

ORDINANCE NO. 2008//

ENT 49572;2008 PG 1 of 5
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2008 Apr 28 11:44 am FEE 0.00 BY SW
RECORDED FOR UTAH COUNTY COMMUNITY DEVELO

AN ORDINANCE AMENDING CHAPTER 3, PART 2, ENVIRONMENTAL
PROVISIONS, SECTIONS 3-21 TO 3-28, OF THE UTAH COUNTY LAND USE
ORDINANCE

THE COUNTY LEGISLATIVE BODY OF UTAH COUNTY ORDAINS AS FOLLOWS:

Part I:

Chapter 3, Part 2, Environmental Provisions, of the Utah County Land Use Ordinance is hereby amended to read as follows:

CHAPTER 3

PART 2: ENVIRONMENTAL PROVISIONS

3-20: HEALTH DEPARTMENT APPROVAL, WATER AND SEWER

No residence, campground, resort, commercial establishment, or manned industrial plant shall be used or occupied, nor a permit issued therefor, until a potable water supply facility and sanitary sewage disposal facility have been installed with the approval of the County Health Department as meeting county standards; further, before a building permit shall be issued, plans showing the proposed water and sewage facilities shall first be approved by said Health Department.

3-21: DRAINAGE

Surface water shall not be allowed to drain onto adjacent lots except for natural conditions where the activities of man have not altered the flow and percolation of water.

3-22: FLOOD PROTECTION.

In all zones other than the Flood Plain Overlay Zone, the following regulations shall apply.

A. No dwelling or other building used for human habitation shall be constructed within one hundred (100) feet from the banks of a stream, gully, or other flood channel.

Exception: a permit may be issued by the Zoning Administrator within the 100-foot limit, upon a favorable review of the County Surveyor based on existing engineering reports or his own on-site investigations, when it is determined:

1. That the structure will be above water during normal spring runoff and the water levels of a base flood; and
2. The design of the building and any appurtenant residential accessory structures, grading work, driveways, and landscaping features will be sufficient to protect both the building and other property from damage due to flooding. However, if the Zoning Administrator, with the assistance of the County Surveyor, cannot determine that the above criteria are met based on the available information, an engineering study and report by a Professional Engineer licensed to practice in the State of Utah may be obtained by the applicant and submitted for approval by the Zoning Administrator, after favorable review of the County Surveyor.

- B. No use or structure (except flood control works or irrigation diversion dams) shall be permitted in any flood channel if such use or structure will adversely affect normal flow, will increase flooding of land above or below the property, will increase erosion within or adjoining the flood channel, will cause diversion of flood waters in a manner more likely to create damage than does flow in a normal course, will increase peak flows or velocities in a manner likely to add to property damage or hazards to life, or will increase amounts of damaging materials (including those likely to be injurious to health) which might be carried downstream in floods.

3-23: EXPOSED SLOPES TO BE LESS THAN THE CRITICAL ANGLE OF REPOSE

No cut or fill shall result in a final slope that exceeds the critical angle of repose.

3-24: OPEN PIT EXTRACTION OF EARTH PRODUCTS

A. INTENT

The intent and purpose of this section is to provide for the extraction of earth products using surface mining methods, for stockpiling mined materials, and for the placement of overburden and leftover earth materials in mining waste dumps, while protecting the environment, the rights of neighboring property owners, and roads and other public facilities from unusual wear or damage.

B. SCOPE

The provisions of this section shall apply to all sites where sand, gravel, clay, topsoil, rocks or minerals will be extracted by an open pit method; to all sites where such extracted earth products are stockpiled; and to sites where overburden and leftover earth materials are placed in waste dumps.

Exception: sites having a valid, current permit at the time of passage of this ordinance shall be completed according to the terms of such permit and any bonding agreements appurtenant thereto. The exception applies only to the portion of the site under permit. Any expansion of pits, dumps, storage pits or operation areas beyond the existing permit is subject to all provisions of this section.

C. CONDITIONS

Conditions 2, 3, 4, 5, 6, and 7, as listed below, shall be deemed satisfied by submission of an approved operation and reclamation plan for mining operations as specified in the Utah State Code, otherwise, 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 conditional use 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, except for mounds around utility poles. Mounds may be permitted in conjunction with a mine waste dump.
 - c. Impoundments, pits, and ponds, must be approved as part of a post mining land use and reclamation plan by the Utah County Engineer. Natural drainage patterns should be restored or realigned whenever possible.
 - 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 desert or sloped areas 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. Dust generated in the extraction and processing of the earth products shall be kept under control by the operator by keeping the extraction area, main roads in the pit, and loaded trucks, watered down. Placing berms or landscape screening for protection from the prevailing winds, and other suitable measures, may also be used. Any un-paved access road to the pit from the paved road system shall be maintained by the pit operator for dust control by watering down the access road surface or placing dust inhibiting material on the surface of the access road.
8. All cuts and fills shall be set back from the property boundary and from the boundary of the approved bonded extraction site a distance of at least fifteen (15) feet; except that when a bonded extraction boundary crosses a property line, extraction may take place through the property line.
9. The pit and/or extraction operation shall not constitute a nuisance according to the Utah County Code or Utah State Code.

D. BOND

The bond and bond agreement requirements under this section 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, otherwise, the applicant and the property owner shall provide a bond and shall execute a bond agreement meeting the following requirements:

1. A cash or surety bond in the amount of \$3,000.00 per acre, in 2008 dollars, with an increase of four percent (4%) per annum for each year after 2008, or such larger amount as the County Engineer determines if required to rehabilitate the site, shall be posted by the applicant and property owner 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 County Engineer, the County Commission may determine the cost and set the bond amount, upon appeal by the owner or applicant.
 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 among Utah County, the applicant, and the property owner 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
 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 operations, 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.
- E. PERMITS
- Prior to the issuance of business licenses and building (or grading) permits required elsewhere in county ordinances, any open pit operation shall be required to have a zoning compliance permit.

Part II:

The Utah County Land Use Ordinance, as amended herein, is hereby adopted in book form and a copy of said Utah County Land Use Ordinance is hereby ordered to be filed in the office of 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 jurisdiction, such shall not affect or invalidate the remaining portion contained herein.

Part IV:

This ordinance shall become effective fifteen (15) days after it is passed, and upon at least one (1) publication in a newspaper published in and having general circulation in Utah County.

PASSED and ordered published this 8th day of APRIL, 2008

UTAH COUNTY COMMISSION

VOTE



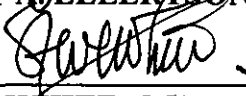
GARY J. ANDERSON, CHAIR

Aye



LARRY A. ELLERTSON, COMMISSIONER

Aye




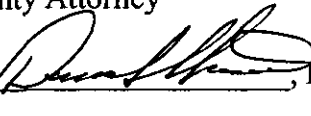
STEVE WHITE, COMMISSIONER

Aye

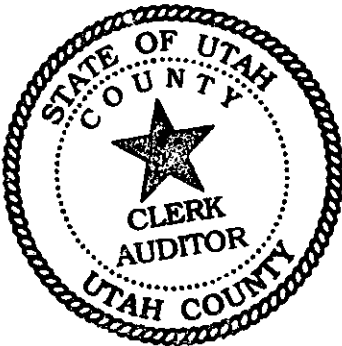
ATTEST:
BRYAN E. THOMPSON
County Clerk/Auditor

APPROVED AS TO FORM:
JEFFREY R. BUHMAN
County Attorney

By:  Deputy

By:  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. 2008-11 WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF UTAH COUNTY, UTAH, ON APRIL 8, 2008, AMENDING CHAPTER 3, PART 2, ENVIRONMENTAL PROVISIONS, SECTIONS 3-21 TO 3-28, OF THE UTAH COUNTY LAND USE ORDINANCE.

A COMPLETE COPY OF THE ORDINANCE IS AVAILABLE AT THE COUNTY CLERK/AUDITOR'S OFFICE. COMMISSIONER GARY J. ANDERSON, COMMISSIONER STEVE WHITE, AND COMMISSIONER LARRY A. ELLERTSON VOTED IN FAVOR OF THE ORDINANCE.
Legal Notice 319109 Published in The Daily Herald May 2, 2008.

I, Morgan Bassett, being first duly sworn 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, 319109-ORDINANCE NO. 2008-11, and which is a copy, was published in said newspaper, the first publication having been made on the 2nd day of May, 2008, and the last on the 2nd day of May, 2008; 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.

Morgan Bassett

Subscribed and sworn before me this
2nd day of May, 2008.

Debbie L. Chandler Notary Public

Residence: Spanish Fork, Utah
My commission expires 05/18/2009

