

Chapter 18.52. SURFACE MINING ZONE - SM

- 18.52.010. Purpose.**
- 18.52.020. Application of Ordinance.**
- 18.52.030. Uses Permitted Outright.**
- 18.52.040. Uses Permitted Outright Subject to Site Plan Review.**
- 18.52.050. Conditional Uses Permitted.**
- 18.52.060. Dimensional Standards.**
- 18.52.070. Site Plan Review.**
- 18.52.080. Site Plan Application.**
- 18.52.090. Minimum Use Setbacks.**
- 18.52.100. Procedure Upon Filing of Site Plan.**
- 18.52.110. General Operation Standards.**
- 18.52.115. Extended Operating Hours.**
- 18.52.120. Partial Approval.**
- 18.52.130. Site Reclamation Plan.**
- 18.52.140. Conditional Use Criteria.**
- 18.52.150. Failure to Comply.**
- 18.52.160. Preexisting Sites, Nonconforming Sites and Registration.**
- 18.52.170. Use Permits.**
- 18.52.180. Monitoring.**
- 18.52.190. Nuisances.**
- 18.52.200. Termination of the Surface Mining Zoning and Surrounding Surface Mining Impact Area Combining Zone.**

18.52.010. Purpose.

The purposes of the Surface Mining Zone are:

- A. To implement the goals and policies of the Comprehensive Plan;
- B. To allow the development and use of identified deposits of mineral and aggregate resources consistent with Statewide Planning Goal 5;
- C. To protect the health and safety of the public and of residents of property adjoining surface mines, and the value of uses and natural resources identified in the Comprehensive Plan as conflicting with surface mines, subject to Goal 5;
- D. To provide that all land and water resources affected by surface mining operations within the County receive the protection and reclamation necessary for their intended subsequent use; and
- E. To provide for cooperation between private parties and governmental entities in order to carry out the purposes of DCC 18, the Comprehensive Plan and state and federal regulations.

(Ord. 90-014 §4, 1990)

18.52.020. Application of Ordinance.

Except as provided in DCC 18.52.160, the setbacks, operation standards and conditions set forth in DCC 18.52.090, 18.52.110 and 18.52.140, respectively, apply to every surface mining site and activity to the extent that setbacks, standards and conditions are not expressly provided for in the site-specific ESEE analysis within the surface mining element of the Comprehensive Plan. When there is a conflict between the site-specific ESEE analysis and the provisions of DCC 18, the site-specific ESEE analysis shall control.

(Ord. 90-014 §4, 1990)

18.52.030. Uses Permitted Outright.

The following uses and their accessory uses are permitted outright:

- A. Farm uses as defined in DCC 18.
- B. Forest uses as defined in DCC 18.
- C. One temporary or portable residence when necessary to house a caretaker or a night watchman.
- D. Land Disposal Site as defined in DCC 18 for which the operator possesses a valid DEQ permit on the effective date of Ordinance No. 92-066.
- E. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
- F. Class III road or street project.
- G. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.

(Ord. 2001-039 §4, 2001; Ord. 2001-016 §2, 2001; Ord. 93-043 §7, 1993; Ord. 92-066 §2, 1992; Ord. 91-020 §1, 1991; Ord. 90-014 §4, 1990; Ord. 86-059 §1, 1986)

18.52.040. Uses Permitted Outright Subject to Site Plan Review.

The following uses are permitted outright subject to site plan review as provided in DCC 18.52.040:

- A. Extraction of minerals.
- B. Stockpiling and storage of minerals.
- C. Screening, washing and sizing of minerals.
- D. Sale of minerals and mineral products extracted and produced on the parcel or contiguous parcels in the same ownership.
- E. Buildings, structures, apparatus, equipment and appurtenances necessary for the above uses to be carried on.

(Ord. 90-014 §4, 1990)

18.52.050. Conditional Uses Permitted.

- A. The following uses are permitted subject to the conditions set forth in DCC 18.128:
 - 1. Public uses consistent with or dependent upon outright uses allowed in the SM zone.
 - 2. Operations and exploration of geothermal resources.
 - 3. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to DCC 18.120.050 and 18.128.270.
 - 4. Construction, expansion and operation of a Disposal Site as defined in DCC 18, for which the operator possesses a valid DEQ permit on the effective date of Ordinance No. 92-066 for a Land Disposal Site.
 - 5. Wireless telecommunications facilities that are necessary to be sited in the SM Zone for the public service to be provided.
 - 6. Water storage facilities, owned or operated by a public, private or cooperative water company for the distribution of water, where such placement will not interfere with or be detrimental to the mining of the resource.
 - 7. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
- B. The following uses are permitted subject to site plan review and the setbacks, standards and conditions set forth in DCC 18.52.090, 18.52.110 and 18.52.140, respectively, and are not subject to the conditions in DCC 18.128:
 - 1. Expansion or replacement of a preexisting legal dwelling.

2. Crushing of mineral and aggregate materials on sites designated for crushing in the ESEE analysis in the surface mining element of the Comprehensive Plan.
3. Sale of minerals and mineral products extracted or produced on parcels other than the subject parcel or contiguous parcels in the same ownership.
4. Batching and blending of mineral and aggregate into asphaltic concrete or Portland Cement Concrete.

(Ord. 2001-039 §4, 2001; Ord. 2001-020 §1, 2001; Ord. 97-063 §3, 1997; Ord. 95-046 §2, 1995; Ord. 92-066 §3, 1992; Ord. 91-038 §1, 1991; Ord. 90-014 §4, 1990)

18.52.060. Dimensional Standards.

In the SM Zone, no existing parcel shall be reduced in size and no additional parcels shall be created by partition, subdivision or otherwise.

(Ord. 90-014 §4, 1990)

18.52.070. Site Plan Review.

Site plan review and final approval of a site plan shall be required before the commencement of any use which requires site plan review under DCC 18.52.040 and 18.52.050(B), and before any expansion of a preexisting or nonconforming site under DCC 18.52.160.

(Ord. 90-014 §4, 1990)

18.52.080. Site Plan Application.

The applicant shall submit the following information for site plan review and approval:

- A. An application in a format established by the County and satisfying all requirements of Title 22, the Deschutes County Developmental Procedures Ordinance.
- B. All information required for a site reclamation plan by DOGAMI.
- C. A map or diagram showing that all minimum use setbacks required in DCC 18.52.090 are met.
- D. A description of how all operation standards set forth in DCC 18.52.110 are met.
- E. A description of all potential impacts of the mining activities identified by the ESEE analysis for the specific site and how those impacts are addressed.

(Ord. 95-075 §1, 1995; Ord. 90-014 §4, 1990)

18.52.090. Minimum Use Setbacks.

- A. Except as otherwise provided in DCC 18.52.090, all surface mining activities and uses, including structures, shall be located and conducted at least 250 feet from a noise-sensitive or dust-sensitive use or structure. Exceptions to this standard shall be allowed for the following:
 1. Access roads approved as part of site plan review.
 2. Dwellings located on the parcel on which the surface mining is to occur, including replacements or expansions thereof.
 3. Pursuant to a written agreement for a lesser setback made between the owner of the noise-sensitive or dust-sensitive use or structure located within 250 feet of the proposed surface mining activity and the owner or operator of the proposed surface mine. Such agreement shall be notarized and recorded in the Deschutes County Book of Records and shall run with the land. Such agreement shall be submitted and considered at the time of site plan review or site plan modification.
- B. Storage and processing of mineral and aggregate material, and storage of operational equipment which creates noise and dust, shall not be allowed closer than one-quarter mile from any noise or dust sensitive use or structure existing on the effective date of Ordinance No. 90-014, unless the applicant demonstrates that:

1. Due to the parcel size, topography, existing vegetation or location of conflicting uses or resources, there is no on-site location for the storage and processing of material or storage of equipment which will have less noise or dust impact; and
 2. All noise control and air quality standards of DCC 18 can be met by the proposed use for which the exception is requested.
- C. Additional setbacks may be determined as part of the site reclamation review process. Additional setbacks also may be required by DOGAMI.
- D. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met. (Ord. 94-008 §20, 1994; Ord. 90-014 §4, 1990)

18.52.100. Procedure Upon Filing of Site Plan.

- A. Each application for site plan review and approval shall be processed subject to DCC 22, the Uniform Development Procedures Ordinance.
- B. The Planning Director or Hearings Body shall review the site plan application and shall grant or deny site plan approval based on the proposed site plan's conformance with the ESEE analysis for the site contained in the surface mining element of the Comprehensive Plan and the applicable setbacks, standards and conditions set forth in DCC 18.52.090, 18.52.110 and 18.52.140, respectively. The Planning Director or Hearings Body may require the applicant to make such modifications to the site plan as are necessary to fulfill the requirements of the site-specific ESEE analysis and the applicable setbacks, standards and conditions in DCC 18. The Planning Director or Hearings Body shall not deny site plan approval unless the requirements of the ESEE analysis and setbacks, standards and conditions of DCC 18 are not or cannot be satisfied by the proposed site plan.
- C. To the extent practicable, the Planning Director or Hearings Body shall review the site plan application in conjunction with the review of the applicant's site reclamation plan by DOGAMI. (Ord. 90-014 §4, 1990)

18.52.110. General Operation Standards.

Prior to the start of any surface mining activity and no later than site plan review if such review is required under DCC 18.52.110, the applicant shall demonstrate that the following standards are or can be met by the surface mining operation:

- A. Access.
1. All on-site roads used in the mining operation, and access roads from the site to a public road maintained by a government agency, are designed and constructed to accommodate the vehicles and equipment which will use them, and shall meet the following minimum standards:
 - a. All access roads within 100 feet of a paved County road or state highway are paved unless the applicant demonstrates that other methods of dust control, including application of oil or water, will be implemented in a manner which provides for the safety and maintenance of the County road or state highway.
 - b. Roads within the surface mining parcel which are used as part of the surface mining operation are constructed and maintained in a manner by which all applicable DEQ standards for vehicular noise control and ambient air quality are or can be satisfied.
 - c. All roads used for mining are paved and will be adequately maintained at all points within 250 feet of a dwelling or other dust-sensitive use existing on the effective date of Ordinance No. 90-014.
 2. Improvements or fees in lieu of improvements of public roads, County roads and state highways may be required when the Planning Director or Hearings Body, in consultation with the appropriate road authority, determines that the increased traffic on the roads resulting from the surface mining activity will damage the road sufficiently to warrant off-site improvement. If a fee in lieu of

improvements is required, the amount of the fee shall reflect the applicant's prorata share of the actual total cost of the capital expenditure of the road construction or reconstruction project necessitated by and benefiting the surface mining operation. Discounts for taxes and fees already paid for such improvements, such as road taxes for vehicles and for property already dedicated or improved, shall be applied.

B. Screening.

1. The site is screened to meet the standards specified in DCC 18.52.110(B)(2), unless one of the exceptions in DCC 18.52.110(B)(6) applies.
2. Performance Standard. When screening is required by DCC 18.52.110(B)(1), it obscures the view of the screened uses from the protected uses with the methods and to the extent described in DCC 18.52.110(B)(5).
3. Protected Uses.
 - a. Noise-sensitive or dust-sensitive uses existing on the effective date of Ordinance No. 90-014.
 - b. Public parks and waysides.
 - c. Frontage on roads designated by the Comprehensive Plan as collectors, arterials and highways.
 - d. Areas zoned Landscape Management Combining.
 - e. Those portions of state and federal scenic waterways from which the surface mining activity is visible from the perspective of a person standing at the high water mark on either bank of the waterway.
4. Screened Uses.
 - a. All equipment stored on the site.
 - b. All crushing and processing equipment.
 - c. All excavated areas except: Areas where reclamation is occurring; roadways existing on the effective date of Ordinance No. 90-014; new roadways approved as part of the site plan; material excavated to create berms; and material excavated to change the level of the mining site to an elevation which provides natural screening.
5. Types of Screening.
 - a. Natural Screening. Existing vegetation or other landscape features which are located on the surface mining site within 50 feet of the boundary of the site, and which obscure the view of the screened uses from the protected uses, shall be preserved and maintained.
 - b. Supplied Screening. Supplied vegetative screening is screening not already existing and which is added to the site, such as hardy plant species. Plantings shall not be required to exceed either a density of six feet on center or a height of six feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.
6. Exceptions. Supplied screening shall not be required when and to the extent that any of the following circumstances occurs:
 - a. The natural topography of the site offers sufficient screening to meet the performance standard in DCC 18.52.110(B)(2).
 - b. Supplied screening cannot meet the performance standard in DCC 18.52.110(B)(2) due to topography.
 - c. The applicant demonstrates that supplied screening cannot reliably be established or cannot survive for a 10 year period due to soil, water or climatic conditions.
 - d. Screened uses that are visible from the protected uses will be concluded and will either be removed or reclaimed within 18 months.
 - e. The surface miner and the owner or authorized representative of the owner of the protected use execute and record in the Deschutes County Book of Records a mitigation agreement that waives screening requirements and describes and adopts an alternate program or technique.
7. Continued Maintenance. Vegetative screening shall be maintained and replaced as necessary to assure the required screening throughout the duration of the mining activity.

- C. Air Quality. The discharge of contaminants and dust created by the mining operation and accessory uses to mining does not exceed any applicable DEQ ambient air quality and emissions standards.
- D. Erosion Control. Sedimentation and erosion resulting from the mining operation does not affect any perennial stream so as to violate DEQ's water quality standards.
- E. Streams and Drainage. Unless agreed to, in writing, by the adjoining property owner(s), existing natural drainages on the site are not changed in a manner which substantially interferes with drainage patterns on adjoining property or which drains waste materials or waste water onto adjoining property or perennial streams. Where the surface mining site abuts a lake, perennial stream or other perennial body of water, all existing vegetation within 100 feet of the mean high water mark shall be retained unless mining activity is allowed within this area by the site-specific ESEE analysis in the surface mining element of the Comprehensive Plan.
- F. Equipment Removal. All surface mining equipment and related structures will be removed from a mining site within 30 days of completion of all mining and reclamation.
- G. Flood Plain. Any mining operations conducted in a flood plain, as defined in DCC 18, will satisfy all applicable conditional use criteria of DCC 18.96.030 through 18.96.060.
- H. Noise. Noise created by a mining operation, vehicles, equipment or accessory uses which is audible off the site does not exceed DEQ noise control standards, due to topography or other natural features, or by use of methods to control and minimize off-site noise, including, but not limited to: Installation of earth berms; placing equipment below ground level; limiting hours of operation; using a size or type of vehicle or equipment which has been demonstrated to meet applicable DEQ noise control standards; relocation of access roads, and other measures customarily used in the surface mining industry to meet DEQ noise standards.
- I. Hours of Operation.
 - 1. Mineral and aggregate extraction, processing and equipment operation is limited to the following operating hours:
 - a. Surface mining sites located within one-half mile of any noise-sensitive or dust-sensitive use or structure existing on the effective date of Ordinance No. 90-014: 7:00 a.m. to 6:00 p.m. - Monday through Friday and 8:00 a.m. to 5:00 p.m. - Saturday.
 - b. All other sites: 7:00 a.m. to 10:00 p.m. - Monday through Saturday.
 - 2. No surface mining activity shall be conducted on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day.
- J. Drilling and Blasting.
 - 1. Drilling and blasting are allowed under the site-specific ESEE analysis in the surface mining element of the Comprehensive Plan.
 - 2. Drilling and blasting which are to be conducted within one-half mile of any noise-sensitive or dust-sensitive use or structure or agricultural use involving the raising of animals meet or can meet the following standards:
 - a. DEQ noise standards for drilling and blasting.
 - b. A plan addressing the potential for earth movement, flying rocks and other effects on surrounding uses has been submitted to and approved by the County.
 - c. Blasting will be restricted to the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday, and no blasting will occur on Saturdays, Sundays or legal holidays identified in DCC 18.52.110(I)(2).
 - d. A plan has been submitted to and approved by the County describing how the operator will notify the owners and inhabitants of the protected uses identified in DCC 18.52.110(J)(2), which are located within one-half mile of the blasting site of proposed blasting by written notice:
 - i. Delivered in a manner calculated to be received by each person entitled to notice at least 48 hours prior to the time the blasting activity will occur;

- ii. Containing a statement providing that the recipient property owner must provide the notice to tenants and inhabitants on the subject property;
 - iii. In the case of ongoing blasting, given at least once each month and specifying the days and hours that blasting will occur; and
 - iv. Retained by the operator, along with a list of persons notified, for at least one year after blasting occurs.
- K. Extraction Site Size. The size of the area in which extraction is taking place as part of a surface mine does not exceed five acres. For the purpose of DCC 18, the extraction site size does not include access roads, equipment storage areas, processing equipment sites, stockpiles, areas where reclamation is in progress and similar accessory uses which are necessary to the mining operation. An exception to this standard may be allowed as part of site plan review if the applicant demonstrates that mining techniques normally associated with the specific type of mining in question and commonly used in the surface mining industry require a larger extraction site size.
- L. Fish and Wildlife Protection.
 - 1. Fish and wildlife values and habitat required by the site-specific ESEE analysis to be conserved and protected are conserved and protected by use of methods including, but not limited to: Seasonal operations and access road closures; retention of or creation of vegetative cover and riparian habitat; and erection of fencing or other barriers to protect wildlife from steep extraction site slopes.
 - 2. Mitigation, as defined in DCC 18, will be provided to compensate for any loss of fish and wildlife habitat caused by the surface mining activity which habitat is required to be protected by the site-specific ESEE analysis. When mitigation is provided, the type and effectiveness of mitigation required has been determined by the Planning Director or Hearings Body to be appropriate from available evidence and in consultation with the Oregon Department of Fish and Wildlife.
- M. Surface water management is provided in a manner which meets all applicable DEQ water quality standards and DOGAMI requirements, and which demonstrates that all water necessary for the proposed operation of the surface mine, including dust control, landscaping and processing of material, has been appropriated to the surface mining site and is legally available for such use. The applicant must provide written documentation of any water rights from the respective water district and Oregon Watermaster's office prior to any mining of the site.
- N. Storage of equipment, structures and other materials at the site is limited to that which is necessary and appurtenant to the mining operation or other uses permitted on the site.
- O. A security plan for the subject site has been submitted and approved by the County and, where appropriate, by DOGAMI which addresses the following issues:
 - 1. Lighting;
 - 2. Fencing;
 - 3. Gates at access points;
 - 4. Water impoundments;
 - 5. Sloping; and
 - 6. Security of vehicles and equipment.
- P. All impacts of the mining activities identified in the ESEE analysis for the specific site are addressed and have been resolved at the time of site plan approval or before the start of mining activity.
(Ord. 95-075 §1, 1995; Ord. 93-043 §§7A, 7B and 7C, 1993; Ord. 91-002 §1, 1991; Ord. 90-014 §4, 1990)

18.52.115. Extended Operating Hours.

Notwithstanding the limitations set forth in an approved site plan for surface mining or the limitation on hours of operation set forth in DCC 18.52.110(I), a special operating permit for extended hours of operations at a mining site may be approved when the Planning Director or Hearings Body finds that an applicant demonstrates that:

- A. Project Necessity. Extended hours of operation are necessary to construct capital improvements and other specific public roadway improvements, including but not limited to public safety operations, road widening, paving, surfacing and realigning, where practical difficulties not created by the applicant such as transportation management requirements necessitate project construction and operation of equipment outside the hours specified in DCC 18.52.110(I) or otherwise set forth in a surface mining site plan;
- B. Equipment Limitation. During the extended hours of activity, operations at the mining site shall include only those uses allowed under DCC 18.52.040 and, when already approved as a conditional use, those uses listed in DCC 18.52.050, including vehicular traffic, and shall be limited to the minimum necessary to complete the project; and
- C. Time Limitation. Except as provided in (D) below, activities approved under DCC 18.52.115(B) shall not exceed a period of 14 days but may be renewed for successive periods not exceeding three days each if: the extension is necessary to complete the roadway or capital improvement project; and transportation management concerns or unique project characteristics justify the extension.
- D. Public safety operations.
 - 1. Public safety operations are those operations permitted under DCC 18.52.040 that are required to respond to a road hazard or incident such as snow, ice, a vehicle crash or other road blockage such as a tree, power line, fire, or animal.
 - 2. Public safety operations are exempt from the time limitations imposed by DCC 18.52.115(C) and 18.52.110(I), provided that the noise and air quality standards of DCC 18.52.110 are met at all times.
- E. Noise Control. Activities permitted under DCC 18.52.115 are subject to DCC 8.08.090(D). (Ord. 2009-026 §1, 2009; Ord. 98-038 §1, 1998)

18.52.120. Partial Approval.

A portion of a parcel may be approved for surface mining, stockpiles or processing without site plan review of the entire parcel. Partial approval shall be granted if the applicant demonstrates that the following criteria are or can be met:

- A. The portion of the parcel receiving approval can be mined and reclaimed separately from the remainder of the site; and
- B. The plan for the portion of the site satisfies all requirements for site plan review; and
- C. All surface mining site plan and reclamation requirements of the County and DOGAMI for the approved portion of the site are completed prior to the start of mining on the remainder of the property. Initial seeding in conformance with a reclamation plan shall be deemed adequate to fulfill the completion portion of DCC 18.52.120.

(Ord. 90-014 §4, 1990)

18.52.130. Site Reclamation Plan.

Prior to the start of mining activity, a site reclamation plan shall be submitted and approved which demonstrates that the mineral and aggregate extraction site can be reclaimed for a subsequent beneficial land use consistent with the designation of such subsequent use in the surface mining element of the Comprehensive Plan.

- A. When a site reclamation plan is required by DOGAMI, the site reclamation plan shall be approved by DOGAMI. To the extent practicable, review of the site reclamation plan shall be conducted jointly between DOGAMI and the County.
- B. When a site reclamation plan is not required by DOGAMI, the site reclamation plan shall be approved by the County in conjunction with the site plan review described in DCC 18.52.070. The County shall review such site reclamation plans for consistency with the site-specific ESEE analysis in the surface mining element of the Comprehensive Plan and the standards and conditions set forth in DCC 18.52.110

and 18.52.140. The County also shall follow the applicable DOGAMI standards and criteria for a site reclamation plan.
(Ord. 90-014 §4, 1990)

18.52.140. Conditional Use Criteria.

The criteria set forth in DCC 18.52.140 shall be the only conditional use criteria applicable to the surface mining activities described below. Compliance with these criteria shall be demonstrated at the time of site plan review.

- A. **Crushing.** When a site has been designated for crushing of mineral and aggregate materials under the site-specific ESEE analysis in the surface mining element of the Comprehensive Plan, the following conditions apply:
 - 1. If a crusher is to be located less than one-half mile from a noise-sensitive use or structure existing on the effective date of Ordinance No. 90-014, the applicant shall demonstrate through a noise report from a qualified, registered sound engineer or similarly qualified professional, that the crusher can meet all applicable DEQ industrial and commercial noise control standards as designed and located, or by methods including, but not limited to: Modification or muffling of the crusher; placement of the crusher below grade or behind berms.
 - 2. If a crusher is to remain on the site for longer than 60 days in any 18-month period, the applicant shall demonstrate that it will be screened in accordance with DCC 18.52.110(B).
- B. **Expansion or Replacement of Preexisting Dwelling.** The following conditions apply:
 - 1. The expansion or replacement does not reduce the amount of mineral and aggregate resource available on the subject site.
 - 2. The replaced dwelling or expansion is located and designed to minimize the impacts of the surface mining operation on the inhabitants of the dwelling.
- C. **Sale of Products Extracted or Produced on Parcels Other Than the Subject Parcel.** The following conditions shall apply:
 - 1. The portion of the site where the products will be stored and sold is at least one-half mile from a noise or dust-sensitive use or structure existing on the effective date of Ordinance No. 90-014.
 - 2. The access from the point where the products are stored and sold to a public road is not within one-half mile of any noise or dust-sensitive use or structure existing on the effective date of Ordinance No. 90-014.
- D. **Processing of Aggregate Into Asphaltic Concrete or Portland Cement Concrete.** The following conditions shall apply:
 - 1. If the processing operation meets or can meet all applicable DEQ ambient air quality standards and emission standards for asphalt, asphaltic concrete or portland cement plants.
 - 2. If the processing operation is located less than one-half mile from a noise-sensitive use or structure existing on the effective date of Ordinance No. 90-014, the applicant shall demonstrate through a noise report from a qualified, registered sound engineer or similarly qualified professional, that the processing operation can meet all applicable DEQ noise control standards for industry and commerce as designed and located, or by use of methods including, but not limited to: Modification or muffling of equipment; location of the processing operation below grade or behind berms.
 - 3. The point where the vehicles transporting asphalt, portland cement and the raw materials for such products access a public road is not within one-half mile of any noise-sensitive or dust-sensitive use or structure existing on the effective date of Ordinance No. 90-014.
 - 4. Processing operations temporarily located in conjunction with a specific street, road or highway project will be removed from the site within 30 days of the completion of the project. (NOTE: Batch plants are allowed in industrial zones and may be sited as part of a limited use combining zone in conformance with all plan amendment and zone change requirements of the Comprehensive Plan and zoning ordinance.)

(Ord. 91-002 §2, 1991; Ord. 90-014 §4, 1990)

18.52.150. Failure to Comply.

If the Planning Director or designee determines that surface mining activity which has received site plan approval is not being conducted in compliance with the setbacks, standards or conditions set forth in DCC 18.52.090, 18.52.110 and 18.52.140, respectively, or the site plan, the Planning Director or designee may institute enforcement proceedings to require such compliance. Enforcement may include citing for a violation, injunction proceedings, and any other measures permitted under DCC 18.144.

(Ord. 2003-021 §37, 2003; Ord. 90-014 §4, 1990)

18.52.160. Preexisting Sites, Nonconforming Sites and Registration.

- A. Except for preexisting and nonconforming sites, DCC 18 shall apply to all surface mining activities which occur on or after the effective date of Ordinance No. 90-014.
- B. Preexisting Sites. Mineral and aggregate sites which have a valid DOGAMI permit or exemption and/or County permit on the effective date of Ordinance No. 90-014, and which are zoned SM, are "preexisting sites."
- C. Nonconforming Sites. Mineral and aggregate sites which have a valid DOGAMI permit or exemption and/or County permit on the effective date of Ordinance No. 90-014, and which are not zoned SM, are "nonconforming sites."
- D. Registration. Operators of all preexisting and nonconforming sites shall register the sites with the Planning Division within 180 days of the effective date of Ordinance No. 90-014. The registration shall include a copy of the operator's permit or exemption and a map or legal description showing the boundaries of the surface mining area covered by the permit or exemption.
- E. Expansion.
 - 1. Any expansion of the surface mining activity on a preexisting site beyond the boundaries of the surface mining area covered by the DOGAMI permit or exemption or County permit, or any surface mining activity requiring a new DOGAMI or County permit, shall comply with all applicable requirements of DCC 18.
 - 2. Any expansion of the surface mining activity on a nonconforming site beyond the boundaries of the surface mining area covered by the DOGAMI permit or exemption or County permit, or any surface mining activity requiring a new DOGAMI or County permit, shall comply with the provisions of DCC 18.120.010.

(Ord. 90-014 §4, 1990)

18.52.170. Use Permits.

Following site plan approval and prior to starting any surface mining activities on the site, the Planning Director or designee shall physically review the site for conformance with the site plan. When it is determined by the Planning Director or designee that all elements of the approved site plan required for mining have been completed and the reclamation plan has received final approval, the Planning Director or designee shall issue a use permit. No mining activity shall start prior to the issuance of such use permit.

(Ord. 93-043 §7D, 1993; Ord. 90-014 §4, 1990)

18.52.180. Monitoring.

The Planning Director or designee shall periodically visit the surface mining site to monitor the surface mining operation. If the Planning Director or designee determines that the operation is not in compliance with the approved site plan and all setbacks, standards and conditions set forth in DCC 18.52.090, 18.52.110 and 18.52.140, a citation for a violation shall be issued.

(Ord. 2003-021 §38, 2003; Ord. 90-014 §4, 1990)

18.52.190. Nuisances.

Violations of the surface mining site plan, or the setbacks, standards and conditions set forth in DCC 18.52.090, 18.52.110 and 18.52.140, respectively, are hereby declared nuisances, and abatement action may be taken as specified in DCC 18.144.

(Ord. 90-014 §4, 1990)

18.52.200. Termination of the Surface Mining Zoning and Surrounding Surface Mining Impact Area Combining Zone.

- A. When a surface mining site has been fully or partially mined, and the operator demonstrates that a significant resource no longer exists on the site, and that the site has been reclaimed in accordance with the reclamation plan approved by DOGAMI or the reclamation provisions of DCC 18, the property shall be rezoned to the subsequent use zone identified in the surface mining element of the Comprehensive Plan.
- B. Concurrent with such rezoning, any surface mining impact area combining zone which surrounds the rezoned surface mining site shall be removed. Rezoning shall be subject to DCC 18.136 and all other applicable sections of DCC 18, the Comprehensive Plan and DCC Title 22, the Uniform Development Procedures Ordinance.

(Ord. 90-014 §4, 1990; Ord. 86-059 §1, 1986; Ord. 86-018 §11, 1986; Ord. 85-053 §11, 1986; Ord. 85-002 §7, 1985; Ord. 83-037 §14, 1983)

(Zoning Maps amended by Ord. 93-028 §1, 1993; Ord. 93-026 §1, 1993; Ord. 93-022 §1, 1993)