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LANCASTER COUNTY
CLERK

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LANCASTER COUNTY, NEBRASKA

COUNTY TEXT AMENDMENT NO. 14012:)
TEXT AMENDMENT TO THE LANCASTER)
COUNTY ZONING RESOLUTION, TO AMEND) RESOLUTION NO. R-14-0072
ARTICLE 13, SECTION 13.001, SUBSECTION)
14, AS PROVIDED IN ATTACHMENT A)

WHEREAS, pursuant to Neb. Rev. Stat. § 23-114 (Reissue 2012), the Lancaster County Board of Commissioners is authorized to make amendments to the 1979 Zoning Resolution of Lancaster County and the Lancaster County Land Subdivision Resolution, 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 the Lincoln-Lancaster County Planning Department has requested a text amendment to the Lancaster County Zoning Resolution by amending Article 13, Section 13.001, Subsection 14) Excavation and Stone Milling, to allow stone milling as an accessory use to excavation operations, to clarify the meaning of stone milling, and to clarify that pre-existing, long-term excavation sites may not be able to meet all of the conditions of the special permit regulations, as provided in Attachment "A," attached hereto and incorporated by this reference; and

WHEREAS, the Lincoln-Lancaster County Planning Department has recommended approval of this amendment concluding that the changes to the text are primarily to clarify terms and conditions and do not remove any of the conditions listed in the current text. Additionally, the text change will strengthen the relationship between a stone milling operation and a permitted excavation operation; and

WHEREAS, on October 1, 2014, after public hearing, the Lincoln-Lancaster County Planning Commission agreed with the staff recommendation and voted 6 to 0 to recommend approval of said text amendments; and

WHEREAS, on November 18, 2014, the Board of Commissioners of Lancaster County conducted a public hearing regarding said text amendment and voted to approve said amendments.

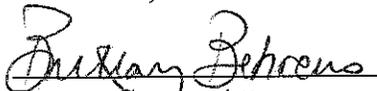
NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Lancaster County, Nebraska that the amendments to Article 13, Section 13.001, Subsection 14 of the Lancaster County Zoning Resolution, as provided in Attachment "A," are hereby adopted and approved.

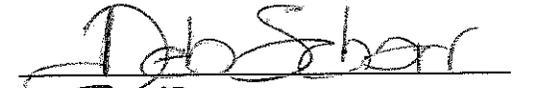
BE, IT FURTHER RESOLVED, that any other references in said Resolution which may be affected by the above specified amendments be, and they hereby are, amended to conform to such specific amendments.

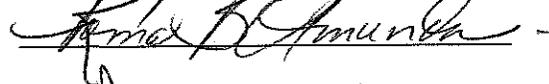
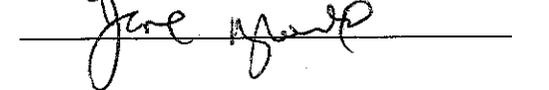
DATED this 18th day of November, 2014, in the County-City Building, Lincoln, Lancaster County, Nebraska.

BY THE BOARD OF COUNTY
COMMISSIONERS OF
LANCASTER COUNTY, NEBRASKA

APPROVED AS TO FORM
this 18 day of
November, 2014.


Deputy County Attorney
for JOE KELLY
Lancaster County Attorney



Attachment A

14) Excavation and stone milling may be allowed by special permit in the AG and AGR zoning districts under the conditions below. The special permit may include and permit stone milling to be conducted as an accessory use to the excavation operation. For purposes of this section, excavation shall mean the removal of clay, soil, limestone, sandstone, sand or gravel from the earth on a project site in excess of one acre by excavating, stripping, leveling or any other process together with all other types of mining and quarrying operations for material that is removed from the earth. Excavation shall not include grading of land in accordance with an approved preliminary plat, building permit or normal farming practices. Stone milling shall include the crushing, cutting, grinding or otherwise processing of minerals when associated with an excavation operation. Not all of the conditions will apply to pre-existing, long-term excavation sites.

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

- (1) A legal description of the proposed site;
- (2) A site plan drawn to scale that includes but is not limited to identifying proposed vehicle and equipment storage areas and entrance and exit locations to the operation;
- (3) A map showing the site location and the location of private access roads, existing or proposed, and public roads and highways adjacent to the site which will be affected by the operation;
- (4) A grading map showing existing contours, proposed excavation contours, proposed final grade contours, and excavation volumes;
- (5) A full and adequate description of all phases of the contemplated operation and the specific listing of the type of machinery and equipment which will be or might be used to carry on the operation;
- (6) A groundwater report from a groundwater hydrologist in cases where proposed operations are: (i) within 1,000 feet of any off-site private well, (ii) within 2,000 feet of a community well, or (iii) designed to result in an excavated area that does not drain to a lower area (i.e. a "hole"). The report should demonstrate that the operation and ultimate grading will not negatively impact nearby wells by draw-down or contamination, and/or that monitoring wells will be installed to provide early warning of any such impact;
Where a pond or lake is proposed, the groundwater report shall also demonstrate that adequate water will be supplied via runoff and/or wells to maintain it as a functioning and attractive year-round water feature.
- (7) Reclamation plans for returning the site to agricultural use approved by a local official of the Federal Department of Agriculture Natural Resources Conservation Service as meeting the standards of the "Farm Bill Compliance."

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

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

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

(e) Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining properties. Dust shall be controlled on-site to meet Lincoln-Lancaster County Air Pollution Control Program Regulations, and the Lincoln/Lancaster County Health Department may additionally require dust control on unpaved perimeter roads;

(f) Safety screening may be required at the outer boundary of the site; visual screening through setbacks, berming and other techniques may also be required where said boundary is adjacent to residential or park land, school property, or at major entryways/corridors into a city, town or village, or at the discretion of the Planning Commission. (Resolution No. R-11-0023, March 29, 2011).

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

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

- (1) Clearly visible from the adjacent road;
- (2) At least 32 square feet in area;
- (3) Lettering shall be at least two inches in height, black on a white background;
- (4) The sign shall list:
 - (i) The approved Special Permit Number;
 - (ii) The name, contact phone, and email address for the land owner;
 - (iii) The name, contact phone, and email address for the operator/contractor;
 - (iv) The Building and Safety Department contact number.

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

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

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

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

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

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

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

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

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

(o) A special permit may be approved for up to a three-year period of time by the Planning Commission. Such period of time shall commence upon the date the special permit is approved by the Planning Commission. (Resolution No. R-11-0023, March 29, 2011)

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

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

- (1) Inspect the site to determine whether terms, special conditions and requirements imposed by the Planning Commission in the approval of the special permit have been met and complied with; and
- (2) Review all complaints from public and other departments/agencies. (Resolution No. R-11-0023, March 29, 2011)

(r) The Planning Commission may modify or adjust any of the above conditions or impose additional conditions to preserve the public health, safety, and general welfare or to allow the applicant use of the property, while at the same time, protecting the surrounding property. (Resolution No. R-09-011, March 10, 2009)