

44 **WHEREAS**, as a condition of Element 4a of the Annual Report, the city is required to
45 implement land development regulations for the management of construction erosion and
46 sediment;

47
48 **WHEREAS**, as a condition of Element 4b of the Annual Report, the city is required to
49 implement land development regulations to require permit plan submittals to identify the
50 construction waste control measures to be implemented on the construction site; and,

51
52 **WHEREAS**, as a condition of the Annual Report, the city is required to adopt
53 regulations to address illegal discharges into the municipal separate sewer system (MS4).

54
55 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE**
56 **CITY OF DUNNELLON, FLORIDA THAT:**

57
58 **SECTION 1.** The provisions set forth in the recitals of this Ordinance (whereas clauses)
59 are hereby adopted by the City Commission as the legislative findings and intent pertaining to
60 this Ordinance.

61
62 **SECTION 2.** City of Dunnellon, FL Code of Ordinances, Subpart B, “Land
63 Development Regulations”, Chapter 98, “Subdivisions and Land Development Criteria”, is
64 hereby amended as follows, creating “Division 3 – Stormwater System Illicit Discharge and
65 Connection During Construction” and Sections 98-166 through 98-187:

66

67 **ARTICLE IV. – DESIGN STANDARDS**

68 **DIVISION 3. – STORMWATER SYSTEM ILLICIT DISCHARGE AND CONNECTION**
69 **DURING CONSTRUCTION**

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

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

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

79 (a) The purpose of this division is to provide for the health, safety and general
80 welfare of the citizens of the city through the regulation of non-stormwater
81 discharges into the storm drainage system and waterways of the state during
82 construction in the maximum extent practicable as required by federal and
83 state law.

84 (b) The United States Environmental Protection Agency, pursuant to 40 C.F.R. §
85 122.26, Code of Federal Regulations, has mandated, through the issuance of a
86 National Discharge Elimination System (“NPDES”) permit, that the city
87 oversee discharges to the city stormwater system, to waters of the State of
88 Florida, and to waters of the United States.

89 (c) This division establishes methods for controlling the introduction of pollutants
90 into the city’s MS4 during construction activities in order to comply with the
91 requirements of the federal NPDES permit process. The objectives of this
92 division are to:

93 (1) Regulate the contribution of pollutants to the city’s MS4 stormwater
94 discharge by any user during construction;

95
96 (2) Prohibit illicit connection and discharges to the city’s MS4 during
97 construction; and
98

99 (3) Establish legal authority to carry out inspection, surveillance,
100 monitoring, and enforcement procedures to ensure compliance with
101 this division.
102

103 **Sec. 98-168. – Definitions.**

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

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

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

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

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

119 *Construction activity.* Any activity subject to NPDES construction permits including
120 construction project activities resulting in land disturbance of one (1) acre or more or projects of
121 less than one (1) acre which are part of a common plan affecting more than one (1) acre. Such

122 activities include, but are not limited to, clearing and grubbing, demolition, grading, excavating,
123 utility installation, building erection, paving and landscaping.

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

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

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

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

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

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

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

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

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

152
153 (b) Any drain or conveyance connected from a construction site to the storm
154 drainage system or waters of the states that's source has not been thoroughly
155 investigated or documented on plans, maps, or equivalent records and
156 approved in writing by the city.

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

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

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

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

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

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

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

175 *Pollutant.* Anything which causes or contributes to pollution. Pollutants include, but are
176 not limited to, those substances, materials, and wastes listed in the Code of Ordinances §70-
177 243(c)(1)-(10).

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

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

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

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

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

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

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

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

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

207 *Watercourse.* These are either:

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

211 (b) Any artificial or man-made swale, ditch, channel or other man-made
212 stormwater conveyance feature in which water usually flows in a defined
213 bed or bottom.
214

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

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

222 **Sec. 98-170. – Applicability.**

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

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

228 This division is not intended to modify or repeal any other division, article, ordinance,
229 rule, regulation, or other provision of law. The requirements of this division are in addition to
230 the requirements of any other division, article, ordinance, rule, regulation, or other provision of
231 law of the city. Where any provision of this division imposes restrictions different from those of
232 any other division, article, ordinance, rule, regulation or other provision of law, whichever

233 provision is more restrictive or imposes higher protective standards for human health or the
234 environment shall control.

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

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

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

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

248 **Sec. 98-174. – Erosion and runoff control plan.**

249 (a) Prior to the commencement of any construction, a signed and sealed erosion
250 and runoff control plan prepared by a licensed professional engineer shall be
251 submitted to the city as part of the permitting process. This plan shall be
252 consistent with the requirements of the FDEP, the SJRWMD, all erosion and
253 sediment control regulations of the city, and the stormwater pollutions
254 prevention plan (SWPP) prepared for the site pursuant to §62-621.300(4)(a) of
255 the Florida Administrative Code (FAC).

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

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

260 (2) A statement providing the nature of activity and sequence of
261 construction of the development site, including stripping and clearing;
262 grading; construction of utilities; infrastructure; buildings; final
263 grading; and landscaping. Sequencing shall identify the expected date
264 on which clearing will begin; the estimated duration of exposure of
265 cleared areas; the phasing of clearing; installation of erosion and
266 sediment measures; and establishment of permanent vegetation.
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268
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272 (3) All erosion and sediment control measures and BMPs necessary to
273 meet the objectives of this division shall be in place and administered
274 throughout all phases of construction and permanently, after
275 completion of development of the site. BMPs proposed for use must
276 be consistent with criteria set forth in the most recent version of the
277 *Florida Development Manual*, Chapter 6, Stormwater and Erosion and
278 Sediment Control by FDEP or the EPA document *Stormwater*
279 *Management for Construction Activities* (EPA 832-R-92-005
280 September 1992). Measurable goals for each BMP must be defined in
281 the plan.

282
283 (4) Provision for containment or protection of construction-related
284 materials and wastes temporarily stored on-site, including discarded
285 building materials, concrete, truck washout, chemicals, litter, sanitary
286 waste, and other materials subject to solution or entrainment in runoff.
287 Also, a plan showing the location and types of structures for the
288 containment or protection of construction materials and wasters, along
289 with a schedule for the removal of said waste.

290 **Sec. 98-175. – Illicit discharge prohibition and exceptions.**

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

297
298 (b) *Exceptions to the prohibition of illegal discharges.* The following are
299 exceptions to the illegal discharge prohibition during construction:

300
301 (1) Discharges and releases from the following sources: portable line
302 flushing; landscape irrigation; diverted stream flows; rising ground
303 waters; uncontaminated groundwater infiltration; uncontaminated
304 pumped ground water; discharges from potable water sources; building
305 foundation drains; air conditioning condensation; irrigation water;
306 natural springs; water from crawl space pumps; roof drains; footing
307 drains; flows from riparian habitats and wetlands; dechlorinated
308 swimming pool discharges; and street maintenance wash-down water.

309
310 (2) Discharges or water flow from firefighting operations or similar
311 discharges expressly specified in writing by the stormwater supervisor
312 or his/her designee as being necessary to protect public health and
313 safety.

314
315 (3) Discharges associated with investigatory dye testing, however, this
316 activity requires a 24-hour prior written notification to the stormwater
317 supervisor or his/her designee prior to the time of the test.

318
319 (4) Discharges of non-stormwater permitted under an NPDES permit,
320 waiver, or waste discharge order issued to the discharger and
321 administered under the authority of the FDEP, provided that the
322 discharger is in full compliance with all requirements of the permit,
323 waiver, or order and any applicable laws and regulations, and further
324 provided that written approval has been granted for any discharge to
325 the storm system.

326 **Sec. 98-176. – Illicit connection prohibition.**

327 The construction, use, maintenance or continued existence of illicit connections to
328 the MS4 during construction is prohibited.

329
330 (a) This prohibition expressly includes without limitations illicit connection made
331 in the past, regardless of whether the connection was permissible under laws
332 or practices practicable or prevailing at the time of connection.

333
334 (b) A person is considered to be in violation of this division if the person connects
335 a line conveying sanitary sewer to the MS4 during construction or allows such
336 a connection to continue.

337
338 (c) Improper construction in violation of this division shall be disconnected and
339 redirected if necessary, to an approved on-site wastewater management
340 system or the MS4, upon approval of the stormwater supervisor or his/her
341 designee.

342
343 (d) Only drains or conveyances depicted on the construction plans, maps or the
344 equivalent shall be constructed.

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

346 (a) Submission of intent to the city.

347
348 (1) Any person subject to a construction activity NPDES stormwater
349 discharge permit shall comply with all provisions of such permit.
350 Proof of compliance with said permit may be required in a form
351 acceptable to the stormwater supervisor or his/her designee prior to the
352 allowing of discharges to the MS4.

353

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

358
359 (3) The copy of the notice of intent shall be delivered to the city either in
360 person, by U.S. Postal Service Registered Mail, or by FedEx/UPS or
361 similar organization, registered delivery, and sent to the attention of
362 the stormwater supervisor or his/her designee at the following mailing
363 address:

364
365 City of Dunnellon, FL
366 11924 Bostick Street
367 Dunnellon, FL 34432.

368

369 **Sec. 98-178. – Compliance monitoring.**

370

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

374

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

379

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

386

387

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

392

393 (4) The stormwater supervisor or his/her designees have the right to
394 require the discharger to install monitoring equipment as necessary.
395 The site's compliance and monitoring equipment shall be maintained

396 at all times in a safe and proper operating condition by the discharger
397 at its own expense. All devices used to measure stormwater flow and
398 quality shall be calibrated to ensure their accuracy.

399
400 (5) Any temporary or permanent obstruction to safe and easy access to the
401 site to be inspected and/or sampled shall be promptly removed by the
402 contractor at written or oral request of the stormwater supervisor or
403 his/her designees, and shall not be replaced. The costs of clearing such
404 access shall be borne by the contractor.

405
406 (6) Unreasonable delays in allowing the city access to the permitted
407 facility is a violation of the stormwater discharge permit and this
408 division. The project manager of the construction site discharging
409 under an NPDES permit commits an offense if the person denies
410 reasonable access to the stormwater supervisor or the person's
411 designee for the purpose of conducting any activity authorized and/or
412 required by this division.

413
414 (b) *Search warrants.* The city may seek a search warrant from any court of
415 competent jurisdiction if the city has been refused access to any part of the
416 premises from which stormwater is discharged and the city can demonstrate
417 probable cause to believe that:

418
419 (1) There may be a violation of the division; or

420
421 (2) There is a need to inspect and/or sample as part of the routine
422 inspection and sampling program designed to verify compliance with
423 this division or any order issued hereunder to protect the overall
424 health, safety and welfare of the community.

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

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

429
430 (b) The project manager of such activity shall provide, at the person's own
431 expense, reasonable protection from accidental discharge of prohibited
432 materials or other wastes into the MS4 or waters of the state through the use
433 of these structural and non-structural BMPs.

434
435 (c) Any person responsible for property or premise with construction activity that
436 is, or may be, the source of illicit discharge, may be required to implement, at

437 said person's expense, additional structural and non-structural BMPs to
438 prevent the further discharge of pollutants to the MS4 or waters of the state.

439
440 (d) Compliance with all terms and conditions of a valid FDEP issued NPDES
441 permit authorizing the discharge of stormwater associated with construction
442 activity, to the extent practicable, shall be deemed in compliance with the
443 provisions of this division.

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

445 (a) Notwithstanding other requirements of law, as soon as any person responsible
446 for a construction site or emergency response if it has any information of any
447 known or suspected release of materials which are resulting or may result in
448 illegal discharges or pollutants discharging into stormwater, the MS4, or
449 waters of the state, said person shall take all necessary steps to ensure the
450 discovery, containment and cleanup of such release. In the event of such a
451 release of hazardous materials, said person shall immediately notify
452 emergency response agencies of the occurrence via emergency dispatch
453 services.

454
455 (b) In the event of a release of non-hazardous materials, said person shall notify
456 the stormwater supervisor or his/her designee in person, by phone or facsimile
457 no later than the next business day. Notification in person or by phone shall
458 be confirmed by written notice mailed to stormwater supervisor or his/her
459 designee within two (2) business days of the phone notice.

460
461 (c) The owner or project manager of such construction site shall also retain on-
462 site a written record of the discharge and actions taken to prevent its
463 recurrence until the conclusion of construction on the site. Following the
464 conclusion of construction, such records shall be maintained for at least 10
465 years at the office of the project manager.

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

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

474
475 (b) *Emergency cease and desist orders.* When the stormwater supervisor or
476 his/her designee finds that any person has violated, or continues to violate, any
477 provision of this division, or any order issued hereunder, and such violation(s)

478 has or have caused an imminent or substantial endangerment to the health,
479 safety or welfare of persons or the environment, the stormwater supervisor or
480 his/her designee may serve upon that person a written notice directing him/her
481 to cease and desist all such violations, and directing the violator to:

482
483 (1) Immediately comply with all permits, ordinances, and other
484 requirements of the law; and

485
486
487 (2) Take such appropriate preventive action as may be needed to properly
488 address a continuing or threatened violation, including immediately
489 halting operations and/or terminating the discharge.

490
491 (c) *Response to emergency cease and desist order.* The violator shall submit to
492 the stormwater supervisor or his/her designee a detailed written statement
493 describing the causes of the harmful discharge and the actions taken or to be
494 taken to prevent any future occurrence within five (5) days of receipt of the
495 emergency cease and desist order. Issuance of the emergency cease and desist
496 order shall not bar against, or be a prerequisite, for taking any other action
497 against the violator. The remedial actions outlined in the violator's written
498 response shall be approved by the stormwater supervisor or his/her designee.

499
500 (d) *Actions for enforcement of emergency cease and desist order.* Anyone
501 notified through an emergency cease and desist order under this subsection
502 shall immediately comply and stop or eliminate the endangering discharge. In
503 the event of the discharger's failure to immediately comply voluntarily with
504 the emergency cease and desist order, the city shall take such steps as deemed
505 necessary to prevent or minimize harm to the MS4, watercourses, or receiving
506 waters, and/or endangerment to persons or the environment, including
507 termination of a construction site's water supply, sewer connection, or other
508 municipal services. The stormwater supervisor or his/her designee may allow
509 the violator to recommence its discharge when it has demonstrated to that
510 person that the period of danger has passed, unless further termination
511 proceedings are initiated against the violator under this division.

512
513 (e) *Reinstating MS4 access deemed an offense.* A violator commits an offense if
514 he/she reinstates MS4 access to the construction site pursuant to this division,
515 without approval of the stormwater supervisor or his/her designee.

516
517 (f) *Civil penalties.* In the event the alleged violator fails to take the remedial
518 measures set forth in the notice of violation or otherwise fails to cure the
519 violations therein within five (5) business days, or such greater period as the
520 city shall deem appropriate, after the city has taken one (1) or more of the

521 actions described above, the city may impose a penalty not to exceed \$500
522 (depending on the severity of the violation) for each day the violation remains
523 not remedied after receipt of the notice of violation.

524
525 (g) *Judicial remedy.* In addition to the remedies provided herein, the city may
526 make application to a court of competent jurisdiction for injunctive relief to
527 restrain any person from violating or continuing to violate the provisions of
528 this division. In addition, the city may seek any and all applicable legal
529 actions, including, but not limited to, entry of a court order requiring
530 restoration and mitigation of any impacted construction site(s), land, or
531 waters, as well as reimbursement of court costs and other costs associated
532 with abatement of the violation. The city shall be entitled to an award of
533 attorney's fees in prosecuting such actions, together with attorney's fees and
534 costs on appeal.

535
536 (h) Each act of violation and each day upon which any violation occurs shall
537 constitute a separate offense.

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

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

542
543 (b) The notice of appeal must be submitted in writing to the city within five (5)
544 business days from the date of the notice of violation.

545
546 (c) Hearing on the appeal before the special magistrate shall take place 30 days
547 from the date of receipt of the notice of appeal. The decision of the special
548 magistrate shall be final, except in the event where the violation is escalated to
549 a court of competent jurisdiction.

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

551 (a) If the violator has not corrected the violation pursuant to the requirements set
552 forth in the notice of violation, or, in the event of an appeal, within 30 days of
553 the decision of the special magistrate upholding the decision of the city, then
554 the city's representatives shall enter upon the subject private property and are
555 authorized to take any and all measures necessary to abate the violation and/or
556 restore the property.

557
558 (b) It shall be unlawful for any person, owner, agent, or person in possession of
559 any premises to refuse to allow the stormwater supervisor or his/her designee,
560 or a city-designated contractor to enter upon the premises for the purposes set
561 forth above.

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

563 (a) Within 30 days after abatement of the violation, the owner of the property will
564 be notified of any costs of the abatement, including administrative costs. The
565 property owner may file a written protest objecting to the amount of the
566 assessment within 15 business days of receipt of the notification of these
567 costs. Upon receipt of the written objection, the city shall hold a hearing
568 before the special magistrate within 30 days. The decision of the special
569 magistrate shall be binding.

570
571 (b) If the amount due is not paid within a timely manner as determined at the
572 decision of the city or by the expiration of time in which to file an appeal, the
573 charges will become a special assessment against the property and shall
574 constitute a lien on the property for the full amount of the assessment.

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

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

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

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

584
585 (b) Privately-owned stormwater system components within the city, including
586 privately-owned drainage retention areas, shall remain privately owned and
587 maintained until such time as a legal instrument is executed transferring such
588 ownership and maintenance responsibility.

589
590 (c) Publicly-owned stormwater system components within the city, including
591 publicly-owned drainage retention areas, shall remain owned and maintained
592 by the city, county or state authority until such time as a legal instrument is
593 executed transferring such ownership and maintenance responsibility.

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

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

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

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

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

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

613 **Upon motion duly made and carried,** the foregoing Ordinance was approved upon the first
614 reading on the 14th day of May 2018.

615
616 **Upon motion duly made and carried,** the foregoing Ordinance was approved and passed upon
617 the second and final reading and public hearing on the 11th day of June 2018.

618
619 Ordinance Posted on the City's website on May 11, 2018. Public hearing advertised on the
620 City's website on May 18, 2018 and advertised in the Riverland News on May 31, 2018.

621

622 ATTEST: **CITY OF DUNNELLON**

623

624 _____
625 Amanda L. Roberts, CMC

Walter Green, Mayor

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627 Approved as to Form and Legal Sufficiency:

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630 Andrew J. Hand, City Attorney

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CERTIFICATE OF POSTING

I HEREBY CERTIFY that copies of the foregoing Ordinance were posted at City Hall, the Chamber of Commerce, and the Dunnellon Library, in the City of Dunnellon, Florida, this 11th day of May 2018 and on the City’s Official Website the 11th day of May 2018.

Amanda L. Roberts, CMC
City Clerk