

ORDINANCE NO. _____

1 AN ORDINANCE amending Section 27.63.160 of the Lincoln Municipal Code
2 relating to Special Permits for Excavation and Stone Milling to allow stone milling as an accessory
3 use to an excavation operation and to eliminate stone milling as a separate permitted use; and
4 repealing Section 27.63.160 of the Lincoln Municipal Code as hitherto existing.

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

7 **27.63.160 Excavation and Stone Milling.**

8 Excavation ~~and stone milling~~ may be allowed by special permit in the AG, AGR, R-3, B-2,
9 H-2, H-3, H-4, I-1, and I-2 zoning districts under the conditions below. The special permit may
10 include and permit stone milling to be conducted as an accessory use to the excavation operation.

11 For purposes of this section, excavation shall mean the removal of clay, soil, limestone, sandstone,
12 sand, or gravel from the earth on a project site in excess of one acre by excavating, stripping,
13 leveling, or any other process together with all other types of mining and quarrying operations for
14 material that is removed from the earth. Excavation shall not include grading of land in accordance
15 with an approved preliminary plat, building permit, or normal farming practices. Stone milling shall
16 mean the crushing, cutting, grinding, or otherwise processing of minerals associated with an
17 excavation operation. Not all of the conditions will apply to pre-existing, long-term excavation
18 sites.

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

- 21 (1) A legal description of the proposed site;

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

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

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

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

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

1 County Air Pollution Control Program Regulations. In addition, the Health Department may require
2 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.

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/
16 contractor;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 Section 2. That Section 27.63.160 of the Lincoln Municipal Code as hitherto existing
33 be and the same is hereby repealed.

1 Section 3. That this ordinance shall take effect and be in force from and after its
2 passage and publication in one issue of a daily or weekly newspaper of general circulation in the
3 City, according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2014:

Mayor