

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF LANCASTER COUNTY, NEBRASKA

LANC. COUNTY CLERK

COUNTY CHANGE OF ZONE NO. 08071: )  
TEXT AMENDMENT TO THE LANCASTER )  
COUNTY ZONING RESOLUTION, )  
TO ALLOW EXCAVATION AND STONE )  
MILLING TO BE APPROVED BY )  
SPECIAL PERMIT IN THE "AG" )  
AGRICULTURAL DISTRICT AND "AGR" )  
AGRICULTURAL RESIDENTIAL DISTRICT, )  
AND ADDING SECTION 13.017 RELATING )  
TO ENFORCEMENT AND REVOCATION )  
OF SPECIAL PERMITS. )

RESOLUTION NO. R-09-0011

WHEREAS, pursuant to Neb. Rev. Stat. § 23-114 et seq. (Reissue 2007), the Board of County Commissioners is authorized to make amendments to the 1979 Zoning Resolution of Lancaster County, which are consistent with the County's Comprehensive Plan and after receipt of specific recommendations from the Lincoln/Lancaster County Planning Commission (Planning Commission); and

WHEREAS, the Director of Planning has requested text amendments to Article 13, Special Permit of the Lancaster County Zoning Resolution; and

WHEREAS, the proposed text amendments would add provisions to Article 13, Special Permit, Section 13.001(14), to allow excavation and stone milling to be approved by special permit in the "AG" Agricultural District and in the "AGR" Agricultural Residential District under certain conditions and would also add a Section 13.017 relating to enforcement and revocation of special permits; and

WHEREAS, the Lincoln-Lancaster County Planning Department recommends approval of the proposed text amendments, concluding that said text amendment would result in better standards for soil mining and resolve many current issues; and

WHEREAS, on January 28, 2009, after public hearing, the Lincoln-Lancaster Planning Commission recommended approval of said text amendment, with amendments to Section 13.001(14) and adding Section 13.017; and

WHEREAS, on March 3, 2009, the Board of Commissioners of Lancaster County conducted a public hearing regarding said text amendment; and

WHEREAS, on March 10, 2009, the Board of Commissioners voted to approve said text amendment, as provided in Attachment "A," attached hereto and incorporated by this reference .

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Lancaster County, Nebraska that the application to amend Article 13, Special Permit, Section 13.001(14) and add Section 13.017, of the Lancaster County Zoning Resolution, as described in Attachment "A," is hereby approved.

BE IT FURTHER RESOLVED, that any other references in said Resolution which may be affected by the above specified amendments be, and they hereby are, amended to conform to such specific amendment.

DATED this 10 day of March, 2009, at the County-City Building, Lincoln, Nebraska.

APPROVED AS TO FORM

this 10 day of  
March, 2009.

  
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for GARY E. LACEY  
County Attorney

BY THE BOARD OF COUNTY  
COMMISSIONERS OF LANCASTER  
COUNTY, NEBRASKA

  
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Bob Workman absent

**Draft Proposed County text County CZ 08071**

1 **13.001(14) Special Permit: Excavation and Stone Milling.**

2 (14) Excavation and stone milling may be allowed by special permit in the AG and AGR, zoning  
3 districts under the conditions below. For purposes of this section, excavation shall mean the  
4 removal of clay, soil, limestone, sandstone, sand, or gravel from the earth on a project site in  
5 excess of one acre by excavating, stripping, leveling, or any other process together with all other  
6 types of mining and quarrying operations for material that is removed from the earth. Excavation  
7 shall not include grading of land in accordance with an approved preliminary plat, building  
8 permit, or normal farming practices.

9 (a) An application for a special permit for excavation or stone milling shall be  
10 accompanied by the following information:

11 (1) A legal description of the proposed site;

12 (2) A site plan drawn to scale that includes but is not limited to identifying  
13 proposed vehicle and equipment storage areas and entrance and exit locations to the operation;

14 (3) A map showing the site location and the location of private access roads,  
15 existing or proposed, and public roads and highways adjacent to the site which will be affected  
16 by the operation;

17 (4) A grading map showing existing contours, proposed excavation contours,  
18 proposed final grade contours, and excavation volumes;

19 (5) A full and adequate description of all phases of the contemplated operation  
20 and the specific listing of the type of machinery and equipment which will be or might be used to  
21 carry on the operation;

1 (6) A groundwater report from a groundwater hydrologist in cases where proposed  
2 soil mining operations are: (i) within 1000 feet of any off-site private well, (ii) within 2000 feet  
3 of a community well, or (iii) designed to result in an excavated area that does not drain to a lower  
4 area (i.e. a "hole"); the report should demonstrate that the operation and ultimate grading will not  
5 negatively impact nearby wells by draw-down or contamination, and/or that monitoring wells  
6 will be installed to provide early warning of any such impact;

7 Where a pond or lake is proposed, the groundwater report shall also  
8 demonstrate that adequate water will be supplied via runoff and/or wells to maintain the pond or  
9 lake as a functioning and attractive year-round water feature.

10 (7) Reclamation plans for returning the site to agricultural use, approved by a  
11 local official of the Federal Department of Agriculture Natural Resources Conservation Service  
12 as meeting the standards of "Farm Bill Compliance".

13 (b) Erosion controls, including retention and sediment basins shall be provided during  
14 excavation in conformance with state and federal standards and County land erosion and  
15 sediment control regulations to prevent a change in the character of runoff onto adjacent land.

16 (c) No more than twenty (20) acres of the site shall be open for operations at any one  
17 time. The surface shall be maintained in such a manner that surface waters do not collect and  
18 pond, unless specifically approved by the County. Underground drainage may be supplied if it  
19 connects to an existing drainage facility and is satisfactory to the County.

20 (d) Topsoil shall be collected and stored for redistribution on the site at the termination of  
21 the operation or termination of each phase of operation.

22 (e) Excavation shall be conducted in such a way as not to constitute a hazard to any  
23 persons, nor to the adjoining properties. Dust shall be controlled on-site to meet Lincoln-

1 Lancaster County Air Pollution Control Program Regulations, and the Lincoln/Lancaster County  
2 Health Department may additionally require dust control on unpaved perimeter roads;

3 (f) Safety screening may be required at the outer boundary of the site; visual screening  
4 through setbacks, berming and other techniques may also be required where said boundary is  
5 adjacent to residential or park land, school property, or at major entryways/corridors into a city,  
6 town, or village, or at the discretion of the County Board.

7 (g) Operating hours shall be limited to daylight hours, Monday through Saturday.

8 (h) A sign shall be posted and maintained at the entrance to the site. The sign shall be:

9 (1) Clearly visible from the adjacent road;

10 (2) At least 32 square feet in area;

11 (3) Lettering shall be at least two inches in height, black on a white background;

12 (4) The sign shall list:

13 (i) The approved Special Permit Number;

14 (ii) The name, contact phone, and email address for the land owner;

15 (iii) The name, contact phone, and email address for the operator/ contractor;

16 (iv) The Building and Safety Department contact number.

17 (i) The County or City Engineer may require installation of traffic signs to warn  
18 motorists of mining operations and truck traffic.

19 (j) The applicant will take appropriate measures, such as street sweeping or "rumble bars"  
20 as specified by the County Engineer to minimize mud or dirt tracking onto streets and roads on a  
21 continuing (daily) basis during operation.

22 (k) Permittee shall not begin operations until it has received a certificate of operation  
23 from the Director of Building and Safety.

1 (1) The Permittee shall comply with all terms, conditions and requirements of the  
2 special permit that are required to be completed before beginning operations. Upon completion  
3 of all such terms, conditions and requirement of the special permit, the applicant shall advise the  
4 Director of Building and Safety that the applicant has met all such conditions and shall apply to  
5 the Director of Building and Safety for a certification of operation.

6 (2) The certificate of operation shall not be issued until the Director of Building  
7 and Safety has inspected the premises covered by the special permit, reviewed documentation  
8 and evidence of completion of the conditions which shall be provided by the applicant, and has  
9 found that all terms, conditions and requirements of the special permit, that are to be completed  
10 before beginning operations, have been complied with.

11 (3) Any amendment to a special permit approved subsequent to the issuance of a  
12 certificate of operation for such special permit shall require application by the permittee for a  
13 new certificate of operation which shall not be issued until the Director of Building and Safety  
14 has ascertained that any terms, conditions and requirements of the amendment to the special  
15 permit have been complied with.

16 (l) Operations shall commence within one year of approval of the special permit or the  
17 special permit will terminate and be considered null and void.

18 (m) Prior to commencing operations, the Permittee shall provide the County with a penal  
19 bond in the amount of \$525.00 per acre intended to be disturbed to assure compliance with the  
20 final reclamation plan, including but not limited to regrading, topsoil conditioning, and re-  
21 vegetation. A private engineer must certify at closure of operations that grading and final  
22 reclamation has been completed in accordance with the approved plans before the bond may be  
23 released.

1 (n) Within nine months after the completion of excavation on any portion of the site, all  
2 cuts shall be returned to a slope of less than three to one, the topography and soils shall be  
3 restored and stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion  
4 and siltation, and to protect the health, safety, and general welfare of the public.

5 (o) A special permit may be approved for up to a three year period of time by the County  
6 Board. Such period of time shall commence upon the date the special permit is approved by the  
7 County Board.

8 (p) Permittee shall prepare and submit an annual report to the Director of Building and  
9 Safety addressing the status and extent of operations and each condition of the special permit.

10 (q) Permittee shall be subject to an annual site inspection by the Director of Building and  
11 Safety or his assigns. Such inspection shall be paid for by the applicant. Building and Safety  
12 shall:

- 13 1. Inspect the site to determine whether terms, special conditions and  
14 requirements imposed by the County Board in the approval of the special  
15 permit have been met and complied with; and
- 16 2. Review all complaints from public and other departments/agencies

17 (r) The County Board may modify or adjust any of the above conditions or impose  
18 additional conditions to preserve the public health, safety, and general welfare or to allow the  
19 applicant use of the property, while at the same time, protecting the surrounding property.

20 **13.017 Enforcement and Revocation of Special Permits.**

21 (1) (a) The Director of Building and Safety shall make a report to the County Board at anytime  
22 the Director of Building and Safety finds the following:

1                   (1) Any of the terms, conditions and requirements of a special permit have not  
2 been complied with by the Permittee or that any phase thereof has not been completed within the  
3 time required under said special permit or any administrative amendment thereto.

4                   (b) The County Board may, after a public hearing of which the permittee shall be  
5 notified, take any of the following actions:

6                                 (1) Revoke the special permit for failure to comply with any of the terms,  
7 conditions and requirements of the special permit; or

8                                 (2) Take such other action as it may deem necessary to obtain compliance with the  
9 special permit; or

10                                (3) Take such action that it deems necessary to preserve the public health, safety,  
11 and general welfare.