

ORDINANCE NO. 2020-04

AN ORDINANCE OF THE CITY OF CLEWISTON, FLORIDA, CODE OF ORDINANCES MODIFYING SECTION 98-189 MONITORING OF DISCHARGES (b) ACCESS TO FACILITIES, AND SECTION 98-190 REQUIREMENTS TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES; PROVIDING FOR INCORPORATION INTO THE CODE, REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Department of Environmental Protection, Division of Water Resource Management, has requested certain modifications to the City ordinance for consistency with the NPDES / MS4 Phase II Program.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF CLEWISTON, FLORIDA, AS FOLLOWS:

SECTION 1. Section 98-189, Monitoring of discharges (b) Access to facilities (1) is hereby modified as follows:

Sec. 98-189

(b) *Access to facilities.*

(1) The authorized enforcement agency shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency. Failure to allow the authorized enforcement agency to access a permitted facility is a violation of a stormwater discharge permit and of this section.

(2) Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that ~~must be~~ are required pursuant to the terms and kept under the conditions of an

NPDES stormwater discharge permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) The authorized enforcement agency shall have the right to set up on any permitted facility such devices, as are necessary in the opinion of the authorized enforcement agency, to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The authorized enforcement agency shall have the right to require the discharger to install monitoring equipment as necessary. The facility's sampling 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 facility for the purpose of regulation in accordance with this Division ~~to be inspected and/or sampled~~ shall be promptly removed by the operator at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the authorized enforcement agency access to a permitted facility is a violation of an NPDES stormwater discharge permit and of this article. A person who is the operator of a facility with a NPDES stormwater discharge permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.

(7) If the authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and the authorized enforcement agency is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 2. Section 98-190, Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices, is hereby modified as follows:

Sec. 98-190

Best Management Practices shall be utilized ~~The city shall adopt, by resolution, requirements identifying best management practices~~ for any urban activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drainage system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drainage system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, the source of an illegal discharge shall ~~illicit discharge,~~ may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES stormwater discharge permit authorizing the discharge of stormwater associated with industrial activity, ~~to the extent practicable, shall be deemed compliance with the provisions of this section~~ is required. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES stormwater discharge permit.

1. Development or redevelopment on any site zoned for industrial, commercial, or residential use of more than 6 living units where that development or redevelopment does not otherwise qualify for an exemption for water quality treatment by the Water Management District shall incorporate specific design features into the site for the purposes of water quality treatment. Those design features shall be designed by a professional engineer licensed in Florida and shall be accompanied with, at a minimum, a signed and sealed engineering report or memorandum detailing and including by reference the minimum State of Florida water quality criteria requirements. The engineering report or memorandum shall include characteristics of pre-existing and proposed site conditions as well as the calculation methods used to determine the size, configuration, and selection of the water quality system and its anticipated performance in providing pre-treatment of stormwater runoff prior to discharge to any portion of the MS4.
2. All sites, regardless of size, where construction activity requires the issuance of a Florida Building Permit for any type of construction or where a locally issued permit for clearing or grading is issued, shall implement erosion and sediment controls to prevent the discharge of sediment laden runoff from the site. Those controls may be based on

generally accepted sediment and erosion control methods adopted by any Department of the State of Florida as long as the controls are effective.

3. All sites, regardless of size, where construction activity requires the issuance of a Florida Building Permit for any type of construction or where a locally issued permit for clearing or grading is issued, shall utilize BMP practices, not limited to containment and removal, in order to manage waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that if un-controlled could become part of non-stormwater discharge from the site.

SECTION 3. The provisions of this ordinance shall become and be made a part of the City Code of Ordinances and the sections of this ordinance may be renumbered and codified to accomplish this end.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed. All ordinances or parts of ordinances not specifically in conflict herewith are hereby continued in full force and effect.

SECTION 5. If any part of this ordinance is declared invalid by a court of competent jurisdiction, such part or parts shall be severable, and the remaining part or parts shall continue to be in full force and effect.

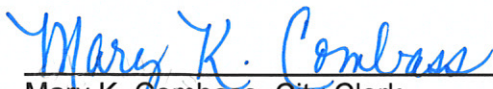
SECTION 6. This ordinance shall take effect immediately upon its passage and approval consistent with the requirements of general law.

PASSED on first reading by the City Commission on September 21, 2020.

PASSED AND ADOPTED on second and final reading by the City Commission on November 16, 2020.

ATTEST:

CITY OF CLEWISTON, FLORIDA



Mary K. Combass, City Clerk



Mali Gardner, Mayor

(MUNICIPAL SEAL)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 

Gary M. Brandenburg, City Attorney