

Change of Zone No. 08072

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE amending Title 27 of the Lincoln Municipal Code relating to  
 2 zoning by amending Section 27.07.040, 27.09.040 and 27.49.040 to add excavation and stone  
 3 milling as a permitted special use in the AG, AGR, and I-2 zoning districts, respectively; by  
 4 amending Section 27.63.160 to allow excavation and stone milling to be approved by special permit  
 5 in the AG, AGR, R-3, B-2, H-2, H-3, H-4, and I-2 zoning districts and to provide conditions  
 6 governing said use; amending Sections 27.15.040, 27.31.050, 27.35.020, 27.41.040, 27.43.040,  
 7 27.45.030, 27.47.030, and 27.51.030 to provide consistency in the terminology used in each section  
 8 relating to excavation and stone milling; by repealing Sections 27.63.310 and 27.63.360 in their  
 9 entirety; and repealing Sections 27.07.040, 27.09.040, 27.15.040, 27.31.050, 27.35.020, 27.41.040,  
 10 27.43.040, 27.45.030, 27.47.030, 27.49.040, 27.51.030, and 27.63.160 of the Lincoln Municipal  
 11 Code as hitherto existing.

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

13 Section 1. That Section 27.07.040 of the Lincoln Municipal Code be amended to  
 14 read as follows:

15 **27.07.040 Permitted Special Uses.**

16 A building or premises may be used for the following purposes in the AG Agriculture  
 17 District if a special permit for such use has been obtained in conformance with the requirements of  
 18 Chapter 27.63:

- 19 (a) Private schools;
- 20 (b) Recreational facilities;
- 21 (c) Dwellings for members of religious orders;
- 22 (d) Broadcast towers and stations;
- 23 (e) Campgrounds;
- 24 (f) Veterinary facilities;
- 25 (g) Confined feeding facilities for livestock or poultry in excess of 15,000 square feet  
 26 in area; in those parts of the AG Agriculture District designated “agricultural” on the future county

1 land use map (Fig. 17) of the Lincoln-Lancaster County Comprehensive Plan (which for this purpose  
2 only is hereby incorporated herein by reference);

3 (h) ~~Mining or extraction of minerals from any portion of the district, and the storage and~~  
4 ~~processing thereof~~ Excavation and stone milling;

5 (i) Sale barns;

6 (j) Garden centers;

7 (k) Facilities for the commercial storage or sale of fertilizer or toxic or flammable  
8 agricultural chemicals;

9 (l) Church steeples, amateur radio antenna installations, towers, and ornamental spires  
10 which exceed the maximum district height;

11 (m) Expansion of nonconforming use;

12 (n) Historic preservation;

13 (o) Community unit plans shall be permitted in conformance with provisions of Chapter  
14 27.65;

15 (p) Public utility purposes;

16 (q) Private landing strips and appurtenances;

17 (r) Limited landfills;

18 (s) Race tracks for motorized vehicles;

19 (t) Temporary storage of construction equipment and materials;

20 (u) Early childhood care facilities with sixteen or more children, or with fifteen or fewer  
21 children not meeting the specified conditions for a permitted conditional use under Section  
22 27.07.030;

23 (v) Clubs;

24 (w) Dwelling units for domestic employees in accessory buildings;

25 (x) Heritage centers;

26 (y) Community halls;

27 (z) Tree service.

28 Section 2. That Section 27.09.040 of the Lincoln Municipal Code be amended to  
29 read as follows:

1     **27.09.040     Permitted Special Uses.**

2             A building or premises may be used for the following purposes in the AGR Agricultural  
3 Residential District if a special permit for such use has been obtained in conformance with the re-  
4 quirements of Chapter 27.63:

- 5             (a)     Private schools;
- 6             (b)     Recreational facilities;
- 7             (c)     Dwellings for members of religious orders;
- 8             (d)     Broadcast towers;
- 9             (e)     Campgrounds;
- 10            (f)     Veterinary facilities;
- 11            (g)     ~~Mining or extraction of minerals from any portion of the district, and the storage and~~  
12 ~~processing thereof~~ Excavation and stone milling;
- 13            (h)     Garden centers;
- 14            (i)     Facilities for the commercial storage or sale of fertilizer or toxic or flammable  
15 agricultural chemicals;
- 16            (j)     Church steeples, amateur radio antenna installations, towers, and ornamental spires  
17 which exceed the maximum district height;
- 18            (k)     Community unit plans shall be permitted in conformance with the provisions of  
19 Chapter 27.65;
- 20            (l)     Expansion of nonconforming uses;
- 21            (m)     Historic preservation;
- 22            (n)     Public utility purposes;
- 23            (o)     Private landing strips and appurtenances;
- 24            (p)     Early childhood care facilities with sixteen or more children, or with fifteen or fewer  
25 children not meeting the specified conditions for a permitted conditional use under Section  
26 27.09.030;
- 27            (q)     Clubs;
- 28            (r)     Dwelling units for domestic employees in accessory buildings;
- 29            (s)     Alternative to imprisonment facilities;
- 30            (t)     Children’s homes.

1                   Section 3. That Section 27.15.040 of the Lincoln Municipal Code be amended to  
2 read as follows:

3 **27.15.040     Permitted Special Uses.**

4                   A building or premises may be used for the following purposes in the R-3 Residential  
5 District if a special permit for such use has been obtained in conformance with the requirements of  
6 Chapter 27.63:

7                   (a)     Community unit plans in conformance with the following requirements:

8                             (1)     The average lot area shall be at least 5,000 square feet;

9                             (2)     All the requirements of Chapter 27.65.

10                   (b)     Private schools, other than those permitted under Section 27.15.020(e) above;

11                   (c)     Health care facilities;

12                   (d)     Dwellings for members of religious orders;

13                   (e)     Mobile home courts;

14                   (f)     Recreational facilities;

15                   (g)     Church steeples, amateur radio antenna installations, towers, and ornamental spires  
16 which exceed the maximum district height;

17                   (h)     Broadcast towers;

18                   (i)     ~~Extracting sand, gravel, and soil~~ Excavation and stone milling;

19                   (j)     Certain parking lots as defined in Chapter 27.63;

20                   (k)     Elderly or retirement housing;

21                   (l)     Expansion of nonconforming uses;

22                   (m)     Historic preservation;

23                   (n)     Garden centers;

24                   (o)     Public utility purposes;

25                   (p)     Wind energy conversion systems over the district height;

26                   (q)     Mobile home subdivisions;

27                   (r)     Housing and related facilities for the physically handicapped;

28                   (s)     Greenhouses;

29                   (t)     Outdoor seasonal sales;

30                   (u)     Cemeteries;

31                   (v)     Domiciliary care facility;

1 (w) Early childhood care facilities with sixteen or more children, or with fifteen or fewer  
2 children not meeting the specified conditions for a permitted conditional use under Section  
3 27.15.030;

4 (x) Neighborhood support services;

5 (y) Clubs;

6 (z) Connection of single-family dwelling to accessory building for the physically  
7 handicapped;

8 (aa) Adult care centers;

9 (bb) Alternative to imprisonment facilities;

10 (cc) Children's homes.

11 Section 4. That Section 27.31.050 of the Lincoln Municipal Code be amended to  
12 read as follows:

13 **27.31.050 Permitted Special Uses.**

14 A building or premises may be used for the following purposes in the B-2 Planned  
15 Neighborhood Business District if a special permit for such use has been obtained in conformance  
16 with the requirements of this chapter and Chapter 27.63:

17 (a) Health care facilities;

18 (b) Recreational facilities;

19 (c) Broadcast towers;

20 (d) ~~Extraction of sand, gravel, and soil~~ Excavation and stone milling;

21 (e) Church steeples, towers, and ornamental spires which exceed the maximum height  
22 permitted in the B-2 Planned Neighborhood Business District;

23 (f) Expansion of nonconforming uses;

24 (g) Historic preservation;

25 (h) Public utility purposes;

26 (i) Wind energy conversion systems over the district height;

27 (j) Cemeteries.

28 (k) Mail order catalog sales;

29 (l) Indoor animal hospitals;

30 (m) Indoor kennels.

1                   Section 5. That Section 27.35.020 of the Lincoln Municipal Code be amended to  
2 read as follows:

3 **27.35.020     Permitted Uses.**

4                   A building or premises may be used for any lawful purpose in the B-4 Lincoln Center  
5 Business District, except the following:

6                   (a)     The refining, distillation, or manufacture of:

7                         (1)     Acids or alcohols, except that craft breweries as defined in the Nebraska  
8 Liquor Control Act are permitted;

9                         (2)     Ammonia, bleach, or chlorine;

10                      (3)     Asphalt, tar, or products made therewith, including roofing or waterproofing;

11                      (4)     Cement, lime, gypsum, or plaster of paris;

12                      (5)     Disinfectants;

13                      (6)     Dyestuffs;

14                      (7)     Fertilizer;

15                      (8)     Glue, sizing, or gelatin;

16                      (9)     Oilcloth, linoleum, or oiled rubber goods;

17                      (10)    Paint, shellac, turpentine, or oils;

18                      (11)    Paper or pulp;

19                      (12)    Rubber, gutta-percha, balata, creosote, or products treated therewith;

20                      (13)    Shoe polish;

21                   (b)     The operation of:

22                         (1)     Bag cleaning works;

23                         (2)     Blast furnaces, coke ovens, smelting or ore reduction works;

24                         (3)     Boiler works;

25                         (4)     Forge;

26                         (5)     Rock crusher, ~~stone mill, or quarry;~~

27                         (6)     Rolling mill;

28                         (7)     Yeast plant;

1 (c) Production, manufacture, distribution, or commercial storage of toxic, radioactive,  
2 flammable, or explosive materials, including chemicals and gases, fireworks and explosives, arsenals  
3 and magazines;

4 (d) Tanning, curing, or storage of raw hides or skins; stockyards or slaughter of animals  
5 or fowl; rendering fat; distillation of bones, coal, or wood;

6 (e) Dumping or reduction of garbage, offal, or dead animals; scrap processing operation  
7 or salvage yard;

8 (f) Grain elevators and grain mills;

9 (g) Refining of natural gas or petroleum or their products; or bulk storage thereof not  
10 located underground and in full compliance with all applicable city regulations;

11 (h) Brick, tile, pottery, or terra cotta manufacture, other than the manufacture of  
12 handicrafts;

13 (i) The manufacture of acetylene, the transfer of the gas from one container to another,  
14 or the storage of the gas in containers having a capacity greater than the equivalent of 1,000 cubic  
15 feet at standard temperature and pressure;

16 (j) Excavation and stone milling;

17 (k) And in general those uses, not limited to the above, which may be obnoxious or  
18 offensive or hazardous to health by reason of odor, dust, smoke, gas, glare, radiation, or noise;

19 (l) In the area of the B-4 Lincoln Center Business District bounded by 10th Street, 150  
20 feet north of "P" Street, 14th Street, and "N" Street:

21 (1) Parking lots, parking garages, and other off-street parking facilities;

22 (2) Uses in which the customer is served directly in the car, including but not  
23 limited to drive-in restaurants, drive-in teller windows, service stations, or car washes.

24 (m) Permitted conditional uses not meeting the requirements of Section 27.35.025;

25 (n) Permitted special uses not meeting the requirements of Section 27.35.030;

26 (o) In the area of the B-4 Lincoln Center Business District from 150 feet east of 17th  
27 Street to the eastern edge of the B-4 Lincoln Center Business District;

28 (1) Automobile and truck wash facilities;

29 (2) Automobile, motorcycle, truck and heavy equipment sales and repair;

30 (3) Mini-warehouses;

31 (4) Recycling center;

- 1 (5) Service stations;
- 2 (6) Sexually oriented live entertainment;
- 3 (7) Single-family dwelling on the first floor or basement;
- 4 (8) Two-family dwellings on the first floor or basement;
- 5 (9) Vehicle body repair shops;
- 6 (10) Warehouses (pre-existing warehouses may remain, regardless of time
- 7 unoccupied, but must cease once the building is demolished).

8 Section 6. That Section 27.41.040 of the Lincoln Municipal Code be amended to  
9 read as follows:

10 **27.41.040 Permitted Special Uses.**

11 A building or premises may be used for the following purposes in the H-2 Highway Business  
12 District if a special permit for such use has been obtained in conformance with the requirements of  
13 Chapter 27.63:

- 14 (a) Outdoor theaters;
- 15 (b) Broadcast towers;
- 16 (c) ~~Extraction of sand, gravel, and soil~~ Excavation and stone milling;
- 17 (d) Church steeples, towers, and ornamental spires exceeding the maximum permitted  
18 height of the H-2 Highway Business District;
- 19 (e) Outdoor lighting for recreational facilities;
- 20 (f) Expansion of nonconforming uses;
- 21 (g) Historic preservation;
- 22 (h) Public utilities purposes;
- 23 (i) Wind energy conversion systems over the district height;
- 24 (j) Cemeteries;
- 25 (k) Sale of alcoholic beverages for consumption on the premises;
- 26 (l) Sale of alcoholic beverages for consumption off the premises;
- 27 (m) Sexually oriented live entertainment establishments;
- 28 (n) Indoor animal hospitals;
- 29 (o) Indoor kennels.



1           Section 7. That Section 27.43.040 of the Lincoln Municipal Code be amended to  
2 read as follows:

3 **27.43.040     Permitted Special Uses.**

4           A building or premises may be used for the following purposes in the H-3 Highway  
5 Commercial District if a special permit for such use has been obtained in conformance with the  
6 requirements of Chapter 27.63:

- 7           (a)     ~~Extraction of sand, gravel, and soil~~ Excavation and stone milling;
- 8           (b)     Bulk storage of petroleum products;
- 9           (c)     Broadcast towers;
- 10          (d)     Church steeples, towers, and ornamental spires exceeding the maximum permitted  
11 height in the H-3 Highway Commercial District;
- 12          (e)     Outdoor lighting for recreational facilities;
- 13          (f)     Expansion of nonconforming use;
- 14          (g)     Historic preservation;
- 15          (h)     Stores and shops for retail sales and service which exceed 20,000 square feet of floor  
16 area;
- 17          (i)     Public utility purposes;
- 18          (j)     Wind energy conversion systems over the district height;
- 19          (k)     Small batch concrete dispensing units;
- 20          (l)     Health care facilities;
- 21          (m)     Cemeteries;
- 22          (n)     Sale of alcoholic beverages for consumption on the premises;
- 23          (o)     Sale of alcoholic beverages for consumption off the premises;
- 24          (p)     Limited landfills;
- 25          (q)     Sexually oriented live entertainment establishments;
- 26          (r)     Indoor animal hospitals;
- 27          (s)     Indoor kennels;
- 28          (t)     Outdoor exercise area associated with an indoor animal hospital or indoor kennel.

29           Section 8. That Section 27.45.030 of the Lincoln Municipal Code be amended to  
30 read as follows:

1     **27.45.030     Permitted Special Uses.**

2             A building or premises may be used for the following purposes in the H-4 General  
3 Commercial District if a special permit for such use has been obtained in conformance with the re-  
4 quirements of Chapter 27.63:

- 5             (a)     ~~Extraction of sand, gravel, and soil~~ Excavation and stone milling;
- 6             (b)     Bulk storage of petroleum products;
- 7             (c)     Stores and shops for retail sales and service of more than 30,000 but less than  
8 100,000 square feet in floor area;
- 9             (d)     Any permitted use which exceeds the maximum height permitted in the district;
- 10            (e)     Facilities for the commercial storage or sale of fertilizer, or toxic or flammable  
11 agricultural chemicals;
- 12            (f)     Broadcast towers;
- 13            (g)     Expansion of nonconforming use;
- 14            (h)     Historic preservation;
- 15            (i)     Public utility purposes;
- 16            (j)     Wind energy conversion systems over the district height;
- 17            (k)     Planned service commercial development;
- 18            (l)     Small batch concrete dispensing units;
- 19            (m)     Cemeteries;
- 20            (n)     Sale of alcoholic beverages for consumption on the premises;
- 21            (o)     Sale of alcoholic beverages for consumption off the premises;
- 22            (p)     Early childhood care facilities;
- 23            (q)     Sexually oriented live entertainment establishments;
- 24            (r)     Indoor animal hospitals;
- 25            (s)     Indoor kennels;
- 26            (t)     Outdoor exercise area associated with an indoor animal hospital or indoor kennel.

27             Section 9. That Section 27.47.030 of the Lincoln Municipal Code be amended to  
28 read as follows:

1     **27.47.030     Permitted Special Uses.**

2             A building or premises may be used for the following purposes in the I-1 Industrial District  
3 if a special permit for such use has been obtained in conformance with the requirements of Chapter  
4 27.63:

5             (a)     The refining, distillation or manufacture of:

- 6                     (1)     Acids or alcohols;
- 7                     (2)     Ammonia, bleach, or chlorine;
- 8                     (3)     Asphalt, tar, or products made therewith, including roofing or waterproofing;
- 9                     (4)     Cement, lime, gypsum, or plaster of paris;
- 10                    (5)     Disinfectants;
- 11                    (6)     Dyestuffs;
- 12                    (7)     Fertilizer;
- 13                    (8)     Glue, sizing, or gelatin;
- 14                    (9)     Oilcloth, linoleum, or oiled rubber goods;
- 15                    (10)    Paint, shellac, turpentine, or oils;
- 16                    (11)    Rubber, gutta-percha, balata, creosote, or products treated therewith;
- 17                    (12)    Shoe polish;

18             (b)     The operation of:

- 19                    (1)     Bag cleaning works;
- 20                    (2)     Blast furnaces, coke ovens, smelting or ore reduction works;
- 21                    (3)     Boiler works;
- 22                    (4)     Forge;
- 23                    (5)     Rock crusher, ~~stone mill, or quarry;~~
- 24                    (6)     Rolling mill;
- 25                    (7)     Yeast plant;

26             (c)     Production, manufacture, distribution, and storage of toxic, radioactive, flammable,  
27 or explosive materials, including chemicals and gases, fireworks, and explosives, except that any  
28 of the above referenced uses, except fireworks, may be stored or used in connection with a permitted  
29 commercial, business, or industrial purpose as allowed by Section 27.47.020(b) as incidental to the  
30 referenced permitted use without the requirement of obtaining a special permit;

1 (d) Tanning, curing, or storage of raw hides or skins; stockyards or slaughter of animals  
2 or fowl; rendering fat; distillation of bones, coal or wood;

3 (e) Dumping or reduction of garbage, offal, or dead animals;

4 (f) Scrap processing operation, salvage yard, or enclosed disassembly operation in  
5 conformance with Section 27.63.500;

6 (g) Refining or bulk storage of petroleum or natural gas, or their products;

7 (h) The manufacture of acetylene, the transfer of the gas from one container to another,  
8 or the storage of the gas in containers having a capacity greater than the equivalent of 1,000 cubic  
9 feet at standard temperature and pressure;

10 (i) Stores and shops for retail sales and service exceeding 20,000 square feet in floor  
11 area;

12 (j) Any permitted use which exceeds the maximum height permitted in the district;

13 (k) Broadcast towers;

14 (l) Outdoor theaters;

15 (m) ~~Extraction of sand, gravel, and soil~~ Excavation and stone milling;

16 (n) Expansion of nonconforming uses;

17 (o) Historic preservation;

18 (p) Technical training centers;

19 (q) Wind energy conversion systems over the district height;

20 (r) Temporary shelter for the homeless;

21 (s) Health care facilities;

22 (t) Early childhood care facilities;

23 (u) Limited landfills;

24 (v) Race tracks for motorized vehicles;

25 (w) Sale of alcoholic beverages for consumption on the premises;

26 (x) Sale of alcoholic beverages for consumption off the premises;

27 (y) Private schools in conformance with Section 27.63.075;

28 (z) Sexually oriented live entertainment establishments.

29 Section 10. That Section 27.49.040 of the Lincoln Municipal Code be amended to  
30 read as follows:

1     **27.49.040     Permitted Special Uses.**

2             A building or premises may be used for the following purposes in the I-2 Industrial Park  
3 District if a special permit for such use has been obtained in conformance with the requirements of  
4 Chapter 27.63:

- 5             (a)     ~~Mining, quarrying, and stone mills~~ Excavation and stone milling;
- 6             (b)     Broadcast towers;
- 7             (c)     Early childhood care facilities;
- 8             (d)     Expansion of nonconforming use;
- 9             (e)     Historic preservation;
- 10            (f)     Wind energy conversion systems over the district height;
- 11            (g)     Enclosed disassembly operation in conformance with Section 27.63.500;
- 12            (h)     Sale of alcoholic beverages for consumption on the premises;
- 13            (i)     Any permitted use which exceeds the maximum height permitted in the district;
- 14            (j)     Sexually oriented live entertainment establishments.

15             Section 11. That Section 27.51.030 of the Lincoln Municipal Code be amended to  
16 read as follows:

17     **27.51.030     Use Regulations.**

18             (a)     General Regulations. Any development, including building and open land uses,  
19 except farming and the sale of farm products, shall be prohibited in the I-3 Employment Center  
20 District prior to the approval of a use permit in conformance with the requirements of this chapter.  
21 I-3 Employment Center District zoning shall not be permitted or granted upon any property having  
22 a total area of less than fifty (50) acres.

23             (b)     Specific Regulations.

24             (1)     The aggregate retail use permitted in subsection (c) below shall not exceed  
25 twenty percent (20%) of the buildable square footage of the land included within the boundaries of  
26 the use permit assuming a floor-to-area ratio of one to four. Similarly, the aggregate office use  
27 permitted in subsection (c) below shall not exceed thirty percent (30%) of the buildable square  
28 footage of the land included within the boundaries of the use permit assuming a floor-to-area ratio  
29 of one to four.

1           (2)     The total of all retail, office, post-secondary education facilities, nonprofit  
2 religious, educational, and philanthropic institutions permitted in subsection (c) below and early  
3 childhood care facilities specially permitted in Section 27.51.050 below shall not in the aggregate  
4 exceed fifty percent (50%) of the buildable square footage of the land included within the boundaries  
5 of the use permit assuming a floor-to-area ratio of one to four.

6           (3)     Notwithstanding (1) and (2) above, 75,000 square feet or more of floor area  
7 used by a single user shall not be subject to the thirty percent (30%) and fifty percent (50%)  
8 limitations.

9           (4)     Those conditional and special uses permitted in Sections 27.51.040 and  
10 27.51.050 below shall be limited by the restrictions placed thereon.

11          (5)     All uses shall comply with all applicable ordinances and regulations including  
12 such environmental performance standards relating to noise, emission, dust, odor, glare, and heat  
13 as may be approved by resolution of the City Council.

14          (6)     No galvanized or other raw metal sheeting shall be used for the exterior  
15 construction of any building. No painted galvanized or other painted metal sheeting shall be used  
16 for more than seventy percent (70%) of the exterior construction of a building on any side of such  
17 building which is visible from an abutting public street.

18          (c)     Permitted Uses. Subject to the general and specific regulations above, a building or  
19 premises may be used for the following purposes in the I-3 Employment Center District:

20           (1)     Retail use;

21           (2)     Office buildings;

22           (3)     Production, manufacturing, assembly, processing, warehousing, storage,  
23 distribution, or transportation of goods and materials, except:

24           (i)     The refining, distillation, or manufacture of:

25                   A.     Acids or alcohols;

26                   B.     Ammonia, bleach, or chlorine;

27                   C.     Asphalt, tar, or products made therewith, including roofing or  
28                           waterproofing;

29                   D.     Cement, lime, gypsum, or plaster of paris;

30                   E.     Disinfectants;

31                   F.     Dyestuffs;

- 1 G. Fertilizer;
- 2 H. Glue, sizing, or gelatin;
- 3 I. Oilcloth, linoleum, oiled rubber goods;
- 4 J. Paint, shellac, turpentine, or oils;
- 5 K. Rubber, gutta-percha, balata, creosote, or products treated
- 6 therewith;
- 7 L. Shoe polish;
- 8 (ii) The operation of:
- 9 A. Bag cleaning works;
- 10 B. Blast furnaces, coke ovens, smelting or ore reduction works;
- 11 C. Boiler works;
- 12 D. Forges;
- 13 E. Rolling mills;
- 14 F. Yeast plants;
- 15 (iii) Production, manufacture, processing, distribution, and storage,
- 16 warehousing, or transportation of toxic, radioactive, flammable, or explosive materials, except that
- 17 any of the above referenced materials may be stored or used in connection with a permitted use as
- 18 allowed by any ordinances or regulations of the City of Lincoln as incidental to the permitted use;
- 19 (iv) Tanning, curing, or storage of raw hides or skins; stockyards or
- 20 slaughter of animals or fowl; rendering fat; distillation of bones, coals or wood;
- 21 (v) Dumping or reduction of garbage, offal, or dead animals;
- 22 (vi) The manufacture of acetylene, or the transfer of the gas from one
- 23 container to another, or the storage of the gas in containers having a capacity greater than the
- 24 equivalent of 1,000 cubic feet at standard temperature and pressure;
- 25 (vii) ~~Mining, quarrying, stone milling, or r~~Rock crushing;
- 26 (viii) ~~Extraction of sand, gravel, or soil~~ Excavation and stone milling;
- 27 (ix) The milling, processing, refining, or distillation of agricultural crops.
- 28 (4) Community colleges, colleges, or other post-secondary education facilities;
- 29 (5) Private schools;
- 30 (6) Nonprofit religious, educational and philanthropic institutions;
- 31 (7) Farming and the sale of farm produce.

1 Section 12. That Section 27.63.160 of the Lincoln Municipal Code be amended to  
2 read as follows:

3 **27.63.160 Permitted Special Use: ~~Extraction of Sand, Gravel, and Soil~~ Excavation and  
4 Stone Milling.**

5 ~~Extraction of sand, gravel, and soil~~ Excavation and stone milling may be allowed by special  
6 permit in the AG, AGR, R-3, B-2, H-2, H-3, H-4, and I-1, and I-2 zoning districts under the  
7 ~~following~~ conditions below.: For purposes of this section, excavation shall mean the removal of  
8 clay, soil, limestone, sandstone, sand, or gravel from the earth on a project site in excess of one acre  
9 by excavating, stripping, leveling, or any other process together with all other types of mining and  
10 quarrying operations for material that is removed from the earth. Excavation shall not include  
11 grading of land in accordance with an approved preliminary plat, building permit, or normal farming  
12 practices.

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

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

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

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

21 (4) a ~~A~~ grading map showing existing contours, proposed excavation contours,  
22 and proposed final grade contours, and excavation volumes;

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

26 (6) A groundwater report from a groundwater hydrologist in cases where  
27 proposed operations are: (i) within 1,000 feet of any off-site private well, (ii) within 2,000 feet of  
28 a community well, or (iii) designed to result in an excavated area that does not drain to a lower area  
29 (i.e. a "hole"). The report should demonstrate that the operation and ultimate grading will not  
30 negatively impact nearby wells by draw-down or contamination, and/or that monitoring wells will  
31 be installed to provide early warning of any such impact;



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

4                   (7)   Reclamation plans for returning the site to agricultural use approved by a local  
5 official of the Federal Department of Agriculture Natural Resources Conservation Service as  
6 meeting the standards of the “Farm Bill Compliance.”

7                   ~~(b) — The application shall identify the effect of the extraction on the groundwater table~~  
8 ~~of the adjoining properties;~~

9                   ~~— (c) — The application shall identify proposed vehicle and equipment storage areas;~~

10                  ~~(db)~~   Erosion controls, including retention and sediment basins shall be provided during  
11 ~~extraction excavation~~ in conformance with ~~standards adopted by resolution of City Council~~ state and  
12 federal standards and City land erosion and sediment control regulations to prevent a change in the  
13 character of runoff onto adjacent land;

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

18                  ~~(fd)~~   Topsoil shall be collected and stored for redistribution on the site at the termination  
19 of the operation; or termination of each phase.

20                  ~~(ge)~~   Excavation shall be conducted in such a way as not to constitute a hazard to any  
21 persons, nor to the adjoining ~~property~~ properties. Dust shall be controlled on-site to meet Lincoln-  
22 Lancaster County Air Pollution Control Program Regulations. In addition, the Health Department  
23 may require dust control on unpaved perimeter roads. ~~All cuts shall be returned to a slope of less~~  
24 ~~than three to one as soon as possible.~~ Safety screening shall be required at the outer boundary of the  
25 site; ~~visual screening will also be required where said boundary is adjacent to residential or park~~  
26 ~~land;~~

27                  ~~(f)~~   Safety screening may be required at the outer boundary of the site. Visual screening  
28 through setbacks, berming and other techniques may also be required where said boundary is  
29 adjacent to residential or park land, school property, or at major entryways/corridors into a city,  
30 town or village.

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

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

2           (1) Clearly visible from the adjacent road;

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

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

5           (4) The sign shall list:

6                   (i) The approved Special Permit Number;

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

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

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

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

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

16           (k) Upon completion of all terms, conditions and requirements of the special permit that  
17 are to be completed before beginning operations, the Permittee shall request the Director of Building  
18 and Safety to issue a certificate of operation. Permittee shall not begin operations until it has  
19 received said certificate of operation.

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

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

29           (l) Operations shall commence within one year from the date the special permit is  
30 approved or the special permit will automatically terminate and be considered null and void. All  
31 existing certificates of operation shall automatically terminate on the same date.

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

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

11           (o) A special permit may be approved for a maximum of three-years from the date the  
12 special permit is issued.

13           (p) Permittee shall prepare and submit an annual report to the Director of Building and  
14 Safety addressing the status and extent of operations and each condition of the special permit.  
15 Failure to submit the annual report shall constitute just cause for the City Council to revoke the  
16 special permit.

17           (q) Permittee shall be subject to an annual site inspection by the Director of Building and  
18 Safety. The cost of such inspection shall be paid for by the applicant. Cost shall be based upon the  
19 Department of Building and Safety's hourly rate in effect on the date of the application. Building  
20 and Safety shall:

21                   (1) Inspect the site to determine whether terms, special conditions and require-  
22 ments imposed by the City in the approval of the special permit have be met and complied with; and

23                   (2) Review all complaints from public and other departments/agencies and report  
24 to the Planning Director.

25           (r) The City Council may modify or adjust any of the above conditions or impose  
26 additional conditions to preserve the public health, safety, and general welfare or to allow the  
27 applicant use of the property, while at the same time, protecting the surrounding property.

28           Section 13. That Section 27.63.310 of the Lincoln Municipal Code be and the same  
29 is hereby repealed.

30 ~~**27.63.310 — Permitted Special Use: Mining, Quarrying, and Stone Mill.**~~

1 ~~———— A stone mill, quarry, and mining operations may be allowed by special permit in the I-2~~  
2 ~~zoning district in conformance with the standards of Section 27.63.160, as applicable.~~

3 Section 14. That Section 27.63.360 of the Lincoln Municipal Code be and the same  
4 is hereby repealed.

5 ~~**27.63.360 — Permitted Special Use: Mining.**~~

6 ~~———— Mining or extraction of minerals from any portion of the AG and AGR zoning districts, and~~  
7 ~~the storage and processing thereof, may be allowed by special permit in conformance with the~~  
8 ~~standards of Section 27.63.160, as applicable.~~

9 Section 15. That Sections 27.07.040, 27.09.040, 27.15.040, 27.31.050, 27.35.020,  
10 27.41.040, 27.43.040, 27.45.030, 27.47.030, 27.49.040, 27.51.030 and 27.63.160 of the Lincoln  
11 Municipal Code as hitherto existing be and the same are hereby repealed.

12 Section 16. Pursuant to Article VII, Section 7 of the City Charter, this ordinance  
13 shall be posted on the official bulletin board of the City in lieu of and in place of newspaper  
14 publication with notice of passage and such posting to be given by publication one time in the  
15 official newspaper by the City Clerk. This ordinance shall take effect and be in force from and after  
16 its passage and publication as herein and in the City Charter provided.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this \_\_\_ day of \_\_\_\_\_, 2009:

\_\_\_\_\_  
Mayor