

Public Hearing: May 21, 2007

FACT SHEET

TITLE: Regulations for Construction Site Discharges

SPONSOR: Public Works & Utilities
Lower Platte South NRD

OTHER DEPARTMENTS AFFECTED:
Building and Safety

STAFF RECOMMENDATION: For

REASON FOR LEGISLATION:

To consolidate the erosion and sediment control requirements in a single chapter called “Regulations for Construction Site Discharges” within a new Title 28 entitled “Stormwater Quality and Erosion and Sediment Control” that meets all state and federal requirements.

DISCUSSION

This application proposes the adoption of a new chapter called “Regulations for Construction Site Discharges” within a new Title 28 entitled “Stormwater Quality and Erosion and Sediment Control.” The purpose is to consolidate all the **erosion and sediment control requirements** in a single chapter and update the standards to meet all state and federal requirements. There are related items to update the Zoning and Subdivision ordinances, the Design Standards, and the Drainage Criteria Manual.

Background

The City of Lincoln is required to meet state and federal regulations relating to erosion and sediment control (E&SC). The City meets these obligations in partnership with the Lower Platte South Natural Resources District (NRD).

2000. Early Program. The City adopted new E&SC standards that required developers to submit and follow **E&SC plans** if land disturbance was **2 acres** or greater. Lincoln also initiated an education program for builders and developers.

2003. Updated Program. In 2003, new federal requirements became effective that lowered the threshold for requiring **E&SC plans down to 1 acre**. The City updated its ordinances in 2003 to reflect these new standards.

2005. Guidance from State. In 2005, the state Department of Environmental Quality (NDEQ) updated its regulations to reflect the federal requirements and begin a process for adopting a new statewide general permit for construction site discharges. During this time, **additional guidance was provided by NDEQ** at the local level **relating to how individual lots (sites < 1 acre) must be regulated** if they are part of a “larger common plan of development.” This includes lots in a subdivision.

Review of City’s Program. The **City and NRD** began working with a consulting firm specializing in water quality programs to **review the program** relative to state/federal compliance and to provide guidance regarding how comparable communities were implementing their programs.

Input from Affected Interests. In December of 2005, City and NRD staff met with a **variety of interest groups** including developers, builders, neighborhood and environmental groups to **get early input** on how Lincoln's program should be structured to meet these requirements.

- 2006. Private Sector Program Guidance.** The City/NRD took the feedback received from interest groups and **formulated program updates to reflect what was heard.** Beginning in June, a series of meetings with builders, developers and other industry representatives was held with NDEQ's involvement to cooperatively develop a program and revised ordinances.

Working Group. An **Erosion and Sediment Control Working Group** was formed to guide this effort. Participation in the Working Group was encouraged and open to all interested parties. It was comprised of individuals representing builder, developer, and contractor interests, and staffed by the City, NRD, and NDEQ. Fred Hoke, Government Affairs Director for the Homebuilders Association of Lincoln, was the chair.

- 2006-07. Review of Draft Ordinances.** Following several program and ordinance outlines, two drafts of proposed standards were provided for review and comment to the Working Group and DEQ prior to submittal to the Planning Dept., and revisions made based upon their input.

- 2000-2007. Education and Training.** Throughout the life of the City/NRD E&SC program, the agencies have worked with the building and development community to provide numerous workshops, training, educational materials, and newsletter articles on erosion and sediment control. The agencies are committed to continue these efforts.

Summary and Purpose of Revisions

- 1. Consolidation and clarification.** Consolidate the E&SC requirements in a single chapter called "Regulations for Construction Site Discharges" within a new Title 28 entitled "Stormwater Quality and Erosion and Sediment Control." This title is anticipated to have an additional chapter proposed in the near future relating to federally mandated requirements for illicit discharges to the storm drain system, a process being led by the Health Department.
- 2. Consistency.** Make commensurate changes to the Zoning and Subdivision Ordinances and Design Standards.
- 3. Terminology.** Add and change terminology to reflect federal and state requirements and terminology.
- 4. Enforcement.** Add provisions for elements required on E&SC plans and to make the ordinance enforceable, as required.
- 5. Individual Site Construction.** Add requirements for individual building sites that are less than 1 acre, but are "part of a larger common plan of development or sale," as required.
- 6. Guidance and Technical Information.** Related item Misc No. 07005 updates a companion document - Chapter 9, Erosion and Sediment Control," of the City's Drainage Criteria Manual - to include all federally required elements on E&SC plans, and to provide complete, illustrative information and a range of alternatives that reflect today's industry standards for design professionals who are preparing those plans.

Individual Site Construction

- 1. Existing Standards for Sites > 1 acre.** The City of Lincoln already has regulations in place relating to E&SC plans and implementation for development sites 1 acre and larger. Developers are required to submit a Stormwater Pollution Prevention Plan (SWPPP) prior to land disturbance on sites greater than 1 acre.

2. **Proposed Standards for Sites < 1 acre.** A major focus of the Working Group was on requirements for individual building sites that are less than 1 acre, but are “part of a larger common plan of development or sale.”
3. **Required Plan.** The solution developed through this process was for the builder to submit an 8 ½ x 11" plan showing the measures to prevent erosion from a building site, with a building permit and to the developer. Measures must be maintained on site.
4. **Enforcement.** Enforcement provisions for individual site construction are drafted based on guidance from the Working Group, which was that enforcement should be done primarily by the private sector, or through the developer. Thus, as proposed the developer retains the responsibility for E&SC on the building sites.

We believe this to be a balanced, equitable program that sincerely responds to the issues, concerns and guidance expressed both by the Working Group and NDEQ. Questions regarding this application can be directed to Rock Krzycki in the PW/U Dept. at rkrzycki@lincoln.ne.gov or 441-4959, or to JB Dixon at the NRD, jbdixon@lpsnrd.org or 476-2729.

POLICY OR PROGRAM CHANGE: Program update for standards to effectively meet all state/federal regulations.

FACT SHEET PREPARED BY:

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REVIEWED BY:

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