

## ORDINANCE NO. 01-2020

### AN ORDINANCE REGULATING THE MAINTENANCE OF DRAINAGE CHANNELS AND DETENTION/RETENTION PONDS LOCATED WITHIN THE BOUNDARIES OF THE CITY OF COVE, OREGON

THE CITY OF COVE ORDAINS AS FOLLOWS:

#### Section 1. PURPOSE.

The purpose of this Ordinance is to promote the public health, safety and general welfare, and to provide for adequate provisions for the orderly maintenance of any drainage channel adjacent to roadways upon public right-of-way or upon private property that includes features designed for drainage of surface waters or natural water course. The requirements of this Ordinance shall be applicable to drainage channels and detention/retention ponds within the City.

#### Section 2. DEFINITIONS.

“Detention/Retention Pond” means an earthen structure designed to settle suspended sediments and other solids present in surface water runoff, improve water quality, and/or serve as flood management.

“Drainage Channel” means the defined bed and bank that serves to confine where a stream of water runs and includes but is not limited to any ditch, water course, earthen structure, pipe or culvert, designed and used for drainage of surface water on public right-of-way or private property for drainage or natural water course.

“Maintenance” means upkeep and removal from the channel or pond of sediment, vegetation, debris, or other obstruction in the minimum amount necessary to maintain or restore the serviceability of the channel or pond for facilitating drainage so that water can flow without causing excessive flooding or drainage problems on adjacent property.

#### Section 3. DUTY OF OWNERS TO MAINTAIN DRAINAGE CHANNELS AND DETENTION/RETENTION PONDS.

a. This ordinance shall apply to all property owners in the City of Cove owning property which abuts or contains any drainage channel which exist in the City of Cove. Maintenance of natural drainage channels is required so that drainage capacity is not significantly diminished during normal flow.

b. Any property owner in the City of Cove who has property which abuts or contains any drainage channel shall be responsible to control activities upon and maintain the owned property in such a manner as to not cause or contribute to obstructions or alterations in the drainage channel which would restrict, block or prohibit the free, open and continuous flow of water through the channel. Property owners are obligated to maintain drainage channels and detention/retention ponds on their property to prevent excessive damage caused by sediment, vegetation, or debris buildup, or by obstructions. A property owner is liable for damage to the upstream or the downstream property owner for failure to properly maintain drainage channels or detention/retention ponds on or across his or her property.

c. The City of Cove shall be responsible for drainage channels that run across or underneath public rights-of-way. Property owners shall be responsible for ditches and natural waterways that run adjacent to public rights-of-way and their property.

d. Culverts for private property access along public right-of ways shall be properly sized and maintained as to not cause or contribute to obstructions in the drainage channels and detention/retention ponds which would restrict, block or prohibit the free, open and continuous flow of water through the drainage channel or detention/retention pond. All new or modified driveway access construction requiring a culvert shall require approval by the Public Works Director for culvert sizing and installation requirements.

#### Section 4. NOTICE OF FAILURE TO MAINTAIN DRAINAGE CHANNEL OR DETENTION/RETENTION POND.

a. Where there occurs in the said drainage channel any accumulation or deposits of sediment, vegetation or debris which are the result of the failure to regulate or control activities upon or the failure to maintain the property, (other than naturally deposited snow and/or ice) which shall create a condition that shall cause the obstruction, diversion, or blockage, temporary or otherwise, of water, which blockage causes the backing up of the water flow or stagnation of the water, or causes the said water to flow upon property of another or of the public right-of-way of the City of Cove outside of the area of the said drainage channel, said property owner shall be required to remove such blockage, obstruction or materials causing diversion within twenty (20) days of notice in writing from the City of Cove.

b. This Ordinance shall also apply to detention/retention ponds where the activities or maintenance of the property owner on the property alter the function of the pond so that it does not function as originally designed or engineered. Where such alteration, has occurred the property owner, on twenty (20) days written notice from the City, shall be required to restore the detention/retention pond to its original design and function.

c. Any violation of this ordinance is deemed to be a violation of the Nuisance Ordinance and violator(s) may be cited into municipal court. A property owner who is found to be in violation of this ordinance may be assessed a maximum fine of five hundred dollars (\$500.00).

d. If the owner of said property is found to be in violation of Section 4(a) or 4(b) and fails to comply with said notice to remedy as required by this Ordinance, the City of Cove, under the direction of the City Council and Public Works Department, shall do said work and the expense thereof shall be calculated and charged to the property owner. If the property owner fails to make payment to the City, an assessment shall be made upon the property adjacent to which the work was done pursuant to the above definition of areas of responsibility of the property owners.

e. For any circumstance that may impede emergency response or causes an immediate threat to the health and safety of the general public, the City may shorten the property owner remedy period set forth in this ordinance which may include immediate action by the City or their designated representative, with the property owner being charged for the expense.

f. The Public Works Director/Code Enforcement Officer shall, at least once each year, by ordinance, assess each of the lots or parts thereof or parcels of land which have been required to be repaired the cost of such repairs, including legal, administrative and engineering costs attributable thereto.

g. City Work Excluded – The provision of this Ordinance shall not apply to excavation work under the direction of the Public Works Director by City employees or contractors performing work under contract with the City necessitating openings or excavations in City roads.

Section 5. SEVERABILITY. If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the above provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provision or its application.

Section 6. EFFECTIVE DATE. This Ordinance shall be in effect thirty (30) days from and after its passage and proper publication as required by law.

This ordinance was passed by a majority vote of 3 ayes 0 nays 1 abstention by the Cove City Council at the meeting of said Council of the City of Cove, Union County, Oregon, on August 4, 2020.

Attest:

Donna N Lewis

Donna Lewis, City Recorder

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Del Little, Mayor