

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 28.01 of the Lincoln Municipal Code relating
2 to Regulations for Construction Site Discharges by amending Section 28.01.020 to update the
3 reference to the Comprehensive Plan; amending Section 28.01.030 to include or revise certain
4 definitions; amending Section 28.01.040 to clarify a permit is required for construction activity;
5 amending Section 28.01.050 regarding permit procedures; amending Section 28.01.060 regarding
6 permit information; amending Section 28.01.070 regarding building permit requirements; amending
7 Section 28.01.080 regarding SWPPP inspections and their frequency; adding a new section
8 numbered 28.01.085 regarding maintaining the SWPPP; amending Section 28.01.090 regarding
9 notice of termination, including notice to the City; amending Section 28.01.100 regarding deposit
10 of sediment; amending Section 28.01.110 regarding right of entry for inspections; amending Section
11 28.01.120 regarding unlawful acts; adding a new section numbered 28.01.125 regarding criminal
12 penalties; adding a new section numbered 28.01.127 regarding notice to comply for corrective
13 action; and repealing Sections 28.01.020, 28.01.030, 28.01.040, 28.01.050, 28.01.060, 28.01.070,
14 28.01.080, 28.01.090, 28.01.100, 28.01.110, and 28.01.120 of the Lincoln Municipal Code as
15 hitherto existing.

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

17 Section 1. That Section 28.01.020 of the Lincoln Municipal Code be amended to
18 read as follows:

19 **28.01.020 Authority and Applicability.**

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

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

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

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

7 Section 2. That Section 28.01.030 of the Lincoln Municipal Code be amended to
8 read as follows:

9 **28.01.030 Definitions.**

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

11 **Applicant** shall mean any person submitting a Notice of Intent (NOI) ~~and Stormwater~~
12 ~~Pollution Prevention Plan (SWPPP) or Individual Lot Notice of Intent (ILNOI)~~ for authorization to
13 discharge stormwater under the NPDES General Permit.

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

17 **Best Management Practices (BMPs)** shall mean erosion and sediment controls and water
18 quality and quantity management practices, including schedules of activities, prohibitions of
19 practices, maintenance procedures, and other management practices, that are ~~either~~ identified in
20 ~~Chapter 9 of the City's Drainage Criteria Manual~~ or referenced in the City's Design Standards, meet
21 the requirements set forth in the NPDES General Permit, or are otherwise approved of by the
22 Director.

23 **City** shall mean the City of Lincoln, Nebraska.

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

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

5 **Director** shall mean the Director of Public Works and Utilities of the City, or his authorized
6 deputy, agent, or representative.

7 **Erosion** shall mean the wearing away of land by the action of wind, water, gravity or ice or
8 combination thereof.

9 **Final stabilization** shall ~~be defined the same as and meet the requirements established by~~
10 ~~the NPDES General Permit~~ mean the condition where all soil disturbing activities at the site have
11 been completed and a uniform perennial vegetative cover with a minimum density of 70 percent has
12 been established on all pervious areas unless equivalent permanent stabilization (such as riprap,
13 geotextiles, or permanent BMPs) have been established.

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

16 **Individual Lot Notice of Intent (ILNOI)** shall mean the permit application for
17 authorization to discharge stormwater under the current NPDES General Permit for construction
18 activity less than one acre of total land area that is part of a common plan of development or sale.

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

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

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

3 **National Pollutant Discharge Elimination System (NPDES)** shall mean the program for
4 issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the
5 Federal Clean Water Act (Sections 301, 402, 318, and 405); C.F.R. Title 33, Sections 1317, 1328,
6 1342, and 1345; the Nebraska Environmental Protection Act (*Neb. Rev. Stat. §81-1501 et seq.*); and
7 Nebraska Administrative Code, Title 119, *Rules and Regulations Pertaining to the Issuance of*
8 *Permits Under the National Pollutant Discharge Elimination System.*

9 **Notice of Intent (NOI)** shall mean the application for authorization to discharge stormwater
10 under the current NPDES General Permit (~~NER100000~~) for construction activity ~~that is required to~~
11 ~~be submitted to the Lower Platte South Natural Resources District by the applicant for review and~~
12 ~~issuance of one acre or more total land area.~~

13 **Notice of Termination (NOT)** shall mean a notice submitted to the ~~Lower Platte South~~
14 ~~Natural Resources District~~ City by the permittee to terminate the permit.

15 **Notice of Transfer** shall mean a notice submitted to the City by the permittee to transfer the
16 permit to another permittee.

17 **Notice to Comply** shall mean a notice sent by the City that the construction site is in
18 violation of the SWPPP requirements and providing for a ten-day corrective action period.

19 **Notice of Violation** shall mean a notice sent by the City that the construction site is in
20 violation of the SWPPP requirements and that the person to whom the notice is addressed is subject
21 to a penalty.

22 **NPDES General Permit** shall mean the current NPDES General Permit for Stormwater
23 Discharges from Construction Sites (~~NER100000~~) issued pursuant to Nebraska Administrative
24 Code, Title 119, *Rules and Regulations Pertaining to the Issuance of Permits Under the National*
25 *Pollutant Discharge Elimination System*, which authorizes the discharge of stormwater from
26 construction or development sites.

1 **Owner** shall mean the ~~person or party possessing title of the land on which the construction~~
2 ~~activity occurs~~ named property owner as indicated by the records of the Register of Deeds of
3 Lancaster County, Nebraska.

4 **Permit** shall mean a Construction Stormwater Permit which authorizes the applicant as
5 permittee to proceed with the work construction activity described in the ~~permittee's~~ applicant's
6 Notice of Intent (NOI) or Individual Lot Notice of Intent (ILNOI) and is conditioned upon strict
7 compliance with all ordinances, rules and regulations of the City.

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

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

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

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

21 **Qualified Individual** shall mean any person who is knowledgeable in the principles and
22 practices of erosion and sediment control and possesses the skills to assess conditions at the site that
23 could impact stormwater quality and to assess the effectiveness of any BMPs selected to control
24 stormwater discharges.

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

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

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

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

14 **Stormwater** shall mean stormwater runoff, snow melt runoff, and surface runoff and
15 drainage.

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

20 Section 3. That Section 28.01.040 of the Lincoln Municipal Code be amended to
21 read as follows:

22 **28.01.040 General Provisions Permit Required.**

23 (a) ~~Applicability. The requirements and standards set forth in this chapter, the City's~~
24 ~~Design Standards, and the City's Drainage Criteria Manual shall apply to~~ A permit is required for
25 all construction activity within the corporate limits of the City and within the land outside the
26 corporate limits designated as Tier I.

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

1 (b c) ~~Exemption.~~—No permit is ~~immediately~~ required for any emergency construction
2 activity that is immediately necessary to be carried out for the protection of life, limb, property, or
3 natural resource.

4 Section 4. That Section 28.01.050 of the Lincoln Municipal Code be amended to
5 read as follows:

6 **28.01.050 ~~Notification and Discharge Authorization Procedures for Construction Activity~~**
7 **Permit Procedures.**

8 (a) ~~No person shall engage in any construction activity without a permit~~ Any person who
9 seeks to engage in construction activity must complete and submit a permit application in the form
10 of a Notice of Intent (NOI) or Individual Lot Notice of Intent (ILNOI) to the City. A Stormwater
11 Pollution Prevention Plan (SWPPP) shall accompany the permit application.

12 (b) ~~No person shall be issued a permit without the preparation and submittal of a permit~~
13 ~~application in the form of a Notice of Intent (NOI) that includes a Stormwater Pollution Prevention~~
14 ~~Plan (SWPPP) to the Lower Platte South Natural Resources District on behalf of the City~~ Each
15 permit application must include payment of a prescribed fee as follows:

16 (1) ~~NOI - Minimum permit fee of \$0.00 plus \$0.00 for each disturbed acre over~~
17 one acre.

18 (2) ~~ILNOI - Minimum permit fee of \$0.00.~~

19 (c) Each permit application shall bear the name(s) and address(es) of the applicant, the
20 owner, an authorized representative, and the designer of the SWPPP retained by the applicant
21 together with the name of the designer’s firm, if applicable.

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

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

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

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

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

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

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

18 (h) The permittee shall comply with all requirements of the permit until ~~final~~
19 ~~stabilization has been met and a Notice of Termination or Permit Transfer~~ has been issued by the
20 ~~Lower Platte South Natural Resources District~~ submitted to and approved by the City of Lincoln
21 pursuant to Section 28.01.090 of this chapter.

22 Section 5. That Section 28.01.060 of the Lincoln Municipal Code be amended to
23 read as follows:

24 **28.01.060 Requirements for Construction Activity Stormwater Pollution Prevention Plan**
25 **(SWPPP).**

26 A SWPPP ~~shall be~~ filed with the NOI or ILNOI for construction activity and submitted to
27 the ~~Lower Platte South Natural Resources District, and City~~ shall include the following information:

1 (a) Project Information.

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

3 (2) The owner's name (if the permittee is not the property owner), home and
4 business address, telephone number(s), and written consent to the construction activity set forth in
5 the NOI or ILNOI and acknowledgment that the permittee is responsible to ensure that any
6 construction activity complies with the SWPPP and the provisions of Chapter 28.01 of the Lincoln
7 Municipal Code from permit issuance to termination or transfer;

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

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

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

12 (6) Certification that the permittee is familiar with and agrees to comply with the
13 terms and conditions provided in the NOI or ILNOI and SWPPP; and

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

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

21 (1) Start and completion dates;

22 (2) ~~A~~ The nature, function, schedule and sequence of all phases of the
23 construction activity, including but not limited to estimates of total land area expected to be
24 disturbed by the excavation, grading or other construction activities (such as dedicated offsite
25 borrow and fill areas);

26 (3) A list of proposed BMPs;

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

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

3 (9) Any vehicular access locations for the site and measures to minimize off-site
4 tracking of sediments into the public right of way; and

5 (9 10) Location of all proposed BMPs (including post-construction BMPs) to be
6 utilized over the period of construction and on a permanent basis (i.e. post-construction BMPs).

7 (d) SWPPP Contents, Controls to Reduce Pollutants. The SWPPP must include:

8 (1) A description of all BMPs for the site and the sequence and schedule of when
9 BMPs will be implemented.

10 (2) A maintenance and operations plan for each of the permanent post-
11 construction BMPs.

12 (3) A description of measures to minimize, to the maximum extent practicable,
13 off-site vehicle tracking of sediments onto paved surfaces and the generation of dust.

14 (4) A description of construction and waste materials expected to be stored on-
15 site, and a description of controls and storage practices to minimize exposure of the materials to
16 stormwater.

17 (5) A description of spill prevention controls with contact information for the
18 hazardous response team.

19 The following statements shall be included in the SWPPP:

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

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

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

6 ~~—————(4)—————“All BMPs will be inspected by qualified personnel at least once every seven~~
7 ~~calendar days during active construction and within twenty-four hours after any storm event greater~~
8 ~~than 0.5 inches during a 24-hour period. Any necessary repairs or clean-up to maintain the~~
9 ~~effectiveness of the BMPs shall be made prior to the next storm event whenever practicable. If~~
10 ~~implementation before the next storm event is impracticable, the situation will be documented in the~~
11 ~~SWPPP and alternative BMPs will be implemented as soon as possible.”~~

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

16 Section 6. That Section 28.01.070 of the Lincoln Municipal Code be amended to
17 read as follows:

18 **28.01.070 Requirements for the Building Phase of Development Building Permit.**

19 Any person who engages in construction activity is responsible for compliance with this
20 chapter and all applicable terms and conditions of the Permit and SWPPP as it relates to any land
21 disturbance less than one acre of total land area that is part of a common plan of development or
22 sale, otherwise known as the building phase of development.

23 (a) The following information shall be included on the application for a building permit
24 and be submitted to the Director of Building and Safety:

25 (a) (1) The legal description and permit number for the Construction Activity
26 SWPPP;

1 (b) (2) The location of the property where the building phase of development is to
2 occur; and

3 (c) (3) A certification that the building phase of development for the property
4 described on the application for a building permit will be conducted in conformance with this
5 ~~Chapter 28.01~~ and the Construction Activity SWPPP.

6 (b) If a building permit applicant is seeking coverage under a common construction
7 activity SWPPP and is not the NOI permittee, the applicant must provide a letter of authorization
8 signed by the NOI permittee for that location, allowing the applicant permission to use the NOI
9 permittee's Construction Activity SWPPP number on the building permit application.

10 (c) If a building permit applicant cannot obtain coverage under a common Construction
11 Activity SWPPP or provide a letter of authorization signed by the NOI permittee for that location
12 the applicant must submit an Individual Lot Notice of Intent (ILNOI).

13 (d) The building phase of development for a common plan of development or sale is
14 required to be covered under the SWPPP that is submitted by and under the control of the permittee
15 unless the responsibility has been transferred in writing. Any person engaging in construction
16 activity under a common Construction Activity SWPPP must meet the requirements of Section
17 28.01.070 of this chapter.

18 Section 7. That Section 28.01.080 of the Lincoln Municipal Code be amended to
19 read as follows:

20 **28.01.080 SWPPP Inspections.**

21 It shall be the duty of the permittee to ensure that routine inspections are conducted and that
22 the BMPs on the site are maintained. The permittee shall secure a right of entry to each site within
23 the boundaries of the permit and conduct routine inspections at least once every ~~seven~~ fourteen
24 calendar days during active construction and within twenty-four hours after a rainfall event greater
25 than 0.5 inches during a 24-hour period. Inspections shall be conducted by qualified ~~personnel~~
26 individuals who are knowledgeable in the principles and practices of erosion and sediment control.
27 A qualified personnel individual shall possess the skills to assess conditions at the site that could

1 impact stormwater quality and to assess the effectiveness of any BMPs selected to control
2 stormwater discharges. A log of these inspections shall be retained with the SWPPP, along with
3 photographs or other supporting information. Any deficiencies or discrepancies with actual site
4 conditions shall be noted in a report of the inspection and include any action taken to correct the
5 deficiency or discrepancy. Inspection reports and follow-up documentation regarding violations and
6 associated corrective actions shall be submitted to the ~~Director of the Lower Platte South Natural~~
7 ~~Resources District~~ City upon request. The inspection report shall include the following minimum
8 information:

- 9 (a) Inspectors name;
- 10 (b) Date of inspection;
- 11 (c) Observations relative to the effectiveness of the BMPs;
- 12 (d) Actions necessary and taken to correct deficiencies; and
- 13 (e) Signature of the person performing the inspection.

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

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

21 Section 8. That Chapter 28.01 of the Lincoln Municipal Code be amended by adding
22 a new section numbered 28.01.085 to read as follows:

23 **28.01.085 Maintaining the SWPPP.**

24 The SWPPP including the site map must be amended whenever there is a change in design,
25 construction, operation, or maintenance of the construction site as it relates to the discharge of
26 pollutants from the permitted site. Amendments to the SWPPP may be made by annotating the
27 previously approved SWPPP including the site map.

1 (a) The SWPPP must be amended if during inspections by the City it is determined that
2 the SWPPP or BMPs are ineffective in eliminating or significantly minimizing the discharge of
3 pollutants from the permitted site.

4 (b) Amendments to the SWPPP must be completed within seven calendar days following
5 an inspection by the City if it is determined that an amendment is needed to changes in design,
6 construction, operation, or maintenance of the construction site as related to the discharge of
7 pollutants from the permitted site.

8 Section 9. That Section 28.01.090 of the Lincoln Municipal Code be amended to
9 read as follows:

10 **28.01.090 Notice of Termination.**

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

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

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

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

19 (2) Another permittee has assumed control over all areas of the site that have not
20 been finally stabilized by submitting either a Transfer Notice or obtaining a new permit from the
21 City;

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

24 (4) For residential construction only, temporary stabilization erosion protection
25 has been established and the homeowner has been informed by the permittee of the need for final
26 stabilization completed and the residence has ben reassigned to the homeowner;

1 ~~_____ (5) For construction activity, the total remaining area of the common plan is less~~
2 ~~than one acre.~~

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

5 Section 10. That Section 28.01.100 of the Lincoln Municipal Code be amended to
6 read as follows:

7 **28.01.100 Sediment in Public Right-of-Way or Storm Drainage System; Notice to Remove;**
8 **Penalty.**

9 ~~In addition to the penalty provided in Section 28.01.120, any person responsible for sediment~~
10 ~~deposited~~ No person shall deposit sediment into or upon any street, alley, sidewalk, public way,
11 storm drainage system, or public ground as a result of tracking, runoff or other erosion and
12 sedimentation from a building or development site; In addition to the penalty provided in Section
13 28.01.125, the responsible person shall remove the same within a reasonable period of time as
14 ~~required by the City or the Lower Platte South Natural Resources District.~~ Whenever the person
15 responsible for sediment deposited into or upon any street, alley, sidewalk, public way, storm
16 drainage system, or public ground refuses or neglects to remove the same, the City may elect to
17 remove the sediment and the expense of such removal shall be recoverable in an action at law. The
18 remedy provided in this section shall be in addition to the penalty hereinafter provided and
19 cumulative therewith.

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

26 Section 11. That Section 28.01.110 of the Lincoln Municipal Code be amended to
27 read as follows:

1 **28.01.110 Right of Entry.**

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

12 Section 12. That Section 28.01.120 of the Lincoln Municipal Code be amended to
13 read as follows:

14 **28.01.120 Unlawful Acts; ~~Enforcement; Penalty.~~**

15 It shall be unlawful for any person to:

- 16 (a) Engage in any construction activity without a permit;
- 17 (b) Violate any term or condition of the permit;
- 18 (c) Violate any term or condition of the SWPPP;
- 19 (d) Make any false statement, representation, or certification in any document submitted
20 to or requested by the City ~~or the Lower Platte South Natural Resources District on behalf of the~~
21 ~~City; or~~
- 22 (e) Violate any provision of this chapter; or
- 23 (f) Fail to comply with a Notice to Comply for Corrective Action and/or a Notice of
24 Violation and Penalty Enforcement issued by the City.

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

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

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

14 Section 13. That Chapter 28.01 of the Lincoln Municipal Code be amended by
15 adding a new section numbered 28.01.125 to read as follows:

16 **28.01.125 Notice of Violation and Penalty Enforcement.**

17 Any person who receives a Notice of Violation from the City and has violated this chapter
18 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine
19 in the sum of not less than \$100.00 and not more than \$500.00 per day. In the case of a continuing
20 violation, each day shall constitute a separate offense.

21 Section 14. That Chapter 28.01 of the Lincoln Municipal Code be amended by
22 adding a new section numbered 28.01.127 to read as follows:

23 **28.01.127 Notice to Comply for Corrective Action.**

24 Any person who receives a Notice to Comply from the City shall correct such violation(s)
25 within ten working days of receiving such notice. Failure to correct the violation(s) within ten
26 working days shall be cause for issuance of a Notice of Violation and Penalty Enforcement referral
27 to the City Law Department pursuant to Section 28.01.125.

1 The City also reserves the right to take any administrative action required to correct the
2 violation(s), including but not limited to , issuance of a stop work order, assessment of a reinspection
3 fee, suspension or revocation of the permit, or other remedy provided by law. Nothing herein shall
4 be construed to prohibit the City from issuing a Notice of Violation and Penalty Enforcement
5 pursuant to Section 28.01.125 even though it has not previously issued a Notice to Comply under
6 this section.

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

15 Section 15. That Sections 28.01.020, 28.01.030, 28.01.040, 28.01.050, 28.01.060,
16 28.01.070, 28.01.080, 28.01.090, 28.01.100, 28.01.110, and 28.01.120 of the Lincoln Municipal
17 Code as hitherto existing be and the same are hereby repealed.

18 Section 16. That this ordinance shall take effect and be in force from and after
19 passage and publication in one issue of a daily or weekly newspaper of general circulation in the
20 City, according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2012:

Mayor