

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

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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:~~

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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:

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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.
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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:

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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 11th 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