

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 26 of the Lincoln Municipal Code relating to
2 Land Subdivision to provide requirements and criteria to prevent and control water pollution from
3 construction site discharges and diminish adverse impacts to health, safety, property, and the general
4 welfare of the citizens of the City of Lincoln by adding new sections numbered 26.07.085,
5 26.07.123, 26.07.125.05, 26.07.137, 26.07.138, 26.07.164, 26.07.166, 26.07.167 and 26.07.168 to
6 provide definitions for “construction activity,” “individual site construction,” “mini-SWPPP,”
7 “permit in conformance with Chapter 28.01,” “person,” “stop work order,” “storm drainage system,”
8 “stormwater,” and “stormwater pollution prevention plan (SWPPP), respectively; by amending
9 Sections 26.11.038, 26.23.190, and 26.27.060 to require compliance with Chapter 28.01 for
10 construction activity and individual site construction; by amending Section 26.31.040 to allow
11 enforcement action and removal authority by the City in the event sediment is deposited in a storm
12 drainage system; and repealing Sections 26.11.038, 26.23.190, 26.27.060, and 26.31.040 of the
13 Lincoln Municipal Code as hitherto existing.

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

15 Section 1. That Title 26 of the Lincoln Municipal Code be amended by adding a new
16 section numbered 26.07.085 to read as follows:

17 **26.07.085 Construction Activity.**

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

1 Section 2. That Title 26 of the Lincoln Municipal Code be amended by adding a new
2 section numbered 26.07.123 to read as follows:

3 **26.07.123 Individual Site Construction.**

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

9 Section 3. That Title 26 of the Lincoln Municipal Code be amended by adding a new
10 section numbered 26.07.125.05 to read as follows:

11 **26.07.125.05 Mini-SWPPP.**

12 Mini-SWPPP shall mean a Stormwater Pollution Prevention Plan that is required for
13 individual site construction.

14 Section 4. That Title 26 of the Lincoln Municipal Code be amended by adding a new
15 section numbered 26.07.137 to read as follows:

16 **26.07.137 Permit in Conformance with Chapter 28.01.**

17 Permit in conformance with Chapter 28.01 shall mean a Construction Stormwater Permit
18 which authorizes the permittee to proceed with the work described in the permittee’s Notice of Intent
19 (NOI) and is conditioned upon strict compliance with all ordinances, rules and regulations of the
20 City.

21 Section 5. That Title 26 of the Lincoln Municipal Code be amended by adding a new
22 section numbered 26.07.138 to read as follows:

1 **26.07.138** **Person.**

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

5 Section 6. That Title 26 of the Lincoln Municipal Code be amended by adding a new
6 section numbered 26.07.164 to read as follows:

7 **26.07.164** **Stop Work Order.**

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

12 Section 7. That Title 26 of the Lincoln Municipal Code be amended by adding a new
13 section numbered 26.07.166 to read as follows:

14 **26.07.166** **Storm Drainage System.**

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

21 Section 8. That Title 26 of the Lincoln Municipal Code be amended by adding a new
22 section numbered 26.07.167 to read as follows:

1 **26.07.167** **Stormwater.**

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

4 Section 9. That Title 26 of the Lincoln Municipal Code be amended by adding a new
5 section numbered 26.07.168 to read as follows:

6 **26.07.168** **Stormwater Pollution Prevention Plan (SWPPP).**

7 Stormwater Pollution Prevention Plan (SWPPP) shall mean a plan for the prevention,
8 minimization, and control of soil erosion and sedimentation resulting from any land disturbance, and
9 may include without being limited to, any Best Management Practices (BMPs) incorporated into the
10 SWPPP, as set forth in Chapter 28.01 of the Lincoln Municipal Code.

11 Section 10. That Section 26.11.038 of the Lincoln Municipal Code be amended to
12 read as follows:

13 **26.11.038** **Authority to Proceed With Improvements.**

14 Approval of the preliminary plat shall constitute authority for the subdivider to proceed with
15 plans, profiles, and specifications for the grading and land preparation, submission of the final plat,
16 and the installation of all required improvements. ~~No person shall engage in the grading or~~
17 ~~disturbance of any land one acre or greater in size without first submitting a drainage and grading~~
18 ~~plan setting forth the requirements of the design standards applicable to stormwater management,~~
19 ~~erosion, and sedimentation control and obtaining approval of said plan.~~ No person shall engage in
20 construction activity without a permit in conformance with Chapter 28.01. No person shall engage
21 in individual site construction without first submitting a Mini-SWPPP in accordance with Chapter
22 28.01. Any person who engages in the grading or disturbance of any land construction activity or
23 individual site construction in violation of the provisions contained in this section or Chapter 28.01

1 shall be subject to ~~an~~ a stop work order to cease and desist such ~~grading work~~ activity. No utility
2 or improvement shall be installed or constructed until the area to be developed has been graded, the
3 erosion and sediment controls have been implemented in accordance with Chapter 28.01, and the
4 subdivider's licensed surveyor or engineer has submitted a written statement and a copy of the
5 SWPPP with the seal of the professional to the Director of Public Works and Utilities ~~that the~~
6 ~~grading and shaping of the land to be developed has been completed~~ indicating where the grading
7 and erosion and sediment controls have been completed in conformance with the grading shown on
8 the preliminary plat, the drainage study, and the final street grades. In addition, no utility or
9 improvement shall be installed or constructed within the Acreage Development Component of a
10 community unit plan located in the BTA Build Through Acreage Overlay District until the entire
11 area of the Acreage Development Component has been graded and the subdivider's licensed
12 surveyor or engineer has submitted a written statement with the seal of the professional to the
13 Director of Public Works and Utilities that the grading and shaping of all the land within the
14 Acreage Development Component has been completed in conformance with the grading shown on
15 the transitional preliminary plat, the drainage study and the final street grades. The Director of
16 Public Works and Utilities may approve the grading, installation, and construction in phases. Also,
17 no utility or improvement shall be installed or constructed until the plans, and if appropriate profiles
18 and specifications, are prepared by the appropriate city department or submitted by the subdivider
19 to the appropriate city department and other governmental agencies required by law, and approval
20 is granted. Plans, and if appropriate profiles and specifications, for street surfacing, sidewalks, public
21 water systems, public wastewater works, storm drains, and drainage systems, land preparation and
22 grading, and temporary turnarounds not prepared by the City engineering staff shall be submitted
23 to the Department of Public Works and Utilities for approval. Plans, profiles, and specifications for

1 community water systems and community wastewater works shall be reviewed and approved
2 pursuant to Section 26.11.040(d) of this title. Individual water well systems and onsite wastewater
3 treatment systems shall be submitted to the City-County Health Department for approval. Plans and
4 specifications for landscape screens and trees shall be submitted to the Planning Director for
5 approval. Plans and specifications for electrical distribution systems and street lighting shall be
6 prepared by the Lincoln Electric System (LES) unless the subdivider requests and receives
7 permission from LES to use a private consulting engineer, then the plans and specifications shall be
8 submitted to LES for approval. The plans and specifications for street name signs shall be prepared
9 by the Department of Public Works and Utilities. The plans and specifications for the grading and
10 land preparation, paving, street surfacing, public water system, public wastewater works and storm
11 drains shall be prepared by a professional engineer or architect registered in the State of Nebraska.

12 Installation of utilities and improvements may be allowed on all or a portion of the proposed
13 subdivision prior to the approval of the final plat. Street surfacing, public water systems, public
14 wastewater works, and public street lighting shall not be installed or constructed until authorized by
15 executive order of the Mayor or ordered constructed by the City through an assessment district.
16 Storm drainage systems shall not be installed or constructed until authorized by executive order of
17 the Mayor.

18 The design and installation of each utility and other improvements shall be in strict
19 accordance with the design standards for that utility or other improvement. Design standards for
20 utilities and other improvements shall be on file with and available from the City Clerk.

21 Section 11. That Section 26.23.190 of the Lincoln Municipal Code be amended to
22 read as follows:

1 **26.23.190 ~~Land Grading Construction Activity.~~**

2 ~~No person shall engage in the grading or disturbance of any land one acre or greater in size~~
3 ~~without first submitting a drainage and grading plan setting forth the requirements of the design~~
4 ~~standards applicable to stormwater management, erosion, and sedimentation control and obtaining~~
5 ~~approval of said plan. No person shall engage in construction activity without a permit in~~
6 ~~conformance with Chapter 28.01. No person shall engage in individual site construction without~~
7 ~~first submitting a Mini-SWPPP in accordance with Chapter 28.01. Any person who engages in the~~
8 ~~grading or disturbance of any land construction activity or individual site construction in violation~~
9 ~~of the provisions contained in this section or Chapter 28.01 shall be subject to an a stop work order~~
10 ~~to cease and desist such grading work activity.~~

11 Earth moving shall be kept to a minimum to protect and preserve the existing trees and
12 grasses and to keep erosion to a minimum. Graded and otherwise disturbed land shall be stabilized
13 to prevent erosion. Trees that are to remain shall be protected to prevent damage to them during
14 construction and development of the subdivision.

15 Section 12. That Section 26.27.060 of the Lincoln Municipal Code be amended to
16 read as follows:

17 **26.27.060 Land Preparation and Grading.**

18 ~~Any cut, fill, and compaction of land within, and if applicable, adjacent to the subdivision,~~
19 ~~shall be accomplished in accordance with design standards of the City and subject to the approval~~
20 ~~of the Department of Public Works and Utilities. No person shall engage in the grading or~~
21 ~~disturbance of any land one acre or greater in size without first submitting a drainage and grading~~
22 ~~plan setting forth the requirements of the design standards applicable to stormwater management,~~
23 ~~erosion, and sedimentation control and obtaining approval of said plan. If the land is within the~~

1 floodplain or floodprone area, the applicable standards set forth in Chapter 26.24 or 26.25 must also
2 be met. No person shall engage in construction activity without a permit in conformance with
3 Chapter 28.01. No person shall engage in individual site construction without first submitting a
4 Mini-SWPPP in accordance with Chapter 28.01. Any person who engages in ~~the grading or~~
5 ~~disturbance of any land~~ construction activity or individual site construction in violation of the
6 provisions contained in this section or Chapter 28.01 shall be subject to ~~an~~ a stop work order to
7 cease and desist such ~~grading work~~ activity. ~~To~~ In order to control erosion and sedimentation during
8 and after land preparation, the subdivider, his successors and assigns shall provide for disturbing
9 only the areas needed for construction; removing only those trees, shrubs, and grasses that must be
10 removed by construction; installing required sediment basins and diversion dikes before disturbing
11 the land that drains into them; and temporarily stabilizing each segment of graded or otherwise
12 disturbed land by seeding and mulching or by other approved methods. As land preparation is
13 completed, the subdivider, his successors and assigns shall permanently stabilize each segment with
14 perennial vegetation and structural measures. Diversion dikes and sediment basins shall be leveled
15 after areas that drain into them are stabilized, and permanent vegetation shall be established on those
16 areas. Sediment basins that are to be retained for storm water detention shall be seeded to permanent
17 vegetation no later than nine months after completion of the sediment basins and shall be
18 permanently maintained by the subdivider or his successors and assigns. The land shall be graded
19 and shaped as per the approved grading plan. If the land is within the floodplain or floodprone area,
20 the applicable standards set forth in Chapter 26.24 or 26.25 must also be met.

21 Section 13. That Section 26.31.040 of the Lincoln Municipal Code be amended to
22 read as follows:

1 **26.31.040 Sediment in Public Right-of-Way; Notice to Remove; Penalty.**

2 In addition to the penalty provided in § 26.31.030, any person responsible for sediment
3 deposited upon any street, alley, sidewalk, public way storm drainage system, or public ground
4 within the corporate limits of the City and within three miles thereof, as a result of tracking, runoff
5 or other erosion and sedimentation from a building or development site, shall remove the same
6 within a reasonable period of time as ~~shall be required by notice signed by~~ the Director of Public
7 Works and Utilities or his or her authorized representative ~~and served upon such person responsible~~
8 ~~for sediment deposited personally or by certified mail.~~ Whenever the person responsible for
9 sediment deposited upon any street, alley, sidewalk, public way, storm drainage system, or public
10 ground within the City refuses or neglects to remove the same, ~~after receiving notice as provided~~
11 ~~herein, it shall be the duty of the Director of Public Works and Utilities or his or her designated~~
12 ~~representative to cause the same to be removed~~ the City may elect to remove the sediment and the
13 expense of ~~the~~ such removal shall be recoverable ~~from the person responsible~~ in an action at law.

14 Section 14. That Sections 26.11.038, 26.23.190, 26.27.060, and 26.31.040 of the
15 Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

16 Section 15. That this ordinance shall take effect and be in force from and after its
17 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2007:

Mayor