

AN ORDINANCE AMENDING SECTION 3-28, OPEN PIT EXTRACTION OF EARTH PRODUCTS, OF THE UTAH COUNTY LAND USE ORDINANCE

THE COUNTY LEGISLATIVE BODY OF UTAH COUNTY ORDAINS AS FOLLOWS:

Part I:

Utah County Land Use Ordinance, Section 3-28, Open Pit Extraction, subsection C and D are hereby amended to read as follows:

C. CONDITIONS

The Zoning Administrator shall issue a permit for an open pit, a stockpile, or a waste dump only when all of the following are met, and all operations and rehabilitation shall comply with all of the following requirements:

1. The site lies in a zone where such use is a permitted use or where it may be approved as a special exception by the Board of Adjustment and has received such approval.
2. The applicant has submitted an accurate site plan that shows the current topography, utilities, roads, and structures on the site, and an accurate site plan that shows the proposed utilities, roads, and structures during operations.
3. The applicant has presented an accurate final post-reclamation site plan that shows the topography, utilities, roads and structures on the site after completing the excavation and rehabilitation of the pit.
4. Only the portion of the parcel covered by the required rehabilitation bond may be disturbed or involved in the extraction process.
5. The standards for rehabilitating the site shall be:
 - a. The side walls of a pit or mound shall be smoothed and evenly contoured, and the floor of a pit or top of a mound shall be flattened and leveled.
 - b. Mounds of fill shall not remain after rehabilitation of an extraction operation, even if utility poles must be relocated at the operators expense; mounds may only be permitted in

conjunction with a mine waste dump.

- c. Impoundments, pits, and ponds, which are not approved as part of a post mining land use and reclamation plan shall be reclaimed, free draining, and the natural drainage patterns restored.
- d. No slope shall be steeper than the critical angle of repose (e.g. 33 degrees for gravel deposits).
- e. All disturbed areas shall be covered with not less than a one-inch thick layer of topsoil, re-seeded with a hardy plant species, and the hardy plant species shall be established with sufficient concentration of vegetation to screen at least 25% of the exposed surface from view.

Exception: Disturbed areas located in the desert areas located in the M&G-1 Zone which naturally lack soil or vegetation shall be restored to a vegetation and soil surface that corresponds with the adjacent native conditions.

- 6. The operator shall place clearly identifiable survey markers on the outer boundaries of the bonded area and shall maintain such until the bond is released by Utah County. The County Commission may request an annual on-site investigation and report of the County Surveyor to determine whether the terms of the grading plan, rehabilitation plan and bond agreement are being met.
- 7. Surface mining shall proceed in an orderly manner from the outer boundaries and lower slopes of the property inward and upward so the property can be rehabilitated in the older areas of the pit while new areas are being opened up.
- 8. Dust generated in the extraction and processing of the earth products shall be kept under control by the operator by paving main roads in the pit, wetting extraction areas and loaded trucks, placing berms or landscape screening for protection from the prevailing winds, and other suitable measures.

Exception: The paving of the main roads of the pit may be waived by the zoning administrator if all portions of the pit extraction area are at least 6000 feet from any dwelling or cultivated crops, and any un-paved access road to the pit from the paved road system is at least 500 feet from any dwelling or cultivated crops. To qualify for this exception the road shall have dust control accomplished with a coating of 32% magnesium chloride treatment at a rate of 1 ton per 3300 square feet, which coating

shall be applied twice yearly. Further, water shall be added as needed so that the fugitive dust shall not exceed 20% opacity. If any of these qualifications are not met as determined by tests performed by the zoning administrator, the county business license administrator, or the Utah State Division of Air Quality, or their designees, the pit operator shall cease operations, the zoning administrator shall revoke the zoning compliance permit, and the business license shall not be renewed until the road is paved.

9. All cuts and fills shall be set back from the property boundary and from the boundary of the approved extraction site a distance of at least five (5) feet.
10. The pit and/or extraction operation shall not constitute a nuisance according to Chapter 12 [Nuisances] of the Utah County Code.

Conditions 2, 3, 4, 5, 6, 7, and 8, listed above, shall be deemed satisfied by submission of an approved operation and reclamation plan for mining operations as specified in Utah State Code.

D. BOND

1. A cash or surety bond in the amount set by the Zoning Administrator, but not less than \$1800.00 per acre, in 1997 dollars, with an increase of \$50 per annum for each year after 1997, shall be posted by the applicant to guarantee compliance with the provisions of this section. A violation of this section, or of the rehabilitation bond agreement, shall be sufficient grounds for forfeiture of the bond to Utah County. If the bond is over the minimum bond amount per acre and the owner disputes the cost of reclamation set by the Zoning Administrator, the County Commission may determine the cost and set the bond amount, upon appeal by the owner.
2. The maximum term of the bond shall be seven (7) years, after which time the bond amount shall be reevaluated based on inflation, the current costs of rehabilitation, and the amount of rehabilitation or excavation that has occurred during the elapsed time.
3. Any bond shall be accompanied by an agreement between Utah County and the applicant (plus the property owner if the latter is not also the applicant) wherein the county agrees to return the bond at the completion of work if the standards of this section have been met, and the applicant and property owner agree that the bond shall be forfeited in the event of noncompliance and to permit the county to enter upon the land to close operations and rehabilitate the excavated or filled areas. Any ambiguity or deficiency in the wording of the bond agreement shall be interpreted to

include the terms of this section.

4. Rehabilitation of the site shall be completed on or before the earliest to occur of the following dates: (i) six months prior to the date of termination or expiration of the rehabilitation bond, (ii) one year after the date of cessation of operations, (iii) one year after the last date that any earth product materials are extracted from the site, (iv) December 31st of any year in which a business license has not been issued by Utah County for such operation, and (v) December 31st of any year in which a valid Utah County zoning compliance permit is not in effect for the operation.
5. Notwithstanding the forfeiture of the bond, the applicant and the property owner shall retain individual responsibility to fully comply with this ordinance, the terms of the permits issued thereunder, and the balance of any expense not covered by the bond to rehabilitate the property.

The Bond requirement under Section D may be satisfied by submission of a properly executed Reclamation Contract for Surety under the Mining Operations requirements as found in the Utah State Code, provided, however, that if the proposed operation requires the issuance of a special exception by the Utah County Board of Adjustment and the Board of Adjustment imposes a bond amount which is larger, or contains additional terms, than that which is required by the State of Utah, then the applicant and property owner shall enter into a separate bonding agreement acceptable to Utah County for the additional bond amount (or full bond amount if the State bond is not used or does not contain the required terms) which bonding agreement shall contain all the terms required by the Board of Adjustment.

Part II:

Insert pages reflecting the above amendments, including a title page which bears the enactment date of this ordinance, are hereby ordered to be filed in the three copies of the Utah County Land Use Ordinance which are on file with the Utah County Clerk-Auditor.

Part III:

If any of the sections, sentences, clause or provisions of this ordinance shall for any reason be adjudged inapplicable or invalid by a court of competent jurisdictions, such shall not affect or invalidate the remaining portion contained herein.

Part IV:

This ordinance shall take effect: 1) fifteen (15) days after it is passed, or 2) after it has been published, whichever date is later.

PASSED and ordered published this 22th day of November, 2005

UTAH COUNTY COMMISSION

VOTE

Jerry D. Grover, Chair

Excused

Steve White

Steve White, Commissioner

Aye

Larry A. Ellertson

Larry A. Ellertson Commissioner

Aye

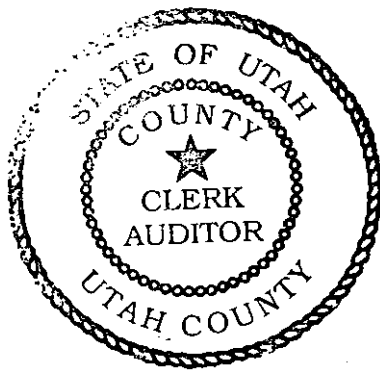
ATTEST:
KIM T. JACKSON
County Auditor/Clerk

APPROVED AS TO FORM:
KAY BRYSON,
County Attorney

By: *Linda Strickland*
Deputy

By: *E. Kay Bryson*
Deputy

Date of Publication: once only, as soon as possible



PROOF OF PUBLICATION

from

The Daily Herald

STATE OF UTAH }
Utah County } SS

NOTICE
ORDINANCE NO. 2005-35, ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF UTAH COUNTY, UTAH ON NOVEMBER 22, 2005, AMENDING SECTION 3-28, OPEN PIT EXTRACTION OF EARTH PRODUCTS, OF THE UTAH COUNTY LAND USE ORDINANCE.

A COMPLETE COPY OF THE ORDINANCE IS AVAILABLE AT THE COUNTY CLERK/AUDITOR'S OFFICE. COMMISSIONER LARRY A. ELBERTSON AND COMMISSIONER STEVE WHITE VOTED IN FAVOR OF THE ORDINANCE. COMMISSIONER JERRY D. GROVER WAS EXCUSED FROM THE VOTE.
Legal Notice 203950 Published in The Daily Herald
November 30, 2005

I, Alisha Christensen, being first duly s
depose and say that I am the Legal Billing
Clerk of the Daily Herald, a newspaper
of general circulation, published seven
times each week at Provo, Utah, County of
Utah; that the notice attached hereto,
203950-NOTICE ORDIN, and which
is a copy, was published in said newspaper
the first publication having been made on
the 30th day of November, 2005, and the
last on the 30th day of November, 2005;
that said notice was published in the
regular and entire issue of every number
of the paper during the period and times
of publication, and the same was
published in the newspaper proper
and not in the supplement.

Alisha J Christensen

Subscribed and sworn before me
this 30th day of November, 2005.

Denise K. White

Notary Public

Residence: Orem

My commission expires 2/20/07

