

## Chapter 28.01

### REGULATIONS FOR CONSTRUCTION SITE DISCHARGES

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#### **28.01.010 Purpose and Findings.**

The purpose of this chapter is to provide requirements and criteria to prevent and control water pollution, and to diminish adverse impacts to health, safety, property, and the general welfare of the citizens of the City of Lincoln through regulating stormwater runoff from areas of construction and reconstruction, to the maximum extent practicable as required by the Federal Clean Water Act (33 U.S.C. §1251 *et seq.* as amended to date), the Nebraska Environmental Protection Act (*Neb. Rev. Stat.* §81-1501 *et seq.* as amended to date) and to the rules and regulations promulgated under such Acts.

This chapter will also promote the public welfare by guiding and regulating the design, construction, and maintenance of any area of development or redevelopment or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City of Lincoln. (Ord. 18949 §1; June 25, 2007).

#### **28.01.020 Authority and Applicability.**

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

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

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

(d) As provided in the Interlocal Agreement dated March 29, 1996, the City of Lincoln and the Lower Platte South Natural Resources District will cooperate in the administration and enforcement of these regulations. (Ord. 19671 §1; February 6, 2012: prior Ord. 18949 §2; June 25, 2007).

#### **28.01.030 Definitions.**

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

**Applicant** shall mean any person submitting a Notice of Intent (NOI) or Individual Lot Notice of Intent (ILNOI) for authorization to discharge stormwater under the NPDES General Permit.

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

**Best Management Practices (BMPs)** shall mean erosion and sediment controls and water quality and quantity management practices, including schedules of activities, prohibitions of practices, maintenance procedures, and other management practices, that are identified or referenced in the City's Design Standards, meet the requirements set forth in the NPDES General Permit, or are otherwise approved of by the Director.

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

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

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

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

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

**Final stabilization** shall mean the condition where all soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a minimum density of 70 percent has been established on all pervious areas unless equivalent permanent stabilization (such as riprap, geotextiles, or permanent BMPs) have been established.

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

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

**Land Disturbance** shall mean any man-made change of the land surface including, but not limited to, construction activity, tracking, removing vegetative cover, stockpiling, excavating, filling and grading; but not including agricultural land uses such as, planting, growing, cultivating and

harvesting of crops; growing and tending of gardens; harvesting of trees; and landscaping modifications.

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

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

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

**Notice of Intent (NOI)** shall mean the application for authorization to discharge stormwater under the current NPDES General Permit for construction activity of one acre or more total land area.

**Notice of Termination (NOT)** shall mean a notice submitted to the City by the permittee to terminate the permit.

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

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

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

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

**Owner** shall mean the named property owner as indicated by the records of the Register of Deeds of Lancaster County, Nebraska.

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

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

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

**Pollutant** shall mean any substance or material which contaminates or impedes the flow of water including, but not limited to, dredged spoil, spoil waste, incinerator residue, filter backwash, domestic or industrial wastewater, septic waste, sewage, garbage, refuse, junk, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, sediment, yard waste, industrial or household hazardous waste,

hazardous substance, pesticide, fertilizer, concrete truck washout, used oil, antifreeze, litter, and industrial, municipal, or agricultural waste.

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

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

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

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

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

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

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

**Stormwater Pollution Prevention Plan (SWPPP)** shall mean a plan for the prevention, minimization, and control of soil erosion and sedimentation resulting from any construction activity, and may include without being limited to, any Best Management Practices (BMPs) incorporated into the SWPPP. (Ord. 19671 §2; February 6, 2012; prior Ord. 18949 §3; June 25, 2007).

#### **28.01.040 Permit Required.**

(a) A permit is required for all construction activity within the corporate limits of the City and within the land outside the corporate limits designated as Tier I.

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

(c) No permit is required for any emergency construction activity that is immediately necessary to be carried out for the protection of life, limb, property, or natural resource. (Ord. 19671 §3; February 6, 2012; prior Ord. 18949 §4; June 25, 2007).

#### **28.01.050 Permit Procedures.**

(a) Any person who seeks to engage in construction activity must complete and submit a permit application in the form of a Notice of Intent (NOI) or Individual Lot Notice of Intent (ILNOI) to the City. A Stormwater Pollution Prevention Plan (SWPPP) shall accompany the permit application.

(b) Each permit application must include payment of a prescribed fee as follows:

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

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

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

(d) The City will review each permit application to determine conformance with this chapter. Within seven calendar days of receiving a permit application, the City shall:

(1) Issue the permit;

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

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

(e) When a permit is issued, the permittee is responsible to ensure that any construction activity complies with the provisions of this chapter from permit issuance to termination, unless the City authorizes a permit transfer.

(f) All information submitted with the NOI or ILNOI, including the SWPPP, shall be considered factual and binding. A failure of the permittee or any agents thereof to provide correct information or failure to conduct the construction activity as described in the permit or SWPPP shall be considered a violation of this chapter.

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

(1) The project's permit number;

(2) The name and phone number of a local contact;

(3) A brief description of the project; and

(4) The location of the SWPPP, if not kept on site.

(h) The permittee shall comply with all requirements of the permit a Notice of Termination or Permit Transfer has been submitted to and approved by the City of Lincoln pursuant to Section 28.01.090 of this chapter. (Ord. 19671 §4; February 6, 2012; prior Ord. 18949 §5; June 25, 2007).

#### **28.01.060 Construction Activity Stormwater Pollution Prevention Plan (SWPPP).**

A SWPPP filed with the NOI or ILNOI for construction activity and submitted to the City shall include the following information:

(a) Project Information.

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

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

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

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

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

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

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

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

- (1) Start and completion dates;
- (2) The nature, function, schedule and sequence of all phases of the construction activity, including but not limited to estimates of total land area expected to be disturbed by the excavation, grading or other construction activities (such as dedicated offsite borrow and fill areas);
- (3) A list of proposed BMPs;
- (4) The construction details, application schedule, and procedures for proposed BMPs;
- (5) The operations and maintenance program for proposed BMPs;
- (6) The name of the authorized representative or individual responsible for inspecting BMPs, including office address and telephone number(s) for 24-hour-a-day contact;
- (7) A contingency plan if unforeseen erosion or sedimentation problems arise, including emergency situations caused by storms;
- (8) A description or spill plan of procedures to prevent, contain, and respond to illicit discharges and spills that may impact the storm drainage system;
- (9) Any features of the site which may be particularly vulnerable to erosion, such as ridge tops, swales, and soil types, and any specific BMPs implemented for these features; and
- (10) A list of all proposed post-construction BMPs and their respective Operations and Maintenance Plan for the storm drainage system.

(c) Site Plan Map(s).

- (1) Date prepared and name of preparer;
- (2) Scale of the map. The suggested scale of the map is one inch = 40 feet with two-foot contour intervals, but may be more or less detailed to meet specific site needs;
- (3) A north arrow;
- (4) Location or vicinity map;
- (5) Street name and location of the proposed development and adjacent properties, including all structures on the site and within 25 feet of the construction activity property line, including but not limited to paving, fencing, structures, and archaeological sites;
- (6) Existing and proposed topography (e.g. grading certificate) showing two foot contours, including floodplains, floodprone areas, floodways, minimum corridors, wetlands, watercourses, water bodies, and soil types if pertinent;
- (7) Identification of surface water flow directions, indicated by arrows showing where stormwater is expected to flow;
- (8) Proposed alterations including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines;
- (9) Any vehicular access locations for the site and measures to minimize off-site tracking of sediments into the public right of way; and
- (10) Location of all proposed BMPs (including post-construction BMPs) to be utilized over the period of construction and on a permanent basis (i.e. post-construction BMPs).

- (d) SWPPP Contents, Controls to Reduce Pollutants. The SWPPP must include:
- (1) A description of all BMPs for the site and the sequence and schedule of when BMPs will be implemented.
  - (2) A maintenance and operations plan for each of the permanent post-construction BMPs.
  - (3) A description of measures to minimize, to the maximum extent practicable, off-site vehicle tracking of sediments onto paved surfaces and the generation of dust.
  - (4) A description of construction and waste materials expected to be stored on-site, and a description of controls and storage practices to minimize exposure of the materials to stormwater.
  - (5) A description of spill prevention controls with contact information for the hazardous response team. (Ord. 19970 §10; December 16, 2013: prior Ord. 19671 §5; February 6, 2012: Ord. 18949 §6; June 25, 2007).

#### **28.01.070 Building Permit.**

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

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

- (1) The legal description and permit number for the Construction Activity SWPPP;
- (2) The location of the property where the building phase of development is to occur; and
- (3) A certification that the building phase of development for the property described on the application for a building permit will be conducted in conformance with this chapter and the Construction Activity SWPPP.

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

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

(d) The building phase of development for a common plan of development or sale is required to be covered under the SWPPP that is submitted by and under the control of the permittee unless the responsibility has been transferred in writing. Any person engaging in construction activity under a common Construction Activity SWPPP must meet the requirements of Section 28.01.070 of this chapter. (Ord. 19671 §6; February 6, 2012: prior Ord. 18949 §7; June 25, 2007).

#### **28.01.080 SWPPP Inspections.**

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

individual shall possess the skills to assess conditions at the site that could impact stormwater quality and to assess the effectiveness of any BMPs selected to control stormwater discharges. A log of these inspections shall be retained with the SWPPP, along with photographs or other supporting information. Any deficiencies or discrepancies with actual site conditions shall be noted in a report of the inspection and include any action taken to correct the deficiency or discrepancy. Inspection reports and follow-up documentation regarding violations and associated corrective actions shall be submitted to the City upon request. The inspection report shall include the following minimum information:

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

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

Where areas have been identified in the SWPPP to either have frozen ground conditions and construction has been suspended or have undergone stabilization while work on other portions of the site is ongoing, the permittee may reduce inspections of these areas to once per calendar month as long as the described conditions exist. (Ord. 19671 §7 February 6, 2012; prior Ord. 18949 §8; June 25, 2007).

#### **28.01.085 Maintaining the SWPPP.**

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

- (a) The SWPPP must be amended if during inspections by the City it is determined that the SWPPP or BMPs are ineffective in eliminating or significantly minimizing the discharge of pollutants from the permitted site.
- (b) Amendments to the SWPPP must be completed within seven calendar days following an inspection by the City if it is determined that an amendment is needed to changes in design, construction, operation, or maintenance of the construction site as related to the discharge of pollutants from the permitted site. (Ord. 19671 §8; February 6, 2012).

#### **28.01.090 Notice of Termination.**

Compliance with the permit is required for any construction activity until a Notice of Termination (NOT) is submitted to the City. The City reserves the right to terminate coverage of a permit for any cause.

- (a) A permittee must submit a complete and accurate Notice of Termination (NOT).
- (b) A permittee may only submit a NOT after one or more of the following conditions have been met:
  - (1) Final stabilization has been achieved on all portions of the site covered by the permit;

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

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

(4) For residential construction only, temporary erosion protection has been completed and the residence has been reassigned to the homeowner.

(c) The NOT must be submitted within thirty days of one of the above conditions being met. Authorization to discharge terminates at midnight of the day the NOT is submitted. (Ord. 19671 § 9; February 6, 2012; prior Ord. 18949 §9; June 25, 2007).

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

No person shall deposit sediment into or upon any street, alley, sidewalk, public way, storm drainage system, or public ground as a result of tracking, runoff or other erosion and sedimentation from a building or development site. In addition to the penalty provided in Section 28.01.125, the responsible person shall remove the same within a reasonable period of time as required by the City. Whenever the person responsible for sediment deposited into or upon any street, alley, sidewalk, public way, storm drainage system, or public ground refuses or neglects to remove the same, the City may elect to remove the sediment and the expense of such removal shall be recoverable in an action at law. The remedy provided in this section shall be in addition to the penalty hereinafter provided and cumulative therewith.

If the City or the Lower Platte South Natural Resources District determines that the conditions described above constitute an immediate nuisance and hazard to public safety, the City shall issue a written notice to abate and remove such nuisance or hazard within twenty-four hours. If such person responsible shall have failed or refused to abate and remove such nuisance at the expiration of twenty-four hours from delivery of notice, the City may remove such nuisance and the expense of such removal shall be recoverable in an action at law against the person responsible. (Ord. 19671 §10; February 6, 2012; prior Ord. 18949 §10; June 25, 2007).

#### **28.01.110 Right of Entry.**

The City and the Lower Platte South Natural Resources District may perform inspections of the site to verify compliance with this chapter. If the permit, SWPPP, or inspection records do not reflect actual conditions at the site or have been falsified, the Director may take enforcement action as described within this chapter. If BMPs are deemed by the Director to be ineffective or maintained improperly, the Director may take enforcement action as described within this chapter. Whenever the Director has cause to believe that there exists, or potentially exists, in or upon the property, any condition which constitutes a violation of this chapter, the Director is authorized to enter the property at reasonable times to inspect or to perform the duties imposed by this chapter. If entry is refused, the Director shall have recourse to the remedies provided by law to secure entry. (Ord. 19671 §11; February 6, 2012; prior Ord. 18949 §11; June 25, 2007).

#### **28.01.120 Unlawful Acts.**

It shall be unlawful for any person to:

- (a) Engage in any construction activity without a permit;
- (b) Violate any term or condition of the permit;

- (c) Violate any term or condition of the SWPPP;
- (d) Make any false statement, representation, or certification in any document submitted to or requested by the City;
- (e) Violate any provision of this chapter; or
- (f) Fail to comply with a Notice to Comply for Corrective Action and/or a Notice of Violation and Penalty Enforcement issued by the City. (Ord. 19671 §12; February 6, 2012; prior Ord. 18949 §12; June 25, 2007).

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

Any person who receives a Notice of Violation from the City and has violated this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in the sum of not less than \$100.00 and not more than \$500.00 per day. In the case of a continuing violation, each day shall constitute a separate offense. (Ord. 19671 §13; February 6, 2012).

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

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

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

To verify compliance with a Notice to Comply, the City shall be notified within the ten-day correction period and may reinspect the site. In lieu of reinspection by the City, it is acceptable to submit to the City dated photographic and written evidence that verifies a return to compliance. A reinspection fee of \$75.00 may be assessed for any site for which such evidence has not been provided within the ten-day correction period or for which evidence has been provided that does not reflect actual conditions at the site or which has been falsified. Nonpayment of such fee is a violation of this chapter. Whenever a person refuses or neglects to correct the violation, the Director may cause the same to be corrected and the expense shall be recoverable in an action at law. (Ord. 19671 §14; February 6, 2012).

**28.01.130 Appeals.**

Any person issued a stop work order by the Director, or permit suspension, revocation, or denial under the provisions of this chapter may, within five days of the receipt of written notice of the entry of such order, suspension, revocation, or denial, appeal to the Director for a hearing. The Director will notify the appellant in writing of the date, time, and place of hearing before the Director, which date shall be no later than ten days from the filing of the appeal. The appeal hearing will not be conducted according to the Nebraska Rules of Evidence, but the appellant will have the right to:

- (a) Call, examine, and take sworn testimony of witnesses on any matter relevant to the issues of the hearing;
- (b) Introduce documentary and physical evidence;

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

(d) Rebut opposing evidence.

The Director will review all information provided by the appellant. After the appeal hearing the Director will make written findings of fact, and based upon such findings, will sustain, modify or rescind the original order, suspension, revocation, or denial. A written report of the Director's decision will be furnished to the appellant within ten days from the date that the appeal hearing is closed. The decision of the Director will be final and binding upon both the City and the appellant, and may be appealed as provided by state law. However, such decision will not be stayed unless so ordered by the district court. (Ord. 18949 §13; June 25, 2007).

**28.01.140 Severability.**

Each section or subsection of this chapter is hereby declared to be independent of every other section or subsection of this chapter; and invalidity of any section or subsection of this chapter shall not invalidate any other section or subsection hereof. (Ord. 18949 §14; June 25, 2007).