



Meeting Date: February 6, 2019

From (Dept): Community Development

Signature: *J. Smith*  
Department Director

Approved for  
Agenda: *OMB*  
City Administrator

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Reviewed by  
City Attorney: \_\_\_\_\_

Council Action: \_\_\_\_\_

Date: \_\_\_\_\_

**SUBJECT:** Proposed Ordinance #ORD2019-01 Stormwater System Illicit Discharge and Connection

**Request For Approval**

**SUMMARY EXPLANATION & BACKGROUND:**

On July 23, 2017, the City submitted its Year Two Annual Report (Annual Report) required in conjunction with its NPDES Phase II Municipal Separate Sewer System (MS4) Permit ID FLR04E15A. As a condition of Element 4a of the Annual Report, the City is required to implement land development regulations to control stormwater runoff from construction sites of one (1) or more acres; and as a condition of Element 4b of the Annual Report, the City is required to implement land development regulations for the management of construction erosion and sediment; and, as a condition of Element 4c of the Annual Report, the City is required to implement land development regulations to require permit plan submittals to identify construction waste control measures to be implemented on the construction site; and, as a condition of the Annual Report, the city is required to adopt regulations to address illegal discharges into the municipal separate sewer system (MS4).

On July 23, 2018, the City adopted Ordinance #ORD2018-05 to satisfy these requirements; and **the Florida Department of Environmental Protection subsequently requested that the City amend the provisions adopted by Ordinance #ORD2018-05 to expand the applicability of the City's ordinance beyond construction sites only.**

On January 15, 2019, the Planning Commission, acting as the Local Planning Agency (LPA), found the proposed ordinance to be consistent with the City's comprehensive plan by Resolution #RES2019-02, included w/this package. Staff addressed the LPA's condition that Comprehensive Plan Policy 4.1.3 minimum standards be considered for inclusion in Section 98-176 of the Ordinance 2019-01 by concluding that Section 98-216(c)(2) provides for minimum standards in development.

**FISCAL INFORMATION:**

**PROCUREMENT METHOD:**

**PURCHASE REQUISITION NUMBER:**

**RECOMMENDED ACTION:** 1<sup>st</sup> Reading 2/11/2019; Public Hearing and Final Reading, 3/11/2019

Initiated by: tm/LS

1 **ORDINANCE #ORD2019-01**

2 **AN ORDINANCE OF THE CITY OF DUNNELLON,**  
3 **FLORIDA, RELATING TO STORMWATER RUNOFF,**  
4 **SEDIMENTATION AND EROSION CONTROL,**  
5 **CONSTRUCTION WASTE CONTROL, AND ILLICIT**  
6 **STORMWATER CONNECTIONS AND DISCHARGES;**  
7 **AMENDING CODE OF ORDINANCES, SUBPART B, LAND**  
8 **DEVELOPMENT REGULATIONS, CHAPTER 98,**  
9 **SUBDIVISION AND LAND DEVELOPMENT CRITERIA;**  
10 **ARTICLE IV. DESIGN GUIDELINES; PROVIDING FOR**  
11 **CONFLICTS; CODIFICATION; SEVERABILITY; AND AN**  
12 **EFFECTIVE DATE.**

13  
14 **WHEREAS,** on July 23, 2017, the City submitted its Year Two Annual Report (Annual  
15 Report) required in conjunction with its NPDES Phase II Municipal Separate Sewer System  
16 (MS4) Permit ID FLR04E15A; and

17  
18 **WHEREAS,** as a condition of Element 4a of the Annual Report, the City is required to  
19 implement land development regulations to control stormwater runoff from construction sites of  
20 one (1) or more acres; and

21  
22 **WHEREAS,** as a condition of Element 4b of the Annual Report, the City is required to  
23 implement land development regulations for the management of construction erosion and  
24 sediment;

25  
26 **WHEREAS,** as a condition of Element 4c of the Annual Report, the City is required to  
27 implement land development regulations to require permit plan submittals to identify construction  
28 waste control measures to be implemented on the construction site; and,

29  
30 **WHEREAS,** as a condition of the Annual Report, the city is required to adopt regulations  
31 to address illegal discharges into the municipal separate sewer system (MS4); and

32  
33 **WHEREAS,** on July 23, 2018, the City adopted Ordinance #ORD2018-05 to satisfy these  
34 requirements; and

35  
36 **WHEREAS,** the Florida Department of Environmental Protection subsequently requested  
37 that the City amend the provisions adopted by Ordinance #ORD2018-05 as specified below to  
38 expand the applicability of the City's ordinance beyond construction sites only.

39  
40 **LEGISLATIVE UNDERSCORING: Underlined words** constitute additions to the City of  
41 Dunnellon Land Development Regulations, ~~strike through~~ constitutes deletions from the original,  
42 and asterisks (\*\*\*) indicate an omission from the existing text which is intended to remain  
43 unchanged.

45  
46 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY**  
47 **OF DUNNELLON, FLORIDA THAT:**

48  
49 **SECTION 1.** The provisions set forth in the recitals of this Ordinance (whereas clauses)  
50 are hereby adopted by the City Commission as the legislative findings and intent pertaining to this  
51 Ordinance.

52  
53 **SECTION 2.** The City of Dunnellon, FL Code of Ordinances, Subpart B, “Land  
54 Development Regulations,” Chapter 98, “Subdivisions and Land Development Criteria,” is hereby  
55 amended as follows:

56 **ARTICLE IV. – DESIGN STANDARDS**

57 **DIVISION 3. – STORMWATER SYSTEM ILLICIT DISCHARGE AND CONNECTION**  
58 **DURING CONSTRUCTION**

59 **Sec. 98-166. – Title of Division, applicability, and interpretation**

60 This division shall be known as the Stormwater System Illicit Discharge and Connection ~~During~~  
61 ~~Construction~~ Ordinance. The provisions of this division shall be effective on construction sites of one (1)  
62 or more acres or projects of less than one (1) acre which are part of a common plan affecting more than  
63 one (1) acre within the boundaries of the city and shall set prohibitions and restrictions to prevent illicit  
64 and illegal discharges from entering or being disposed into or illicit connection to, the city’s stormwater  
65 collection system or waterways of the state ~~during project construction~~. This division shall be liberally  
66 construed to affect the purposes set forth in this division.

67 **Sec. 98-167. – Purpose and Intent**

- 68 (a) The purpose of this division is to provide for the health, safety and general  
69 welfare of the citizens of the city through the regulation of non-stormwater  
70 discharges into the storm drainage system and waterways of the state ~~during~~  
71 ~~construction into~~ the maximum extent practicable as required by federal and  
72 state law.
- 73 (b) The United States Environmental Protection Agency, pursuant to 40 C.F.R. §  
74 122.26, Code of Federal Regulations, has mandated, through the issuance of a  
75 National Discharge Elimination System (“NPDES”) permit, that the city  
76 oversee discharges to the city stormwater system, to waters of the State of  
77 Florida, and to waters of the United States.
- 78 (c) This division establishes methods for controlling the introduction of pollutants  
79 into the city’s MS4 ~~during construction activities~~ in order to comply with the  
80 requirements of the federal NPDES permit process. The objectives of this  
81 division are to:
- 82 (1) Regulate the contribution of pollutants to the city’s MS4 stormwater  
83 discharge by any user ~~during construction~~;
- 84

85 (2) Prohibit illicit connection and discharges to the city's MS4 ~~during~~  
86 ~~construction~~; and  
87

88 (3) Establish legal authority to carry out inspection, surveillance,  
89 monitoring, and enforcement procedures to ensure compliance with this  
90 division.  
91

92 **Sec. 98-168. – Definitions.**

93 For purposes of this division, the following shall mean:

94 *Authorized enforcement agent:* The stormwater supervisor or his/her designee is  
95 authorized to enforce the provisions of this division. In the event the stormwater supervisor is not  
96 able to act in this capacity or delegate a designee, the city administrator would serve as  
97 enforcement agent.

98 *Best management practices (BMPs):* The schedule of activities, prohibition of practices,  
99 general good housekeeping practices, pollution prevention and education practices, maintenance  
100 procedures, and other management practices to prevent or reduce the discharge of pollutants  
101 directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs  
102 also include treatment practices, operating procedures, and practices to control site run-off, spillage  
103 or leaks, sludge or water disposal, or drainage from raw material storage.

104 *Clean Water Act.* The federal Water Pollution Control Act (33 U.S.C. §1251 et. seq.), and  
105 any subsequent amendments thereto.

106 *Clearing.* Any activity which results in exposure to wind or rain, through removal of the  
107 vegetative surface cover, or removal of pavement or other structures from any construction site.

108 *Construction activity.* Any activity subject to NPDES construction permits including  
109 construction project activities resulting in land disturbance of one (1) acre or more or projects of  
110 less than one (1) acre which are part of a common plan affecting more than one (1) acre. Such  
111 activities include, but are not limited to, clearing and grubbing, demolition, grading, excavating,  
112 utility installation, building erection, paving and landscaping.

113 *Erosion control.* BMPs or other similar measures that prevent erosion of exposed soils,  
114 sediments, or other exposed materials that may be subject to erosion.

115 *Erosion and runoff control plan.* A plan or set of plans prepared by or under the direction  
116 of a licensed professional engineer that indicate the specific measures and sequencing to be used  
117 to control sediment and erosion on a development site before, during and after construction.

118 *Florida Department of Environmental Protection (FDEP).* The agency of the State of  
119 Florida approved by the federal Environmental Protection Agency (EPA) to regulate the NPDES  
120 and MS4 programs within the state.

121            *Grading.* The excavation or filling of material, or relocation of soil, resulting in a change  
122 in site topography.

123            *General permit.* The permit issued by the FDEP in its role granted by the federal EPA as  
124 administrator of the state's NPDES program which permits the discharge of runoff from  
125 construction activities into a local MS4 system.

126            *Hazardous materials.* Any material, including any substance, waste, or combination  
127 thereof, which because of its quality, concentration, physical, chemical, or infection characteristics  
128 may cause, or significantly contribute to, a present or potential hazard to human health, safety,  
129 property or the environment when improperly treated, stored, transported, disposed of, or  
130 otherwise managed.

131            *Illicit or illegal discharge.* Any direct or indirect non-stormwater discharge into any part  
132 of the stormwater drainage system or state waters located within the city limits, except as exempted  
133 in Section 97-174 of this division. Illegal discharges are discharges including, but not limited to,  
134 municipal sewage (~~stormwater~~), process wastewater, wash water, and discharges from indoor  
135 drains and sinks, regardless of whether said drain or connection has been previously allowed,  
136 permitted, or approved by the city, as well as any pollutants and hazardous materials or other  
137 substances regulated by the EPA or FDEP.

138            *Illicit or illegal connection.* Those connections involving either:

139            (a) Any drain or conveyance, whether on the surface or subsurface, that conveys  
140 an illegal discharge into the storm drainage system; or

141  
142            (b) Any drain or conveyance connected ~~from a construction site~~ to the storm  
143 drainage system or waters of the states that's source has not been thoroughly  
144 investigated or documented on plans, maps, or equivalent records and approved  
145 in writing by the city.

146            *Municipal separate storm sewer system (MS4).* The entire storm drainage system located  
147 within the city limits that is both publicly owned and has been designed and is used specifically  
148 for collection and conveyance of stormwater, as hereinafter defined.

149            *National Pollutant Discharge Elimination System (NPDES) stormwater permit.* A permit  
150 issued by the FDEP under authority delegated pursuant to 33 USC §1342(b) that authorizes the  
151 discharge of pollutants to waters of the state, whether the permit is applicable on an individual  
152 group, or general area-wide basis.

153            *Non-stormwater discharge.* Any discharge to the storm drain system that is not entirely  
154 composed of stormwater.

155            *Notice of intent.* The form required to be submitted to the local government and the FDEP  
156 prior to getting permission for stormwater discharge under the state's general permit.

157            *Perimeter control.* A barrier that prevents sediment or other materials from leaving a  
158 construction site or entering any water of the state or MS4, whether by filtering sediment-laden  
159 runoff, or by diverting it to a sediment trap or basin.

160            *Person.* Any individual, association, organization, partnership, firm, corporation or other  
161 entity recognized by law and acting as either the owner or the owner’s agent.

162            *Phasing.* Clearing a parcel of land, or construction upon a parcel of land, in distinct phases,  
163 with the stabilization of each phase before the clearing of the next.

164            *Pollutant.* Anything which causes or contributes to pollution. Pollutants include, but are  
165 not limited to, those substances, materials, and wastes listed in the Code of Ordinances §70-  
166 243(c)(1)-(10).

167            *Premises.* Any building, lot, parcel of land, or portion of land, whether improved or  
168 unimproved, including all infrastructure improvements on the site.

169            *Project manager.* The person with the primary construction company as identified on the  
170 building permit who has the ultimate administrative control of construction of the project.

171            *Sediment control.* Measures that are intended to prevent eroded sediments or other eroded  
172 material from leaving the site.

173            *St. Johns River Water Management District (SJRWMD).* An environmental regulatory  
174 agency of the State of Florida, which regulates environmental issues related to water in 18 counties  
175 in northeast and east central Florida.

176            *Stabilization.* The seeding or sodding of exposed land, or the use of any other practices  
177 that prevent exposed soil from eroding.

178            *Storm drainage system.* The entire infrastructure within the city limits comprised of many  
179 components, both publicly and privately owned, by which stormwater is collected and conveyed  
180 through the city, including, but not limited to, city, county, state and private street and road  
181 drainage systems comprised of gutters, curbs, inlets and storm pipes; storm pumping facilities;  
182 drainage retention and detention areas/basins, both publicly and privately owned; natural and  
183 human-made or altered drainage swales, ditches, channels, and reservoirs; and all other  
184 stormwater-related storm drainage facilities within the city.

185            *Stormwater.* Any surface flow, runoff, and drainage consisting entirely of accumulated  
186 water from natural precipitation and resulting from such precipitation.

187            *Stormwater management and erosion control plan.* A plan prepared according to FDEP  
188 regulations that describes the best management practices and other required activities to be  
189 undertaken by a person to first identify sources of pollution and/or contamination at a site and  
190 follow-up actions to be taken by such persons to eliminate or reduce pollutant discharges into  
191 municipal stormwater, storm drainage systems, and/or waters of the state to the maximum extent  
192 practicable.

193            *Wastewater.* For the purposes of this division, any waters that are discharged from  
194 construction sites, including, but not limited to, toilets, sinks, showers, and wash-down operations.

195            *Watercourse.* These are either:

196                    (a) Any stream, river, creek, slough, or other naturally-occurring stormwater  
197 conveyance feature in which water usually flows over the surface of the  
198 land; or

199  
200                    (b) Any artificial or man-made swale, ditch, channel or other man-made  
201 stormwater conveyance feature in which water usually flows in a defined  
202 bed or bottom.

203 **Sec. 98-169 – Administrative responsibility.**

204            The stormwater administrator or his/her designee is the authorized enforcer for this  
205 division. In the event the stormwater administrator or his/her designee is unable to fulfill this duty,  
206 the city administrator shall fill this capacity. He/she shall administer, implement, and otherwise  
207 enforce all provisions of this division of the Code of Ordinances ~~for the duration of construction~~  
208 ~~activities~~. Any powers granted to or duties imposed upon the city by this division may be carried  
209 out by said persons.

210 **Sec. 98-170. – Applicability.**

211            This division shall apply to all water ~~from construction sites as defined herein~~ entering the  
212 stormwater drainage systems or waters of the state or the United States within the boundaries of  
213 the city that was generated on any developed or undeveloped lands ~~under construction~~, unless  
214 specifically exempted by the city.

215 **Sec. 98-171. – Compatibility with other regulations.**

216            This division is not intended to modify or repeal any other division, article, ordinance, rule,  
217 regulation, or other provision of law. The requirements of this division are in addition to the  
218 requirements of any other division, article, ordinance, rule, regulation, or other provision of law of  
219 the city. Where any provision of this division imposes restrictions different from those of any  
220 other division, article, ordinance, rule, regulation or other provision of law, whichever provision  
221 is more restrictive or imposes higher protective standards for human health or the environment  
222 shall control.

223 **Sec. 98-172. – Ultimate responsibility.**

224            The standards set forth herein and promulgated pursuant to this division are minimum  
225 standards; therefore, this division does not intend or imply that compliance by any person will  
226 ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants to  
227 the city's stormwater system or waters of the state ~~during construction activities~~.

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229

230 **Sec. 98-173. – Watercourse protection.**

231 Every person owning property ~~undergoing construction~~ through which a watercourse  
232 passes, or such person’s lessee, shall keep and maintain that part of the watercourse within the  
233 property free of trash, debris, excessive vegetation, and other obstacles that would pollute,  
234 contaminate, or significantly retard the flow of water through a watercourse. In addition, the  
235 owner/lessee shall maintain existing privately-owned structures within or adjacent to the  
236 watercourse, so that such structures will not become a hazard to the use, function, or physical  
237 integrity of the watercourse.

238 ~~Sec. 98-174. – Erosion and runoff control plan.~~

239 ~~(a) Prior to the commencement of any construction, a signed and sealed erosion~~  
240 ~~and runoff control plan prepared by a licensed professional engineer shall be~~  
241 ~~submitted to the city as part of the permitting process. This plan shall be~~  
242 ~~consistent with the requirements of the FDEP, the SJRWMD, all erosion and~~  
243 ~~sediment control regulations of the city, and the stormwater pollutions~~  
244 ~~prevention plan (SWPP) prepared for the site pursuant to §62-621.300(4)(a) of~~  
245 ~~the Florida Administrative Code (FAC).~~

246

247 ~~(b) The erosion control and runoff plan shall include, at a minimum:~~

248

249

250 ~~(1) A natural features map identifying soils, surface waters, wetlands, forest~~  
251 ~~cover, and resources protected under other rules, ordinances or laws of~~  
252 ~~the city, state, and/or federal governments.~~

253

254 ~~(2) A statement providing the nature of activity and sequence of~~  
255 ~~construction of the development site, including stripping and clearing;~~  
256 ~~grading; construction of utilities; infrastructure; buildings; final~~  
257 ~~grading; and landscaping. Sequencing shall identify the expected date~~  
258 ~~on which clearing will begin; the estimated duration of exposure of~~  
259 ~~cleared areas; the phasing of clearing; installation of erosion and~~  
260 ~~sediment measures; and establishment of permanent vegetation.~~

261

262 ~~(3) All erosion and sediment control measures and BMPs necessary to meet~~  
263 ~~the objectives of this division shall be in place and administered~~  
264 ~~throughout all phases of construction and permanently, after completion~~  
265 ~~of development of the site. BMPs proposed for use must be consistent~~  
266 ~~with criteria set forth in the most recent version of the *Florida*~~  
267 ~~*Development Manual*, Chapter 6, Stormwater and Erosion and Sediment~~  
268 ~~Control by FDEP or the EPA document *Stormwater Management for*~~



269 ~~Construction Activities (EPA 832-R-92-005 September 1992).~~  
270 ~~Measurable goals for each BMP must be defined in the plan.~~

271  
272 ~~(4) Provision for containment or protection of construction-related~~  
273 ~~materials and wastes temporarily stored on site, including discarded~~  
274 ~~building materials, concrete, truck washout, chemicals, litter, sanitary~~  
275 ~~waste, and other materials subject to solution or entrainment in runoff.~~  
276 ~~Also, a plan showing the location and types of structures for the~~  
277 ~~containment or protection of construction materials and wasters, along~~  
278 ~~with a schedule for the removal of said waste.~~

279 **Sec. 98-1754. – Illicit discharge prohibition and exceptions.**

280 (a) *Prohibition of illegal discharges.* Throwing, draining or otherwise discharging,  
281 causing or permitting others under one’s control to throw, drain, or otherwise  
282 discharge into the city’s MS4 or state waters or waters of the United States any  
283 liquids, solids, or waters containing any stormwater, pollutants, or hazardous  
284 materials other than stormwater ~~during construction~~ is prohibited.

285  
286 (b) *Exceptions to the prohibition of illegal discharges.* The following are  
287 exceptions to the illegal discharge prohibition ~~during construction~~.

288  
289 (1) Discharges and releases from the following sources: portable line  
290 flushing; landscape irrigation; diverted stream flows; rising ground  
291 waters; uncontaminated groundwater infiltration; uncontaminated  
292 pumped ground water; discharges from potable water sources; building  
293 foundation drains; air conditioning condensation; irrigation water;  
294 natural springs; water from crawl space pumps; roof drains; footing  
295 drains; flows from riparian habitats and wetlands; dechlorinated  
296 swimming pool discharges; and street maintenance wash-down water.

297  
298 (2) Discharges or water flow from firefighting operations or similar  
299 discharges expressly specified in writing by the stormwater supervisor  
300 or his/her designee as being necessary to protect public health and  
301 safety.

302  
303 (3) Discharges associated with investigatory dye testing, however, this  
304 activity requires a 24-hour prior written notification to the stormwater  
305 supervisor or his/her designee prior to the time of the test.

306  
307 (4) Discharges of non-stormwater permitted under an NPDES permit,  
308 waiver, or waste discharge order issued to the discharger and  
309 administered under the authority of the FDEP, provided that the  
310 discharger is in full compliance with all requirements of the permit,

311 waiver, or order and any applicable laws and regulations, and further  
312 provided that written approval has been granted for any discharge to the  
313 storm system.

314 **Sec. 98-176~~5~~. – Illicit connection prohibition.**

315 The construction, use, maintenance or continued existence of illicit connections to  
316 the MS4 ~~during construction~~ is prohibited.

- 317
- 318 (a) This prohibition expressly includes without limitations illicit connection made  
319 in the past, regardless of whether the connection was permissible under laws or  
320 practices practicable or prevailing at the time of connection.
- 321
- 322 (b) A person is considered to be in violation of this division if the person connects  
323 a line conveying sanitary sewer to the MS4 during construction or allows such  
324 a connection to continue.
- 325
- 326 (c) Improper construction in violation of this division shall be disconnected and  
327 redirected if necessary, to an approved on-site wastewater management system  
328 or the MS4, upon approval of the stormwater supervisor or his/her designee.
- 329
- 330 (d) Only drains or conveyances depicted on the construction plans, maps or the  
331 equivalent shall be constructed.

332 **Sec. 98-176. – Erosion and runoff control plan prior to commencement of any construction.**

333 (c) Prior to the commencement of any construction, a signed and sealed erosion  
334 and runoff control plan prepared by a licensed professional engineer shall be  
335 submitted to the city as part of the permitting process. This plan shall be  
336 consistent with the requirements of the FDEP, the SJRWMD, all erosion and  
337 sediment control regulations of the city, and the stormwater pollutions  
338 prevention plan (SWPP) prepared for the site pursuant to §62-621.300(4)(a) of  
339 the Florida Administrative Code (FAC).

340

341 (d) The erosion control and runoff plan shall include, at a minimum:

342

343

344 (5) A natural features map identifying soils, surface waters, wetlands, forest  
345 cover, and resources protected under other rules, ordinances or laws of  
346 the city, state, and/or federal governments.

347

348 (6) A statement providing the nature of activity and sequence of  
349 construction of the development site, including stripping and clearing;  
350 grading; construction of utilities; infrastructure; buildings; final  
351 grading; and landscaping. Sequencing shall identify the expected date

352 on which clearing will begin; the estimated duration of exposure of  
353 cleared areas; the phasing of clearing; installation of erosion and  
354 sediment measures; and establishment of permanent vegetation.

355  
356 (7) All erosion and sediment control measures and BMPs necessary to meet  
357 the objectives of this division shall be in place and administered  
358 throughout all phases of construction and permanently, after completion  
359 of development of the site. BMPs proposed for use must be consistent  
360 with criteria set forth in the most recent version of the *Florida*  
361 *Development Manual*, Chapter 6, Stormwater and Erosion and Sediment  
362 Control by FDEP or the EPA document *Stormwater Management for*  
363 *Construction Activities* (EPA 832-R-92-005 September 1992).  
364 Measurable goals for each BMP must be defined in the plan.

365  
366 (8) Provision for containment or protection of construction-related  
367 materials and wastes temporarily stored on-site, including discarded  
368 building materials, concrete, truck washout, chemicals, litter, sanitary  
369 waste, and other materials subject to solution or entrainment in runoff.  
370 Also, a plan showing the location and types of structures for the  
371 containment or protection of construction materials and wasters, along  
372 with a schedule for the removal of said waste.

373

374 **Sec. 98-177. – Construction activity discharges.**

375 (a) Submission of intent to the city.

376  
377 (1) Any person subject to a construction activity NPDES stormwater  
378 discharge permit shall comply with all provisions of such permit. Proof  
379 of compliance with said permit may be required in a form acceptable to  
380 the stormwater supervisor or his/her designee prior to the allowing of  
381 discharges to the MS4.

382  
383 (2) The manager of a construction site required to have an NPDES permit  
384 to discharge stormwater associated with said activity shall submit a copy  
385 of the notice of intent to the city at the same time the project manager  
386 submits an original notice of intent to the FDEP.

387  
388 (3) The copy of the notice of intent shall be delivered to the city either in  
389 person, by U.S. Postal Service Registered Mail, or by FedEx/UPS or  
390 similar organization, registered delivery, and sent to the attention of the  
391 stormwater supervisor or his/her designee at the following mailing  
392 address:

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City of Dunnellon, FL  
11924 Bostick Street  
Dunnellon, FL 34432.

**Sec. 98-178. – Compliance monitoring for construction.**

(a) *Right of entry-inspection and sampling.* The city shall be permitted to enter and inspect construction sites subject to regulation under this division as may be necessary to determine compliance with the requirements of this division.

(1) If the discharger has security measures in force which require proper identification and clearance before entry into the premises, the discharger shall make the necessary arrangements to allow access to representatives of the city.

(2) Site project managers shall allow the stormwater supervisor or his/her designees ready access to all parts of the premises for purposes of inspection, sampling, examination, and copying of records that must be kept under the conditions of the NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) The stormwater supervisor or his/her designees shall have the right to set up any such facilities and/or devices as are necessary in his/her opinion to conduct monitoring and/or sampling of the construction site’s discharge.

(4) The stormwater supervisor or his/her designees have the right to require the discharger to install monitoring equipment as necessary. The site’s compliance and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the site to be inspected and/or sampled shall be promptly removed by the contractor at written or oral request of the stormwater supervisor or his/her designees, and shall not be replaced. The costs of clearing such access shall be borne by the contractor.

435 (6) Unreasonable delays in allowing the city access to the permitted facility  
436 is a violation of the stormwater discharge permit and this division. The  
437 project manager of the construction site discharging under an NPDES  
438 permit commits an offense if the person denies reasonable access to the  
439 stormwater supervisor or the person's designee for the purpose of  
440 conducting any activity authorized and/or required by this division.

441  
442 (b) *Search warrants.* The city may seek a search warrant from any court of  
443 competent jurisdiction if the city has been refused access to any part of the  
444 premises from which stormwater is discharged and the city can demonstrate  
445 probable cause to believe that:

446 (1) There may be a violation of the division; or

447  
448 (2) There is a need to inspect and/or sample as part of the routine inspection  
449 and sampling program designed to verify compliance with this division  
450 or any order issued hereunder to protect the overall health, safety and  
451 welfare of the community.  
452

453 **Sec. 98-179 – Establishment and use of BMPs.**

454 (a) The city will establish and implement BMP requirements for all ~~construction~~  
455 activities within the city which may cause or contribute to pollution or  
456 contamination of stormwater, the MS4 or waters of the state.

457  
458 (b) The project manager of such activity shall provide, at the person's own expense,  
459 reasonable protection from accidental discharge of prohibited materials or other  
460 wastes into the MS4 or waters of the state through the use of these structural  
461 and non-structural BMPs.

462  
463 (c) Any person responsible for property or premise ~~with construction activity~~ that  
464 is, or may be, the source of illicit discharge, may be required to implement, at  
465 said person's expense, additional structural and non-structural BMPs to prevent  
466 the further discharge of pollutants to the MS4 or waters of the state.

467  
468 (d) Compliance with all terms and conditions of a valid FDEP issued NPDES  
469 permit authorizing the discharge of stormwater ~~associated with construction~~  
470 ~~activity~~, to the extent practicable, shall be deemed in compliance with the  
471 provisions of this division.

472 **Sec. 98-180. – Notification of spills.**

473 (a) Notwithstanding other requirements of law, as soon as any person responsible  
474 for a construction site or emergency response if it has any information of any  
475 known or suspected release of materials which are resulting or may result in

476 illegal discharges or pollutants discharging into stormwater, the MS4, or waters  
477 of the state, said person shall take all necessary steps to ensure the discovery,  
478 containment and cleanup of such release. In the event of such a release of  
479 hazardous materials, said person shall immediately notify emergency response  
480 agencies of the occurrence via emergency dispatch services.

481  
482 (b) In the event of a release of non-hazardous materials, said person shall notify the  
483 stormwater supervisor or his/her designee in person, by phone or facsimile no  
484 later than the next business day. Notification in person or by phone shall be  
485 confirmed by written notice mailed to stormwater supervisor or his/her designee  
486 within two (2) business days of the phone notice.

487  
488 (c) The owner or project manager ~~of such construction site~~ shall also retain on-site  
489 a written record of the discharge and actions taken to prevent its recurrence until  
490 the conclusion of construction on the site. Following the conclusion of any  
491 project or construction, such records shall be maintained for at least 10 years at  
492 the office of the project manager.

493 **Sec. 98-181. – Violations, enforcement, and penalties**

494 (a) *Violations.* It shall be unlawful for any person to violate any provision or fail  
495 to comply with any requirements of this division. Any person who has violated  
496 or continues to violate the provisions of this division shall make any corrective  
497 measures determined necessary by the stormwater supervisor or his/her  
498 designee, may be subject to the enforcement actions outlined in this division, or  
499 may be restrained by injunction or have the violation otherwise abated in a  
500 manner provided by law.

501  
502 (b) *Emergency cease and desist orders.* When the stormwater supervisor or his/her  
503 designee finds that any person has violated, or continues to violate, any  
504 provision of this division, or any order issued hereunder, and such violation(s)  
505 has or have caused an imminent or substantial endangerment to the health,  
506 safety or welfare of persons or the environment, the stormwater supervisor or  
507 his/her designee may serve upon that person a written notice directing him/her  
508 to cease and desist all such violations, and directing the violator to:

509  
510 (1) Immediately comply with all permits, ordinances, and other  
511 requirements of the law; and

512  
513  
514 (2) Take such appropriate preventive action as may be needed to properly  
515 address a continuing or threatened violation, including immediately  
516 halting operations and/or terminating the discharge.

517

- 518 (c) *Response to emergency cease and desist order.* The violator shall submit to the  
519 stormwater supervisor or his/her designee a detailed written statement  
520 describing the causes of the harmful discharge and the actions taken or to be  
521 taken to prevent any future occurrence within five (5) days of receipt of the  
522 emergency cease and desist order. Issuance of the emergency cease and desist  
523 order shall not bar against, or be a prerequisite, for taking any other action  
524 against the violator. The remedial actions outlined in the violator's written  
525 response shall be approved by the stormwater supervisor or his/her designee.  
526
- 527 (d) *Actions for enforcement of emergency cease and desist order.* Anyone notified  
528 through an emergency cease and desist order under this subsection shall  
529 immediately comply and stop or eliminate the endangering discharge. In the  
530 event of the discharger's failure to immediately comply voluntarily with the  
531 emergency cease and desist order, the city shall take such steps as deemed  
532 necessary to prevent or minimize harm to the MS4, watercourses, or receiving  
533 waters, and/or endangerment to persons or the environment, including  
534 termination of a construction site's water supply, sewer connection, or other  
535 municipal services. The stormwater supervisor or his/her designee may allow  
536 the violator to recommence its discharge when it has demonstrated to that  
537 person that the period of danger has passed, unless further termination  
538 proceedings are initiated against the violator under this division.  
539
- 540 (e) *Reinstating MS4 access deemed an offense.* A violator commits an offense if  
541 he/she reinstates MS4 access to the construction site pursuant to this division,  
542 without approval of the stormwater supervisor or his/her designee.  
543
- 544 (f) *Civil penalties.* In the event the alleged violator fails to take the remedial  
545 measures set forth in the notice of violation or otherwise fails to cure the  
546 violations therein within five (5) business days, or such greater period as the  
547 city shall deem appropriate, after the city has taken one (1) or more of the  
548 actions described above, the city may impose a penalty not to exceed \$500  
549 (depending on the severity of the violation) for each day the violation remains  
550 not remedied after receipt of the notice of violation.  
551
- 552 (g) *Judicial remedy.* In addition to the remedies provided herein, the city may make  
553 application to a court of competent jurisdiction for injunctive relief to restrain  
554 any person from violating or continuing to violate the provisions of this  
555 division. In addition, the city may seek any and all applicable legal actions,  
556 including, but not limited to, entry of a court order requiring restoration and  
557 mitigation of any impacted construction site(s), land, or waters, as well as  
558 reimbursement of court costs and other costs associated with abatement of the  
559 violation. The city shall be entitled to an award of attorney's fees in prosecuting  
560 such actions, together with attorney's fees and costs on appeal.

561  
562 (h) Each act of violation and each day upon which any violation occurs shall  
563 constitute a separate offense.

564 **Sec. 98-182.- Appeal of notice of violation.**

565 (a) Any person receiving a notice of violation under the provisions of this division  
566 may appeal the determination of the stormwater supervisor or his/her designee.

567  
568 (b) The notice of appeal must be submitted in writing to the city within five (5)  
569 business days from the date of the notice of violation.

570  
571 (c) Hearing on the appeal before the special magistrate shall take place 30 days  
572 from the date of receipt of the notice of appeal. The decision of the special  
573 magistrate shall be final, except in the event where the violation is escalated to  
574 a court of competent jurisdiction.

575 **Sec. 98-183. – Enforcement measures after appeal.**

576 (a) If the violator has not corrected the violation pursuant to the requirements set  
577 forth in the notice of violation, or, in the event of an appeal, within 30 days of  
578 the decision of the special magistrate upholding the decision of the city, then  
579 the city’s representatives shall enter upon the subject private property and are  
580 authorized to take any and all measures necessary to abate the violation and/or  
581 restore the property.

582  
583 (b) It shall be unlawful for any person, owner, agent, or person in possession of any  
584 premises to refuse to allow the stormwater supervisor or his/her designee, or a  
585 city-designated contractor to enter upon the premises for the purposes set forth  
586 above.

587 **Sec. 98-184. – Cost of abatement of violation.**

588 (a) Within 30 days after abatement of the violation, the owner of the property will  
589 be notified of any costs of the abatement, including administrative costs. The  
590 property owner may file a written protest objecting to the amount of the  
591 assessment within 15 business days of receipt of the notification of these costs.  
592 Upon receipt of the written objection, the city shall hold a hearing before the  
593 special magistrate within 30 days. The decision of the special magistrate shall  
594 be binding.

595  
596 (b) If the amount due is not paid within a timely manner as determined at the  
597 decision of the city or by the expiration of time in which to file an appeal, the  
598 charges will become a special assessment against the property and shall  
599 constitute a lien on the property for the full amount of the assessment.



600 **Sec. 98-185. – Violations deemed a public nuisance.**

601 In addition to their enforcement processes and penalties provided, any condition caused or  
602 permitted to be exist in violation of this division shall constitute a threat to public health, safety  
603 and welfare, and is declared to be a nuisance, and may be summarily abated or restored at the  
604 violator’s expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such  
605 nuisance may be taken.

606 **Sec. 98-186. – Ownership and maintenance responsibilities.**

607 (a) Nothing in this division shall affect the ownership and/or maintenance  
608 responsibilities of individual storm drainage components within the city.

609  
610 (b) Privately-owned stormwater system components within the city, including  
611 privately-owned drainage retention areas, shall remain privately owned and  
612 maintained until such time as a legal instrument is executed transferring such  
613 ownership and maintenance responsibility.

614  
615 (c) Publicly-owned stormwater system components within the city, including  
616 publicly-owned drainage retention areas, shall remain owned and maintained  
617 by the city, county or state authority until such time as a legal instrument is  
618 executed transferring such ownership and maintenance responsibility.

619 **Sec. 98-187. – Remedies not exclusive.**

620 The remedies listed in this division are not exclusive of any other remedies available under  
621 any applicable federal, state or local law, and it is within the discretion of the city to seek  
622 cumulative remedies. The city may recover all attorney’s fees, court costs, and other expenses  
623 associated with enforcement of this division, including costs associated with obtaining water  
624 quality and other samples and laboratory testing expenses.

625 **SECTION 3. CODIFICATION.** It is the intent of the City Council of the City of Dunnellon that  
626 the provisions of the Ordinance shall be codified. The codifier is granted broad and liberal  
627 authority in codifying the provision of this Ordinance.

628 **SECTION 4. SEVERABILITY.** If any section, sentence, phrase, word or portion of this  
629 Ordinance is determined to be invalid, unlawful, or unconstitutional, said determination shall not  
630 be held to invalidate or impair the validity, force or effect of any section, sentence, phrase, word  
631 or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

632 **SECTION 5. CONFLICTS.** In any case where a provision of this Ordinance is found to be in  
633 conflict with a provision of any other ordinance of this city, the provision which establishes the  
634 higher standards for the promotion and protection of the health and safety of the people shall  
635 prevail.

636 **SECTION 6. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon  
637 its passage and adoption.

638 **Upon motion duly made and carried**, the foregoing Ordinance was approved upon the first  
639 reading on the 11th day of February 2019.

640  
641 **Upon motion duly made and carried**, the foregoing Ordinance was approved and passed upon  
642 the second and final reading and public hearing on the 11<sup>th</sup> day of March 2019.

643  
644 Ordinance Posted on the City’s website on February 7, 2019. Public hearing advertised on the  
645 City’s website on February 14, 2019 and advertised in the Riverland News on February 28, 2019.

646

647 ATTEST: **CITY OF DUNNELLON**

648

649 \_\_\_\_\_  
650 Amanda L. Roberts, CMC  
651 City Clerk

\_\_\_\_\_

C. Dale Burns, Jr., Mayor

652

653 Approved as to Form:

654 \_\_\_\_\_  
655 Andrew J. Hand, City Attorney

656

657

658

659

660

661

**CERTIFICATE OF POSTING**

662 **I HEREBY CERTIFY** that copies of the foregoing Ordinance were posted at City Hall, the  
663 Chamber of Commerce, and the Dunnellon Library, in the City of Dunnellon, Florida, this 7th day  
664 of February 2019 and on the City’s Official Website the 7th day of February 2019.

665

666

667 \_\_\_\_\_  
668 Amanda L. Roberts, CMC  
669 City Clerk