



07-80S

Introduce: 5-14-07

SUBSTITUTE
ORDINANCE NO. 18949

1 AN ORDINANCE amending the Lincoln Municipal Code by creating a new Title
2 28, Stormwater Quality and Erosion and Sediment Control, and a new Chapter 28.01, Regulations
3 for Construction Site Discharges, to provide requirements and criteria to prevent and control water
4 pollution and diminish adverse impacts to health, safety, property, and the general welfare of the
5 citizens of the City of Lincoln by adding Section 28.01.010 setting forth the purpose and findings
6 of regulating construction site discharges; Section 28.01.020 establishing the authority and
7 applicability of these regulations to all lands within the corporate limits of the City and within three
8 miles thereof; Section 28.01.030 setting forth definitions including Applicant, Authorized
9 Representative, Best Management Practices (BMPs), City, Common Plan of Development or Sale,
10 Construction Activity, Director, Erosion, Final Stabilization, Illicit Discharge, Land Disturbance,
11 MS4 Permit, Municipal Separate Stormwater Sewer System (MS4), National Pollutant Discharge
12 Elimination System (NPDES), Notice of Intent (NOI), Notice of Termination (NOT), NPDES
13 General Permit, Owner, Permit, Permittee, Person, Pollutant, Public Right-of-Way, Sediment,
14 Sedimentation, Stop Work Order, Storm Drainage System, Stormwater, and Stormwater Pollution
15 Prevention Plan (SWPPP); Section 28.01.040 incorporating the City's Design Standards and
16 Drainage Criteria Manual and providing an exemption for emergency activity; Section 28.01.050
17 requiring that a permit and SWPPP be submitted to the Lower Platte South Natural Resources
18 District for any construction activity; Section 28.01.060 setting forth requirements for the
19 Construction Activity SWPPP; Section 28.01.070 setting forth requirements for the building phase

1 of development; Section 28.01.080 establishing a process by which a permittee must conduct routine
2 inspections to ensure compliance with the regulations; Section 28.01.090 providing a mechanism
3 to terminate the permit; Section 28.01.100 allowing for enforcement action by the City in the event
4 sediment is in a public right-of-way or storm drainage system; Section 28.01.110 providing a right-
5 of-entry to the City and the Lower Platte South Natural Resources District to perform inspections
6 of construction sites to verify compliance with the regulations; Section 28.01.120 specifying
7 unlawful acts under the chapter, providing enforcement authority for the City in the event a violation
8 occurs, and establishing penalties for such violations; and Section 28.01.130 providing for an appeal
9 to the Director where a stop work order or permit suspension, revocation or denial has been issued.

10 WHEREAS the City Council has determined that requirements and criteria for
11 construction site discharges are needed to prevent and control water pollution and to diminish
12 adverse impacts to health, safety, property, and the general welfare of the citizens of the City of
13 Lincoln.

14 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

15 Section 1. That the Lincoln Municipal Code be amended by adding a new section
16 numbered 28.01.010 to read as follows:

17 **28.01.010 Purpose and Findings.**

18 The purpose of this chapter is to provide requirements and criteria to prevent and control
19 water pollution, and to diminish adverse impacts to health, safety, property, and the general welfare
20 of the citizens of the City of Lincoln through regulating stormwater runoff from areas of
21 construction and reconstruction, to the maximum extent practicable as required by the Federal Clean
22 Water Act (33 U.S.C. §1251 et seq. as amended to date), the Nebraska Environmental Protection

1 Act (Neb. Rev. Stat. §81-1501 et seq. as amended to date) and to the rules and regulations
2 promulgated under such Acts.

3 This chapter will also promote the public welfare by guiding and regulating the design,
4 construction, and maintenance of any area of development or redevelopment or other activity that
5 disturbs or breaks the topsoil or results in the movement of earth on land in the City of Lincoln.

6 Section 2. That the Lincoln Municipal Code be amended by adding a new section
7 numbered 28.01.020 to read as follows:

8 **28.01.020 Authority and Applicability.**

9 (a) The provisions of this chapter are deemed not to limit any other lawful regulatory
10 powers of the City.

11 (b) The regulations set forth herein, or set forth elsewhere in the Lincoln Municipal Code
12 when referred to in this chapter shall be known as the Regulations for Construction Site Discharges.

13 (c) The regulations shall apply to all construction activity within the corporate limits of
14 the City and within the land outside the corporate limits designated as Tier I in the Lincoln City/
15 Lancaster County Comprehensive Plan.

16 (d) As provided in the Interlocal Agreement dated March 29, 1996, the City of Lincoln
17 and the Lower Platte South Natural Resources District will cooperate in the administration and
18 enforcement of these regulations.

19 Section 3. That the Lincoln Municipal Code be amended by adding a new section
20 numbered 28.01.030 to read as follows:

21 **28.01.030 Definitions.**

22 For purposes of this chapter, the following definitions shall apply:

1 Applicant shall mean any person submitting a Notice of Intent (NOI) and Stormwater
2 Pollution Prevention Plan (SWPPP) for authorization to discharge stormwater under the NPDES
3 General Permit.

4 Authorized Representative shall mean a person designated in writing by the permittee to
5 act as the primary contact for the permittee for such matters as coordinating on-site inspections,
6 discussing initial inspection findings and installing or repairing BMPs when applicable.

7 Best Management Practices (BMPs) shall mean erosion and sediment controls and water
8 quality and quantity management practices that are either identified in Chapter 9 of the City's
9 Drainage Criteria Manual, meet the requirements set forth in the NPDES General Permit, or are
10 otherwise approved of by the Director.

11 City shall mean the City of Lincoln, Nebraska.

12 Common Plan of Development or Sale shall mean a contiguous area where multiple
13 separate and distinct land disturbing activities may be taking place at different times, on different
14 schedules, but are covered under one SWPPP submitted by and under the control of the permittee.

15 Construction Activity shall mean any land disturbance of one acre or more of total land area
16 and less than one acre of total land area that is part of a common plan of development or sale.
17 Construction activity does not include routine maintenance that is performed to maintain the original
18 line and grade, hydraulic capacity, or the agricultural use of the land.

19 Director shall mean the Director of Public Works and Utilities of the City, or his authorized
20 deputy, agent, or representative.

21 Erosion shall mean the wearing away of land by the action of wind, water, gravity or ice or
22 combination thereof.

1 **Final stabilization** shall be defined the same as and meet the requirements established by
2 the NPDES General Permit.

3 **Illicit Discharge** shall mean any discharge to the storm drainage system that is not composed
4 entirely of stormwater, except discharges pursuant to a NPDES permit.

5 **Land Disturbance** shall mean any man-made change of the land surface including, but not
6 limited to, construction activity, tracking, removing vegetative cover, stockpiling, excavating, filling
7 and grading; but not including agricultural land uses such as, planting, growing, cultivating and
8 harvesting of crops; growing and tending of gardens; harvesting of trees; and landscaping
9 modifications.

10 **MS4 Permit** shall mean the permit issued to the City by the Nebraska Department of
11 Environmental Quality for the purpose of municipal compliance with the provisions of the National
12 Pollutant Discharge Elimination System (NPDES) program.

13 **Municipal Separate Stormwater Sewer System (MS4)** shall mean the storm drainage
14 system owned or operated by the City.

15 **National Pollutant Discharge Elimination System (NPDES)** shall mean the program for
16 issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the
17 Federal Clean Water Act (Sections 301, 402, 318, and 405); C.F.R. Title 33, Sections 1317, 1328,
18 1342, and 1345; the Nebraska Environmental Protection Act (*Neb. Rev. Stat. §81-1501 et seq.*); and
19 Nebraska Administrative Code, Title 119, *Rules and Regulations Pertaining to the Issuance of*
20 *Permits Under the National Pollutant Discharge Elimination System.*

21 **Notice of Intent (NOI)** shall mean the application for authorization to discharge under the
22 NPDES General Permit (NER100000) for construction activity that is required to be submitted to
23 the Lower Platte South Natural Resources District by the applicant for review and issuance.

1 Notice of Termination (NOT) shall mean a notice submitted to the Lower Platte South
2 Natural Resources District by the permittee to terminate the permit.

3 NPDES General Permit shall mean the NPDES General Permit for Stormwater Discharges
4 from Construction Sites (NER100000) issued pursuant to Nebraska Administrative Code, Title 119,
5 *Rules and Regulations Pertaining to the Issuance of Permits Under the National Pollutant*
6 *Discharge Elimination System*, which authorizes the discharge of stormwater from construction or
7 development sites.

8 Owner shall mean the person or party possessing title of the land on which the construction
9 activity occurs.

10 Permit shall mean a Construction Stormwater Permit which authorizes the permittee to
11 proceed with the work described in the permittee's Notice of Intent (NOI) and is conditioned upon
12 strict compliance with all ordinances, rules and regulations of the City.

13 Permittee shall mean any person who has applied for and is subsequently issued a permit.

14 Person shall mean any individual, partnership, co-partnership, firm, company, corporation,
15 association, joint stock company, trust, estate, governmental entity, or any other legal entity,
16 including their legal representatives, agents, or assigns.

17 Pollutant shall mean any substance or material which contaminates or impedes the flow of
18 water including, but not limited to, dredged spoil, spoil waste, incinerator residue, filter backwash,
19 domestic or industrial wastewater, septic waste, sewage, garbage, refuse, junk, sewage sludge,
20 munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded
21 equipment, rock, sand, soil, sediment, yard waste, industrial or household hazardous waste,
22 hazardous substance, pesticide, fertilizer, concrete truck washout, used oil, antifreeze, litter, and
23 industrial, municipal, or agricultural waste.

1 **Public Right-of-Way** shall mean any public street, alley, sidewalk, public way or public
2 ground within the City.

3 **Sediment** shall mean any rock, sand, or soil transported or removed from its place of origin
4 as a result of erosion, sedimentation, or human activities.

5 **Sedimentation** shall mean the process by which eroded material is transported and deposited
6 by the action of wind, water, ice or gravity, or as a result of human activities.

7 **Stop Work Order** shall mean an order by the City to cease any construction activity
8 occurring at or within the development site, whether or not such activity was permitted by this
9 chapter. Upon issuance of a stop work order, no further construction activity may be commenced
10 at the site until the violation or compliance failure is corrected, with the exception of measures to
11 correct the violation.

12 **Storm Drainage System** shall mean any conveyance, system of conveyances, or other
13 structure, including but not limited to any roads with drainage systems, public streets, private
14 roadways, sidewalks, catch basins, curbs, gutters, ditches, inlets, piped storm drains, pumping
15 facilities, natural and man-made or altered drainage channels, reservoirs, or other stormwater storage
16 facilities designed or used for collecting or conveying stormwater, and which is not used for
17 collecting or conveying sewage.

18 **Stormwater** shall mean stormwater runoff, snow melt runoff, and surface runoff and
19 drainage.

20 **Stormwater Pollution Prevention Plan (SWPPP)** shall mean a plan for the prevention,
21 minimization, and control of soil erosion and sedimentation resulting from any construction activity,
22 and may include without being limited to, any Best Management Practices (BMPs) incorporated into
23 the SWPPP.

1 Section 4. That the Lincoln Municipal Code be amended by adding a new section
2 numbered 28.01.040 to read as follows:

3 **28.01.040 General Provisions.**

4 (a) Applicability. The requirements and standards set forth in this chapter, the City's
5 Design Standards, and the City's Drainage Criteria Manual shall apply to all construction activity
6 within the corporate limits of the City and within the land outside the corporate limits designated
7 as Tier I.

8 (b) Exemption. No permit is immediately required for any emergency activity that is
9 immediately necessary for the protection of life, limb, property, or natural resource.

10 Section 5. That the Lincoln Municipal Code be amended by adding a new section
11 numbered 28.01.050 to read as follows:

12 **28.01.050 Notification and Discharge Authorization Procedures for Construction Activity.**

13 (a) No person shall engage in any construction activity without a permit.

14 (b) No person shall be issued a permit without the preparation and submittal of a permit
15 application in the form of a Notice of Intent (NOI) that includes a Stormwater Pollution Prevention
16 Plan (SWPPP) to the Lower Platte South Natural Resources District on behalf of the City.

17 (c) Each application shall bear the name(s) and address(es) of the applicant, authorized
18 representative, and the designer of the SWPPP retained by the applicant together with the name of
19 the designer's firm.

20 (d) The Lower Platte South Natural Resources District on behalf of the City will review
21 each application to determine conformance with this chapter. Within seven calendar days of
22 receiving an application, the Lower Platte South Natural Resources District shall:

23 (1) Issue the permit;

1 (2) Issue the permit subject to conditions necessary to secure the objectives of
2 this chapter; or

3 (3) Deny the permit, indicating the reason(s) for denial and the procedure for
4 submitting a revised application.

5 (e) When a permit is issued, the permittee is responsible to ensure that any construction
6 activity complies with the provisions of this chapter from permit issuance to termination, unless the
7 Lower Platte South Natural Resources District on behalf of the City authorizes a permit transfer.

8 (f) All information submitted with the NOL, including the SWPPP, shall be considered
9 factual and binding. A failure of the permittee or any agents thereof to provide correct information
10 or failure to conduct the construction activity as described in the permit or SWPPP shall be
11 considered a violation of this chapter and sufficient grounds for the suspension or revocation of the
12 permit.

13 (g) The permittee shall conspicuously post a notice about the permit and SWPPP
14 near the main entrance of the site prior to engaging in any construction activity. The permit notice
15 must include the following information:

- 16 (1) The project's permit number;
- 17 (2) The name and phone number of a local contact;
- 18 (3) A brief description of the project; and
- 19 (4) The location of the SWPPP, if not kept on site.

20 (h) The permittee shall comply with all requirements of the permit until final
21 stabilization has been met and a Notice of Termination has been issued by the Lower Platte South
22 Natural Resources District.

1 Section 6. That the Lincoln Municipal Code be amended by adding a new section
2 numbered 28.01.060 to read as follows:

3 **28.01.060 Requirements for Construction Activity Stormwater Pollution Prevention Plan**
4 **(SWPPP).**

5 A SWPPP shall be filed with the NOI for construction activity and submitted to the Lower
6 Platte South Natural Resources District, and shall include the following information:

7 (a) Project Information.

8 (1) The permittee's name, address and telephone number;

9 (2) The owner's name (if the permittee is not the property owner), home and
10 business address, telephone number(s), and written consent to the construction activity set forth in
11 the NOI;

12 (3) Permittee's legal interest in the land;

13 (4) The geographical location of the property which is to be affected by the
14 construction activity;

15 (5) The legal description with parcel numbers of the property or properties;

16 (6) Certification that the permittee is familiar with and agrees to comply with the
17 terms and conditions provided in the NOI and SWPPP; and

18 (7) Authorization for the City and Lower Platte South Natural Resources District
19 to inspect the property at reasonable times.

20 (b) Narrative. The narrative shall describe the BMPs to be implemented to control
21 erosion, sedimentation, and pollutants, both on and off site. Emphasis shall be placed on the
22 prevention of erosion using vegetative or non-structural control measures. The narrative must
23 address all phases of the construction activity (e.g. initial grading, infrastructure, building phase of
24 development, and final stabilization) and include:

- 1 (1) Start and completion dates;
- 2 (2) A schedule and sequence of all phases of the construction activity;
- 3 (3) A list of proposed BMPs;
- 4 (4) The construction details, application schedule, and procedures for proposed
5 BMPs;
- 6 (5) The operations and maintenance program for proposed BMPs;
- 7 (6) The name of the authorized representative or individual responsible for
8 inspecting BMPs, including office address and telephone number(s) for 24-hour-a-day contact;
- 9 (7) A contingency plan if unforeseen erosion or sedimentation problems arise,
10 including emergency situations caused by storms;
- 11 (8) A description of procedures to prevent, contain, and respond to illicit
12 discharges and spills that may impact the storm drainage system; and
- 13 (9) Any features of the site which may be particularly vulnerable to erosion, such
14 as ridge tops, swales, and soil types, and any specific BMPs implemented for these features.
- 15 (c) Site Plan Map.
- 16 (1) Date prepared and name of preparer;
- 17 (2) Scale of the map. The suggested scale of the map is one inch = 40 feet with
18 two-foot contour intervals, but may be more or less detailed to meet specific site needs;
- 19 (3) A north arrow;
- 20 (4) Location or vicinity map;
- 21 (5) Street name and location of the proposed development and adjacent
22 properties, including all structures on the site and within 25 feet of the construction activity property
23 line, including but not limited to paving, fencing, buildings, and archaeological sites;

1 (6) Existing and proposed topography showing two foot contours, including
2 floodplains, floodprone areas, floodways, minimum corridors, wetlands, watercourses, water bodies,
3 and soil types if pertinent;

4 (7) Identification of surface water flow directions, indicated by arrows showing
5 where stormwater is expected to flow;

6 (8) Proposed alterations including cleared, excavated, filled or graded areas and
7 proposed structures, utilities, roads and, if applicable, new property lines; and

8 (9) Location of all proposed BMPs to be utilized over the period of construction.

9 (d) The following statements shall be included in the SWPPP:

10 (1) If the SWPPP carries a seal or signature of a “designated designer” it shall
11 include placement of the following statement: “The undersigned certifies that this SWPPP has been
12 designed in accordance with the standards in Chapter 9 of the City’s Drainage Criteria Manual.”

13 (2) “Unless otherwise indicated, all BMPs will be constructed, installed, and
14 maintained according to the minimum standards and specifications set forth in either Chapter 9 of
15 the City’s Drainage Criteria Manual, the NPDES General Permit, or otherwise approved by the
16 Director, and will be in place and in working order prior to any construction activity.”

17 (3) “Following any construction activity, final or temporary stabilization shall
18 be completed as soon as practicable, but in no case more than fourteen days, to the surface of all
19 perimeter controls, topsoil stockpiles, and any other disturbed or graded areas on the project site
20 which are not being used for material storage, or on which actual construction activity is not being
21 performed.”

22 (4) “All BMPs will be inspected by qualified personnel at least once every seven
23 calendar days during active construction and within twenty-four hours after any storm event greater

1 than 0.5 inches during a 24-hour period. Any necessary repairs or clean-up to maintain the
2 effectiveness of the BMPs shall be made prior to the next storm event whenever practicable. If
3 implementation before the next storm event is impracticable, the situation will be documented in the
4 SWPPP and alternative BMPs will be implemented as soon as possible.”

5 (e) The building phase of development for a common plan of development or sale may
6 be covered under one SWPPP that is submitted by and under the control of the permittee. Any
7 person engaging in construction activity under a common Construction Activity SWPPP must meet
8 the requirements of 28.01.070 of this chapter.

9 Section 7. That the Lincoln Municipal Code be amended by adding a new section
10 numbered 28.01.070 to read as follows:

11 **28.01.070 Requirements for the Building Phase of Development.**

12 Any person who engages in construction activity is responsible for compliance with this
13 chapter and all applicable terms and conditions of the Permit and SWPPP as it relates to the building
14 phase of development. The following information shall be included on the application for a building
15 permit and be submitted to the Director of Building and Safety:

- 16 (a) The legal description and permit number for the Construction Activity SWPPP;
17 (b) The location of the property where the building phase of development is to occur; and
18 (c) A certification that the building phase of development for the property described on
19 the application for a building permit will be conducted in conformance with Chapter 28.01 and the
20 Construction Activity SWPPP.

21 Section 8. That the Lincoln Municipal Code be amended by adding a new section
22 numbered 28.01.080 to read as follows:

1 **28.01.080** **SWPPP Inspections.**

2 It shall be the duty of the permittee to ensure that routine inspections are conducted and that
3 the BMPs on the site are maintained. The permittee shall secure a right of entry to each site within
4 the boundaries of the permit and conduct routine inspections at least once every seven calendar days
5 during active construction and within twenty-four hours after a rainfall event greater than 0.5 inches
6 during a 24-hour period. Inspections shall be conducted by qualified personnel who are
7 knowledgeable in the principles and practices of erosion and sediment control. Qualified personnel
8 shall possess the skills to assess conditions at the site that could impact stormwater quality and to
9 assess the effectiveness of any BMPs selected to control stormwater discharges. A log of these
10 inspections shall be retained with the SWPPP, along with photographs or other supporting
11 information. Any deficiencies or discrepancies with actual site conditions shall be noted in a report
12 of the inspection and include any action taken to correct the deficiency or discrepancy. Inspection
13 reports and follow-up documentation regarding violations and associated corrective actions shall be
14 submitted to the Director of the Lower Platte South Natural Resources District upon request. The
15 inspection report shall include the following minimum information:

- 16 (a) Inspectors name;
17 (b) Date of inspection;
18 (c) Observations relative to the effectiveness of the BMPs;
19 (d) Actions necessary and taken to correct deficiencies; and
20 (e) Signature of the person performing the inspection.

21 Any delay in the replacement or maintenance of non-functional BMPs beyond the next storm
22 event shall be documented in the SWPPP with sufficient detail explaining the reason for delay, and
23 alternate BMPs must be implemented as soon as possible.

1 Where more defined areas have been identified in the SWPPP to either have frozen ground
2 conditions and construction has been suspended or have undergone stabilization while work on other
3 portions of the site is ongoing, the permittee may reduce inspections of these areas to once per
4 calendar month as long as the described conditions exist.

5 Section 9. That the Lincoln Municipal Code be amended by adding a new section
6 numbered 28.01.090 to read as follows:

7 **28.01.090 Notice of Termination.**

8 Compliance with the permit is required for any construction activity until a Notice of
9 Termination (NOT) is submitted to the Lower Platte South Natural Resources District. The City
10 reserves the right to terminate coverage of a permit for any cause.

11 (a) A permittee must submit a complete and accurate Notice of Termination (NOT).

12 (b) A permittee may only submit a NOT after one or more of the following conditions
13 have been met:

14 (1) Final stabilization has been achieved on all portions of the site covered by the
15 permit;

16 (2) Another permittee has assumed control over all areas of the site that have not
17 been finally stabilized ;

18 (3) Coverage under an individual or alternative general NPDES permit has been
19 obtained;

20 (4) For residential construction only, temporary stabilization has been established
21 and the homeowner has been informed by the permittee of the need for final stabilization;

22 (5) For construction activity, the total remaining area of the common plan is less
23 than one acre.

1 (c) The NOT must be submitted within thirty days of one of the above conditions being
2 met. Authorization to discharge terminates at midnight of the day the NOT is submitted.

3 Section 10. That the Lincoln Municipal Code be amended by adding a new section
4 numbered 28.01.100 to read as follows:

5 **28.01.100 Sediment in Public Right-of-Way or Storm Drainage System; Notice to Remove;**
6 **Penalty.**

7 In addition to the penalty provided in Section 28.01.120, any person responsible for sediment
8 deposited into or upon any street, alley, sidewalk, public way, storm drainage system, or public
9 ground as a result of tracking, runoff or other erosion and sedimentation from a building or
10 development site, shall remove the same within a reasonable period of time as required by the City
11 or the Lower Platte South Natural Resources District. Whenever the person responsible for
12 sediment deposited into or upon any street, alley, sidewalk, public way, storm drainage system, or
13 public ground refuses or neglects to remove the same, the City may elect to remove the sediment
14 and the expense of such removal shall be recoverable in an action at law.

15 If the City or the Lower Platte South Natural Resources District determines that the
16 conditions described above constitute an immediate nuisance and hazard to public safety, the City
17 shall issue a written notice to abate and remove such nuisance or hazard within twenty-four hours.
18 If such person responsible shall have failed or refused to abate and remove such nuisance at the
19 expiration of twenty-four hours from delivery of notice, the City may remove such nuisance and the
20 expense of such removal shall be recoverable in an action at law.

21 Section 11. That the Lincoln Municipal Code be amended by adding a new section
22 numbered 28.01.110 to read as follows:

1 **28.01.110** **Right of Entry.**

2 The Director and the Lower Platte South Natural Resources District may perform inspections
3 of the site to verify compliance with this chapter. If the permit, SWPPP, or inspection records do
4 not reflect actual conditions at the site or have been falsified, the Director may take enforcement
5 action as described within this chapter. If BMPs are deemed by the Director to be ineffective or
6 maintained improperly, the Director may take enforcement action as described within this chapter.
7 Whenever the Director has cause to believe that there exists, or potentially exists, in or upon any
8 premises, any condition which constitutes a violation of this chapter, the Director is authorized to
9 enter the premises at reasonable times to inspect or to perform the duties imposed by this chapter.
10 If entry is refused, the Director shall have recourse to the remedies provided by law to secure entry.

11 Section 12. That the Lincoln Municipal Code be amended by adding a new section
12 numbered 28.01.120 to read as follows:

13 **28.01.120** **Unlawful Acts; Enforcement; Penalty.**

14 It shall be unlawful for any person to:

- 15 (a) Engage in any construction activity without a permit;
- 16 (b) Violate any term or condition of the permit;
- 17 (c) Violate any term or condition of the SWPPP;
- 18 (d) Make any false statement, representation, or certification in any document submitted
19 to or requested by the City or the Lower Platte South Natural Resources District on behalf of the
20 City; or
- 21 (e) Violate any provision of this chapter.

1 Any person who violates this section shall be guilty of a misdemeanor. Each violation of
2 this section shall subject a person to a penalty of no more than \$500.00 per day. In the case of a
3 continuing violation, each day shall constitute a separate offense.

4 Any person in violation of this section shall correct such violation within ten working days
5 of receiving a notice of violation from the City. Failure to correct the violations within ten working
6 days shall be cause for an enforcement action by the City, including but not limited to, issuance of
7 a stop work order, assessment of a reinspection fee, suspension or revocation of the permit, or
8 imposition of a penalty.

9 To verify compliance with a notice of violation, the City shall be notified within the ten-day
10 correction period and may reinspect the site. In lieu of reinspection by the City, it is acceptable to
11 submit to the City dated photographic and written evidence that verifies a return to compliance. A
12 reinspection fee of \$75.00 may be assessed for any site that has not provided such evidence within
13 the ten-day correction period or has provided evidence that does not reflect actual conditions at the
14 site or which have been falsified. Nonpayment of such fee is a violation of this chapter. Whenever
15 a person refuses or neglects to correct the violation, the Director may cause the same to be corrected
16 and the expense shall be recoverable in an action at law.

17 Section 13. That the Lincoln Municipal Code be amended by adding a new section
18 numbered 28.01.130 to read as follows:

19 **28.01.130** **Appeals.**

20 Any person issued a stop work order by the Director, or permit suspension, revocation, or
21 denial under the provisions of this chapter may, within five days of the receipt of written notice of
22 the entry of such order, suspension, revocation, or denial, appeal to the Director for a hearing. The
23 Director will notify the appellant in writing of the date, time, and place of hearing before the

1 Director, which date shall be no later than ten days from the filing of the appeal. The appeal hearing
2 will not be conducted according to the Nebraska Rules of Evidence, but the appellant will have the
3 right to:

4 (a) Call, examine, and take sworn testimony of witnesses on any matter relevant to the
5 issues of the hearing;

6 (b) Introduce documentary and physical evidence;

7 (c) Cross examine opposing witnesses on any matter relevant to the issues of the hearing;

8 and

9 (d) Rebut opposing evidence.

10 The Director will review all information provided by the appellant. After the appeal hearing the
11 Director will make written findings of fact, and based upon such findings, will sustain, modify or
12 rescind the original order, suspension, revocation, or denial. A written report of the Director's
13 decision will be furnished to the appellant within ten days from the date that the appeal hearing is
14 closed. The decision of the Director will be final and binding upon both the City and the appellant,
15 and may be appealed as provided by state law. However, such decision will not be stayed unless
16 so ordered by the district court.

17 Section 14. That the Lincoln Municipal Code be amended by adding a new section
18 numbered 28.01.140 to read as follows:

19 **28.01.140 Severability.**

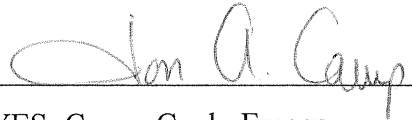
20 Each section or subsection of this chapter is hereby declared to be independent of every other
21 section or subsection of this chapter; and invalidity of any section or subsection of this chapter shall
22 not invalidate any other section or subsection hereof.

1 Section 15. That Sections 1 through 14 hereof shall be codified in the Lincoln
2 Municipal Code as Chapter 28.01 entitled Regulations for Construction Site Discharges.

3 Section 16. That this ordinance shall take effect and be in force from and after its
4 passage and publication according to law.

See further Council Proceedings
on next page.

Introduced by:




AYES: Camp, Cook, Emery,
Eschliman, Marvin, Spatz,
Svoboda; NAYS: None.

Approved as to Form & Legality:



Chief Assistant City Attorney

PASSED
JUN 25 2007
BY CITY COUNCIL.

Approved this 21 day of June, 2007:


Mayor

07-80S

6/04/07 Council Proceedings:

COOK Moved to continue Public Hearing with Action on Bill No. 07-80 to 6/25/07.
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook,
Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None.

6/25/07 Council Proceedings:

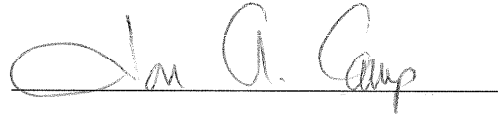
CAMP Moved Amendment #3 to amend Bill No. 07-80 by accepting the Substitute
Ordinance attached hereto.
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook,
Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None.

07-80

MOTION TO AMEND NO. 3

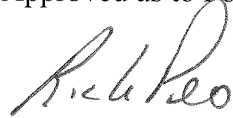
I hereby move to amend Bill No. 07-80 by accepting the Substitute Ordinance attached hereto.

Introduced by:



AYES: Camp, Cook, Emery,
Eschliman, Marvin, Spatz,
Svoboda; NAYS: None.

Approved as to Form & Legality:



Assistant City Attorney

Requested by: Law Department

Reason for Request: The substitute ordinance reflects terms and conditions agreed upon by the City and the Erosion and Sediment Control Working Group.

ADOPTED
JUN 25 2007
BY CITY COUNCIL