

ORDINANCE NO. _____

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, Individual Site
11 Construction, Land Disturbance, Mini-SWPPP, MS4 Permit, Municipal Separate Stormwater Sewer
12 System (MS4), National Pollutant Discharge Elimination System (NPDES), Notice of Intent (NOI),
13 Notice of Termination (NOT), NPDES General Permit, Owner, Permit, Permittee, Person, Pollutant,
14 Public Right-of-Way, Sediment, Sedimentation, Stop Work Order, Storm Drainage System,
15 Stormwater, and Stormwater Pollution Prevention Plan (SWPPP); Section 28.01.040 incorporating
16 the City’s Design Standards and Drainage Criteria Manual and providing an exemption for
17 emergency activity; Section 28.01.050 requiring that a permit and SWPPP be submitted to the
18 Lower Platte South Natural Resources District for any construction activity; Section 28.01.060
19 setting forth requirements for the Construction Activity SWPPP; Section 28.01.070 setting forth
20 requirements for the Individual Site Construction Mini-SWPPP; Section 28.01.080 establishing a

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

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

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

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

16 **28.01.010 Purpose and Findings.**

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

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

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

6 **28.01.020 Authority and Applicability.**

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

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

11 (c) The regulations shall apply to all lands within the corporate limits of the City and
12 within three miles thereof.

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

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

18 **28.01.030 Definitions.**

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

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

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

4 **Best Management Practices (BMPs)** shall mean erosion and sediment controls and water
5 quality and quantity management practices that are identified in Chapter 9 of the City’s Drainage
6 Criteria Manual, or otherwise approved of by the Director.

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

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

11 **Construction Activity** shall mean any land disturbance of one acre or more of total land
12 area. Construction activity does not include routine maintenance that is performed to maintain the
13 original line and grade, hydraulic capacity, or the agricultural use of the land.

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

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

18 **Final stabilization** shall mean that:

19 (a) All land disturbing activities at the site have been completed;

20 (b) A uniform (e.g. evenly distributed, without large bare areas) perennial
21 vegetative cover with a density of 90 percent of the native background vegetative cover for the area
22 has been established on all unpaved areas and areas not covered by permanent structures;

1 (c) All permanent drainages, constructed to drain water from the site, have been
2 stabilized to prevent erosion;

3 (d) All temporary BMPs have been removed without compromising permanent
4 BMPs; and

5 (e) All sediment build-up has been removed from conveyances and basins that
6 are to be used as permanent BMPs. The cleanout of permanent basins used as temporary BMPs
7 during construction shall be sufficient to return the basin to design capacity.

8 Construction activity conducted on or through agricultural or silvicultural land shall be
9 considered finally stabilized upon return to the preexisting agricultural or silvicultural use.
10 Construction activity conducted at new industrial facilities that will operate the site in an exposed
11 manner (such as limestone mining and solid waste landfills) shall be considered finally stabilized
12 upon commencement of industrial activity consistent with the industrial use and coverage under the
13 appropriate NPDES Permit for Industrial Stormwater.

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 Site Construction** shall mean any land disturbance that disturbs less than one
17 acre of total land area that is part of a larger common plan of development or sale associated with
18 construction activity. Individual site construction does not include routine maintenance that is
19 performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site,
20 or the agricultural use of the land.

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

1 planting, growing, cultivating and harvesting of crops; growing and tending of gardens; harvesting
2 of trees; and landscaping modifications.

3 **Mini-SWPPP** shall mean a Stormwater Pollution Prevention Plan that is required for
4 individual site construction.

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

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

10 **National Pollutant Discharge Elimination System (NPDES)** shall mean the program for
11 issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the
12 Federal Clean Water Act (Sections 301, 402, 318, and 405); C.F.R. Title 33, Sections 1317, 1328,
13 1342, and 1345; the Nebraska Environmental Protection Act (*Neb. Rev. Stat. §81-1501 et seq.*); and
14 Nebraska Administrative Code, Title 119, *Rules and Regulations Pertaining to the Issuance of*
15 *Permits Under the National Pollutant Discharge Elimination System.*

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

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

21 **NPDES General Permit** shall mean the NPDES General Permit for Stormwater Discharges
22 from Construction Sites (NER100000) issued pursuant to Nebraska Administrative Code, Title 119,
23 *Rules and Regulations Pertaining to the Issuance of Permits Under the National Pollutant*

1 Discharge Elimination System, which authorizes the discharge of stormwater from construction or
2 development sites where clearing, grading, excavation, or other land disturbance is conducted,
3 contingent upon meeting notification and discharge authorization procedures.

4 **Owner** shall mean the person or party possessing title of the land on which the land
5 disturbance occurs.

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

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

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

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

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

22 **Sediment** shall mean any rock, sand, or soil transported or removed from its place of origin
23 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 land disturbance occurring
4 at or within the development site, whether or not such activity was permitted by this chapter. Upon
5 issuance of a stop work order, no further land disturbance may be commenced at the site until the
6 violation or compliance failure is corrected, with the exception of measures to correct the violation.

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

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

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

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

1 **28.01.040** **General Provisions.**

2 (a) Applicability. The requirements and standards set forth in this chapter, the City’s
3 Design Standards, and the City’s Drainage Criteria Manual shall apply to any land disturbance
4 within the corporate limits of the City and within three miles thereof.

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

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

9 **28.01.050** **Notification and Discharge Authorization Procedures for Construction Activity.**

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

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

14 (c) Each application shall bear the name(s) and address(es) of the applicant, authorized
15 representative, and the designer of the SWPPP retained by the applicant together with the name of
16 the designer’s firm.

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

20 (1) Issue the permit;

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

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

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

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

11 (g) The permittee shall conspicuously post a notice about the permit and SWPPP
12 near the main entrance of the site prior to engaging in any construction activity. The permit notice
13 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 has been issued by the Lower Platte South
20 Natural Resources District.

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

1 **28.01.060** **Requirements for Construction Activity Stormwater Pollution Prevention Plan**
2 **(SWPPP).**

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

5 (a) Project Information.

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

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

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

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

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

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

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

18 (b) Narrative. The narrative shall describe the BMPs to be implemented to control
19 erosion, sedimentation, and pollutants, both on and off site. BMPs shall be based on the best
20 available technology as described in Chapter 9 of the City's Drainage Criteria Manual. Emphasis
21 shall be placed on the prevention of erosion using vegetative or non-structural control measures. The
22 narrative must include:

23 (1) Start and completion dates;

24 (2) A schedule and sequence of grading and construction activities;

- 1 (3) A list of proposed BMPs;
- 2 (4) The construction details, application schedule, and procedures for proposed
3 BMPs;
- 4 (5) The operations and maintenance program for proposed BMPs;
- 5 (6) The name of the authorized representative or individual responsible for
6 inspecting BMPs, including office address and telephone number(s) for 24-hour-a-day contact;
- 7 (7) A contingency plan if unforeseen erosion or sedimentation problems arise,
8 including emergency situations caused by storms;
- 9 (8) A description of procedures to prevent, contain, and respond to illicit
10 discharges and spills that may impact the storm drainage system; and
- 11 (9) Any features of the site which may be particularly vulnerable to erosion, such
12 as ridge tops, swales, and soil types, and any specific BMPs implemented for these features.
- 13 (c) Site Plan Map.
- 14 (1) Date prepared and name of preparer;
- 15 (2) Scale of the map. The suggested scale of the map is one inch = 40 feet with
16 two-foot contour intervals, but may be more or less detailed to meet specific site needs;
- 17 (3) A north arrow;
- 18 (4) Location or vicinity map;
- 19 (5) Street name and location of the proposed development and adjacent
20 properties, including all structures on the site and within 25 feet of the land disturbance property
21 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 Chapter 9 of the
15 City’s Drainage Criteria Manual and approved supplements, and will be in place and in working
16 order prior to any land disturbance.”

17 (3) “Following any land disturbance, final or temporary stabilization shall be
18 completed within seven calendar days to the surface of all perimeter controls, topsoil stockpiles, and
19 any other disturbed or graded areas on the project site which are not being used for material storage,
20 or on which actual land disturbing activities are not being performed.”

21 (4) “All BMPs will be inspected by qualified personnel at least once every seven
22 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 immediately.”

3 (e) Mini-SWPPP Example for Individual Site Construction. The construction activity
4 SWPPP must include an example Mini-SWPPP for future land disturbance activities that are smaller
5 than one acre, but part of a larger common plan of development or sale associated with construction
6 activity and within the boundaries of the permit.

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

9 **28.01.070 Requirements for Individual Site Construction Mini-Stormwater Pollution**
10 **Prevention Plan (Mini-SWPPP) .**

11 A Mini-SWPPP based upon the Mini-SWPPP example for individual site construction shall
12 be submitted to the permittee of the construction activity, filed with the building permit, and
13 submitted to the Director of Building and Safety. The Mini-SWPPP shall be retained with the
14 approved building permit construction document and shall include a site plan for proposed
15 conditions.

16 A complete site plan and specifications, signed by the person who designed the plan, shall
17 be drawn to a legible scale, clearly labeled with a north arrow and a date of preparation, and shall
18 include, at a minimum, the following information:

- 19 (a) Stormwater flow path directions indicated by the use of arrows;
20 (b) Location and description of all proposed BMPs used during the construction period;
21 (c) A statement indicating that BMPs are in place and in working order prior to any land
22 disturbance; and

1 (d) The permit number for the Construction Activity SWPPP and subpermit number for
2 the individual site construction as assigned on the Construction Activity SWPPP, as specified in
3 Chapter 9 of the City’s Drainage Criteria Manual.

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

6 **28.01.080 SWPPP Inspections.**

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

- 21 (a) Inspectors name;
- 22 (b) Date of inspection;
- 23 (c) Observations relative to the effectiveness of the BMPs;

1 (d) Actions necessary and taken to correct deficiencies; and

2 (e) Signature of the person performing the inspection.

3 Any delay in the replacement or maintenance of non-functional BMPs beyond seven days
4 shall be documented in the SWPPP with sufficient detail explaining the reason for delay.

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

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

11 **28.01.090 Notice of Termination.**

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

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

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

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

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

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

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

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

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

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

9 **28.01.100 Sediment in Public Right-of-Way or Storm Drainage System; Notice to Remove;**
10 **Penalty.**

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

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

1 expiration of twenty-four hours from delivery of notice, the City may remove such nuisance and the
2 expense of such removal shall be recoverable in an action at law.

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

5 **28.01.110 Right of Entry.**

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

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

18 **28.01.120 Unlawful Acts; Enforcement; Penalty.**

19 It shall be unlawful for any person to:

- 20 (a) Engage in any construction activity without a permit;
21 (b) Violate any term or condition of the permit;
22 (c) Violate any term or condition of the SWPPP;

1 (d) Make any false statement, representation, or certification in any document submitted
2 to or requested by the City or the Lower Platte South Natural Resources District on behalf of the
3 City; or

4 (e) Violate any provision of this chapter.

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

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

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

21 Section 13. That Sections 1 through 12 hereof shall be codified in the Lincoln
22 Municipal Code as Chapter 28.01 entitled Regulations for Construction Site Discharges.

1 Section 14. That this ordinance shall take effect and be in force from and after its
2 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2007:

Mayor