

708 MINERAL AND AGGREGATE OVERLAY DISTRICT (MAO)

708.01 PURPOSE

The Mineral and Aggregate Overlay District (MAO) carries out the decisions and policies of the Comprehensive Plan for significant mineral and aggregate resources. The overlay assures protection of mineral and aggregate resource sites and regulates the mining of these sites to assure compatibility with nearby land uses.

708.02 DEFINITIONS

- A. Aggregate: Sand, gravel, rock, stone or similar minerals commonly used in construction.
- B. Conflicting Use: A use allowed, either outright or through a discretionary permit, in the underlying zone and in the impact area that could adversely affect protection of a resource site or mining a protected site.
- C. ESEE Analysis: The analysis of the economic, social, environmental and energy consequences of (1) allowing mining on a significant site, and (2) allowing the conflicting uses to displace mining on a significant site. Based on the results of the ESEE analysis, the County shall determine a level of protection for the resource, and implement a program to achieve the designated level of protection.
- D. Extraction Area: The area of an identified significant resource in which mining and processing may occur.
- E. Goal 5 Planning Process: The full planning process for a Goal 5 resource, including the identification of resource sites, the determination of significant sites, the identification of conflicting uses, the analysis of ESEE consequences, the determination of the level of protection to be afforded a resource site, and the development of a program to achieve the Goal.
- F. Impact Area: The area surrounding the Extraction Area where conflicting uses are regulated to assure that the resource site is protected to some extent. The County determines the Impact Area for each resource site.
- G. Mining: The extraction of sand, gravel, soil, rock or other similar mineral deposits. Mining does not include excavation or grading conducted during construction, reconstruction or maintenance of public roads. Mining does not include excavation or grading conducted in the process of farming, forestry or cemetery operations or other onsite construction when no more than 5,000 cubic yards of such minerals are removed from the property for compensation. Mining also does not include removal of more than 5,000 cubic yards of such minerals from the property for compensation when the construction activities are authorized by a building permit.

- H. Noise or Dust Sensitive Use: A conflicting use which is primarily used for year-round habitation. Residential structures, places of worship, hospitals, schools, public libraries, and campgrounds are considered noise or dust sensitive uses during their period of use. Forest uses and farm uses are not noise or dust sensitive uses unless so determined based on analysis and findings adopted through the Goal 5 planning process to the effect that they satisfy this definition in more than an incidental manner.
- I. Processing: The washing, crushing, milling, screening, handling, and conveying of mineral and aggregate resources, and the batching and blending of such resources into asphalt concrete or Portland Cement Concrete.
- J. Restrictive Covenant: An enforceable promise, given by the owner of a parcel whose use and enjoyment of that parcel will be restricted in some fashion by mining activities occurring on another parcel, not to object to the lawful conduct of mining or processing. The restrictive covenant shall be recorded in the real property records of the County, shall run with the land and shall be binding upon the heirs and successors of the parties. The restrictive covenant shall state that the obligations imposed by the restrictive covenant shall be released when the mining and reclamation has been completed.
- K. Screened Uses: Noise sensitive uses or other uses determined to be conflicting uses through the Goal 5 planning process or scenic viewpoints or other areas designated as significant Goal 5 scenic resources.
- L. Significant Site: A site listed on the Comprehensive Plan inventory as a significant site.
- M. Site Plan: A County permit either (1) to commence mining and processing in the Extraction Area pursuant to Section 708, or (2) to commence a use permitted outright or through a discretionary permit in the underlying zone in the Impact Area. The site plan shall include such maps, diagrams, narratives, and other writings to describe the placement of and use of all improvements, equipment, fixtures, mitigation measures, landscaping, and vehicles on site.

708.03 APPLICABILITY

The MAO District contains two elements, the Extraction Area and the Impact Area. The boundary of the MAO District shall include all property within the mineral and aggregate resources Extraction and Impact Areas.

708.04 EXTRACTION AREA USES

- A. The County may allow the following uses, subject to Subsection 708.05 and any requirements adopted as part of the Comprehensive Plan.
 - 1. Mining;

2. Processing, except the batching or blending of mineral and aggregate materials into asphalt concrete within two miles of a planted commercial vineyard existing on the date the application was received for the asphalt batch plant;
 3. Stockpiling of mineral and aggregate materials extracted and processed onsite;
 4. Temporary offices, shops or other accessory structures used for the management and maintenance of onsite mining and processing equipment;
 5. Sale of mining products extracted and processed onsite;
 6. Storage of transportation equipment or machinery used in conjunction with onsite mining or processing; and
 7. Other activities including buildings and structures necessary and accessory to development or reclamation of the onsite mineral or aggregate resource.
- B. The County may permit other uses allowed by the underlying zoning district, subject to requirements of the underlying zoning district and requirements of Section 708 for protection of significant mineral and aggregate sites.

708.05 EXTRACTION AREA DEVELOPMENT STANDARDS

The following standards are the basis for regulating mining and processing activities in the MAO District. Requirements adopted as part of the Comprehensive Plan also apply to mining and processing activities in the overlay. Before beginning any mining or processing activity, the applicant shall show compliance with these standards and requirements adopted as part of the Comprehensive Plan program.

- A. Access: Onsite roads used in mining and processing, and access roads from the Extraction Area to a public road shall meet the following standards:
1. All access roads within 100 feet of a paved county road or state highway shall be paved, oiled, or watered.
 2. All roads in the Extraction Area shall be constructed and maintained to ensure compliance with applicable state standards for noise control and ambient air quality.
 3. All roads in the Extraction Area shall be paved at all points within 250 feet of a noise or dust sensitive use existing on February 22, 1996.

B. Screening:

1. The mining activities listed in Subsection 708.05(B)(2) shall be obscured from the view of screened uses, unless one of the exceptions in Subsection 708.05(B)(4) applies. Screening shall be accomplished in a manner consistent with Subsection 708.05(B)(3).
2. Mining activities to be screened:
 - a. All excavated areas, except: areas where reclamation activity is being performed, internal onsite roads existing on the date of County adoption, new roads approved as part of the Site Plan Review, material excavated to create berms, and material excavated to change the level of the mine site to an elevation that provides natural screening;
 - b. All processing equipment; and
 - c. All equipment stored on the site.
3. Types of screening:
 - a. Natural screening is existing vegetation or other landscape features within the boundaries of the Extraction Area that obscure mining activities from screened uses. Natural screening shall be preserved and maintained except where removed according to a mining or reclamation plan approved by DOGAMI.
 - b. Supplied screening is either vegetative or earthen screening. Supplied vegetative screening is screening that does not exist at the time of the Site Plan Review. Plantings used in supplied vegetative screening shall be evergreen shrubs and trees, and shall not be required to exceed six feet in height when planted. Supplied earthen screening shall consist of berms covered with earth stabilized with ground cover.
4. Exceptions. Supplied screening shall not be required if any of the following circumstances exist:
 - a. The natural topography of the site obscures mining and processing from screened uses.
 - b. Supplied screening cannot obscure mining and processing from screened uses because of local topography.
 - c. Supplied vegetative screening cannot reliably be established or cannot survive due to soil, water or climatic conditions.

- C. Air and Water Quality: The discharge of contaminants and dust created by mining and processing shall comply with applicable state air quality and emissions standards and applicable state and federal water quality standards.
- D. Streams and Drainage: Mining and processing shall not occur within 100 feet of mean high water of any lake, river, perennial water body or wetland not constructed as part of a reclamation plan approved by DOGAMI unless allowed by specific provisions adopted in the Comprehensive Plan.
- E. Noise: Mining and processing shall comply with state noise control standards. Operators may show compliance with noise standards through the report of a certified engineer that identifies mitigation methods to control noise. Examples of noise mitigation measures are siting mining and processing using existing topography, using supplied berms, or modifying mining and processing equipment.
- F. Hours of Operation:
1. Mining and processing is restricted to the hours of 7:00 a.m to 6:00 p.m. Monday through Friday, and 8:00 a.m. to 5:00 p.m. Saturday. Hauling and other activities may operate without restriction provided that state noise control standards are met.
 2. No operations shall take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.
- G. Drilling and Blasting:
1. Drilling and blasting is restricted to the hours of 9:00 a.m. to 4:00 p.m. Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.
 2. Notice of blasting events shall be posted at the Extraction Area in a manner calculated to be seen by landowners, tenants, and the public at least 48 hours prior to the blasting event. In the case of ongoing blasting activities, notice shall be provided once each month for the period of blasting activities, and specify the days and hours when the blasting event is expected to occur.
- H. Surface and Ground Water: Surface and ground water shall be managed in a manner that meets all applicable state water quality standards and DOGAMI requirements. The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.

- I. Compliance with Special Conditions: The County may impose additional, special conditions to resolve issues specific to an individual site. The conditions shall be specified in the site-specific program to achieve the Goal adopted as part of the Comprehensive Plan.
- J. Security: The permittee shall fence the Extraction Area boundary between the mining site and any parcel where dwellings are a principal use. Fencing shall be a cyclone type fence a minimum of six feet high.
- K. Performance requirements:
 - 1. The mining operator shall maintain DOGAMI and other state agency permits.
 - 2. The mining operator shall carry a comprehensive general liability policy covering mining, and incidental activities during the term of operation and reclamation, with an occurrence limit of at least \$500,000. A certificate of insurance for a term of one year shall be deposited with the County prior to the commencement of mining and a current certificate of insurance shall be kept on file with the County during the term of operation and reclamation.

708.06 RECLAMATION

- A. No mining shall begin until the permittee provides the County with a copy of an Oregon Department of Geology and Mineral Industries (DOGAMI) Operating Permit or exemption in accordance with Oregon Revised Statutes (ORS) 517.750 through 517.900 and the rules adopted thereunder.
- B. The County's jurisdiction over mined land reclamation is limited to determining the subsequent beneficial use of mined areas, ensuring that the subsequent beneficial use is compatible with the Comprehensive Plan and this Ordinance, and ensuring that mine operations and reclamation activities are consistent with the program to achieve the Goal adopted as part of the Comprehensive Plan.
- C. The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County in the following manner.
 - 1. When notified by DOGAMI that an operator has applied for reclamation plan and an Operating Permit, the County shall inform DOGAMI whether Site Plan Review approval by the County is required.
 - a. If Site Plan Review approval is required, the County shall request that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the Operating Permit until after Site Plan Review approval has been granted.
 - b. If Site Plan Review approval is not required, the County shall so notify DOGAMI and the County shall review the proposed reclamation plan and Operating Permit during DOGAMI's notice and comment period.

2. When reviewing a proposed reclamation plan and Operating Permit application circulated by DOGAMI, the County shall review the plan against the following criteria:
 - a. The plan provides for rehabilitation of mined land for a use specified in the Comprehensive Plan, including subsequent beneficial uses identified through the Goal 5 planning process.
 - b. The reclamation plan and surface mining and reclamation techniques employed to carry out the plan comply with the standards of Subsection 708.05.
 - c. Measures are included which will ensure that other significant Goal 5 resources determined to conflict with mining will be protected in a manner consistent with the Comprehensive Plan.

708.07 EXTRACTION AREA PERMITS

- A. An Extraction Area Permit shall require review as a Type I application pursuant to Section 1307, to the extent that Section 1307 is consistent with the requirements of ORS 197.195 and 215.425.
- B. An Extraction Area Permit shall be subject to Sections 708, 1006, and 1010, and the requirements of the site-specific program to achieve Goal 5 adopted as part of the Comprehensive Plan.

708.08 IMPACT AREA USES AND PERMITS

- A. Uses Permitted Outright: Outright permitted uses and discretionary uses in the underlying zoning district, except noise or dust sensitive uses or conflicting uses, shall be permitted subject to the standards and criteria of the underlying zoning district.
- B. Uses Allowed Conditionally: Noise or dust sensitive uses and conflicting uses shall be reviewed subject to the standards and criteria of the underlying zoning district and the approval criteria of Section 708.
- C. Prohibited Uses: The County shall not allow uses in the Impact Area which it identified in the Goal 5 planning process as incompatible in all instances with protection of the resource site or mining and processing.
- D. Review Procedures and Approval Criteria: Uses allowed conditionally in the Impact Area shall require an Impact Area Permit, which shall require review as a Type I application pursuant to Section 1307, and shall be subject to the following standards and criteria:
 1. The proposed use meets the standards of the underlying zoning district.

2. The proposed use meets the clear and objective conditions imposed on noise or dust sensitive uses and conflicting uses by the Goal 5 planning process and Section 708.
3. The proposed use will not cause the mining operation that is otherwise lawfully operating to violate any applicable standards of Section 708 or the requirements of a site-specific program to achieve Goal 5.
4. Approval of any new noise or dust sensitive use or conflicting use in the Impact Area shall be conditioned upon execution of a restrictive covenant in favor of the mining use to the effect that the use will not cause the mining operation to violate any applicable standards of Section 708 or requirements of a site-specific program to achieve Goal 5.

708.09 TERMINATION OF THE MINERAL AND AGGREGATE OVERLAY DISTRICT

When a significant site has been fully mined and reclamation has been completed, the County shall remove the site from the Comprehensive Plan inventory and rezone the property to remove the MAO District. The Comprehensive Plan amendment and zone change shall be initiated by the County or the owner or contract purchaser of the property comprising the Extraction Area. If a restrictive covenant is imposed within the MAO District, it shall state that the obligations imposed expire upon the termination of the MAO District.

[Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-266, 10/2/18]