

~~Title 455 DEPARTMENT OF WATER RESOURCES  
RULES FOR FLOOD PLAIN~~

~~Chapter 1 GENERAL~~

~~001 ACTIVITIES REQUIRING A PERMIT.~~

~~001.01 Any obstruction or structure as defined in the "Minimum Standards for Flood Plain Management Programs" adopted by the Nebraska Natural Resources Commission to be located in the flood plain of a watercourse or drainway under the flood plain management jurisdiction of the Department.~~

~~001.02 Any substantial improvement as defined in the "Minimum Standards for Flood Plain Management Programs" adopted by the Nebraska Natural Resources Commission to be located in the flood plain of a watercourse or drainway under the flood plain management jurisdiction of the Department.~~

~~002 ACTIVITIES NOT REQUIRING A PERMIT.~~

~~002.01 Dams designed to store or divert water are exempt from flood plain permit requirements if permission for construction is obtained from the Department under Chapter 46.~~

~~003 EXTENT OF JURISDICTION. County maps showing the location of Department jurisdiction on individual streams are available upon request from the Director of Water Resources.~~

~~004 ADDITIONAL LOCAL, STATE, AND FEDERAL REQUIREMENTS. Before undertaking construction on the flood plain, an applicant should comply with all requirements set forth in applicable local government ordinances with respect to submission and approval of preliminary and final subdivision plats, improvement plans, building and zoning permits, inspections, appeals and similar matters. The applicant should comply with other provisions required by~~

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~~Chapter 1~~

~~Nebraska statutes and regulations of other departments of the State of Nebraska. Necessary federal permits for activities within flood plains should also be obtained.~~

~~ANNOTATION~~

~~ENABLING LEGISLATION: Chapter 31, Article 10, R.R.S., Nebraska 1943~~

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~~Chapter 2 PERMIT APPLICATIONS~~

~~001 SUBMISSION OF APPLICATION.~~

~~001.01 The application shall be upon a form provided by the Department.~~

~~001.02 A \$10 fee shall be submitted with the application.~~

~~001.03 One set of plans and specifications of the construction project shall also be submitted for review. Plans and specifications submitted shall include maps, scaled drawings (referenced to mean sea level), or other descriptions setting forth the existing site conditions and the extent of the proposed activity. Drawings must be of sufficient quality and contrast to allow microfilming. The maximum allowable size sheets for plans or drawings is 24 by 36 inches with a minimum margin of 1 ½ inches on the left side and one half inch on all other sides.~~

~~001.04 Where, in the opinion of the Director of Water Resources, engineering studies are needed to determine the effect the construction has on the conveyance of flood waters, the application shall be held until receipt of same.~~

~~001.04A All required technical studies shall be conducted under the supervision of a technical person recognized as competent by the Director.~~

~~001.04B Supporting documentation both in terms of hydrologic and hydraulic computations, should be based upon the use of analytical techniques and computational models guided by experienced judgment. In particular, supporting information should include stage and velocity at critical locations along the stream reach for natural and "after construction" conditions.~~

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~~Chapter 2~~

~~001.05 Where land rights purchase, flowage easement, or other legal instruments have been entered into in regard to the construction, each shall be identified in the application or supporting documentation.~~

~~002 ADDITIONAL INFORMATION. The Director may hold an application pending additional study or hearing. In such cases gathering additional field survey data may be required for hydrologic and hydraulic analysis by the Department.~~

~~003 NOTICE OF HEARING. When the Director determines a hearing is appropriate or necessary, a notice shall be prepared setting forth the time and place of the hearing. As a minimum standard, the notice shall be published once a week for three consecutive weeks in a newspaper of general circulation in the county where the majority of the obstruction would be located. The last notice shall be published no later than ten days before the date of the hearing.~~

~~004 BASIS FOR APPROVAL. Basis for approval shall be compliance with "Minimum Standards for Flood Plain Management Programs" adopted by the Nebraska Natural Resources Commission.~~

~~005 DECISION. Following the hearing the Director shall prepare a written order including findings of fact and conclusions of law. A copy of the order shall be delivered or mailed to the applicant or the attorney of record.~~

~~006 TERMINATION OF PERMIT. Construction must begin within three years of the date of issuance of the permit. If construction has not been initiated within that time the permit is invalid. If construction has not been initiated when~~

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~~Chapter 2~~

~~The Department loses jurisdiction at the permit location, the permit is voided as of the date the Department lost jurisdiction.~~

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ANNOTATION~~

~~ENABLING LEGISLATION: Section 33-105, R.R.S., Nebraska, 1943  
Section 46-209, R.R.S., Nebraska, 1943  
Section 84-909(1), R.R.S., Nebraska, 1943  
Section 31-1029, R.R.S., Nebraska, 1943~~

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~~Chapter 3 REVISION OF APPROVED PLANS~~

~~001 REQUIREMENTS. The Director of Water Resources may approve revised plans for proposed activities already authorized by permit. A petition to the Director shall be filed and accompanied by a complete set of the revised plans and specifications. The petition must follow the format shown in Appendix A.~~

~~ANNOTATION~~

~~ENABLING LEGISLATION: Section 46-209, R.R.S., Nebraska, 1943  
Section 84-909(1), R.R.S., Nebraska, 1943~~

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~~Chapter 4 TRANSFER OF PERMITS~~

~~001 REQUIREMENTS. A permit may be transferred to the assignees or purchasers of the property affected, provided all terms of the permit are complied with. Notification of the transfer should be furnished to the Director of Water Resources in writing.~~

~~ANNOTATION~~

~~ENABLING LEGISLATION: Section 46-209, R.R.S., Nebraska, 1943  
Section 84-909(1), R.R.S., Nebraska, 1943~~

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~~Chapter 5 INSPECTION OF WORK~~

~~001 RIGHT TO INSPECT. The Director of Water Resources may inspect the work under permit to assure that the work is being conducted and executed in conformance with the permit issued. Such inspections shall be conducted at any reasonable time.~~

~~ANNOTATION~~

~~ENABLING LEGISLATION: Section 46-209, R.R.S., Nebraska, 1943  
Section 84-909(1), R.R.S., Nebraska, 1943~~

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~~Chapter 6 MAINTENANCE~~

~~001 REQUIREMENTS. Works constructed under permit must be maintained in good condition. No further authorization is required for routine repairs or maintenance unless it meets the criteria described in Chapter 1, 001.02.~~

~~ANNOTATION~~

~~ENABLING LEGISLATION: Section 46-209, R.R.S., Nebraska, 1943  
Section 84-909(1), R.R.S., Nebraska, 1943~~

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~~Chapter 7 APPEALS~~

~~001 PROCEDURE. The applicant for a flood plain permit which has been denied by the Director of Water Resources may appeal to a court of competent jurisdiction in accordance with Sections 84-917 through 84-919, R.R.S., Nebraska, 1943.~~

~~ANNOTATION~~

~~ENABLING LEGISLATION: Section 46-209, R.R.S., Nebraska, 1943  
Section 84-909(1), R.R.S., Nebraska, 1943~~

Appendix A: Example of Petition

\_\_\_\_\_ BEFORE THE DEPARTMENT OF WATER RESOURCES

\_\_\_\_\_ STATE OF NEBRASKA

In the Matter of \_\_\_\_\_ )

\_\_\_\_\_ )

\_\_\_\_\_ ) PETITION FOR

\_\_\_\_\_ ) \_\_\_\_\_

\_\_\_\_\_ )

\_\_\_\_\_ Comes now \_\_\_\_\_, petitioner  
and states:

1. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Wherefore, the undersigned respectfully requests that the  
department \_\_\_\_\_

\_\_\_\_\_ (State action you wish taken) \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_ (Signature of Petitioner)