of same with the Clerk of the Circuit Court.

Section Ten: Effective Date


The effective date of this ordinance shall be thirty (30) days from its adoption date.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 4th day of February, 2015.

AUTHENTICATION:



Mayor



City Clerk

APPROVED AS TO FORM:



City Attorney

Vote:

Nelson	Aye	Simmons	Aye
McIntosh	Aye	Gibson	Aye
Martin	Aye	Lonkart	Aye
Slachta	Aye		

Date filed with City Clerk: 2-6-15