

ARTICLE 15.00
(SM) SURFACE MINING ZONE

15.01 PURPOSE

The purposes of the Surface Mining Zone are:

1. To implement the policies of the Comprehensive Plan;
2. To allow the development and use of mineral and aggregate resources;
3. To provide uniform standards for extraction and processing of mineral and aggregate resources;
4. To protect the health and safety of the public and of property adjoining surface mining zones;
5. To assure all land and water resources affected by surface mining operations receive protection.

15.02 USES PERMITTED OUTRIGHT

The following uses and their accessory uses are permitted outright in the SM Zone:

1. Farm uses as defined in Section 1.08.
2. Forest uses as defined in Section 1.08.

15.03 USES PERMITTED OUTRIGHT SUBJECT TO SITE PLAN REVIEW

The following uses are permitted outright subject to site plan review standards:

1. Extraction of any mineral or aggregate material.
2. Stockpiling and storage of mineral or aggregate materials.
3. Crushing and aggregate processing.
4. Sale of extracted or processed materials.
5. Related activities such as batch plants, mineral refining plants, hot mix asphalt plants and concrete products plants.

6. Buildings, structures, apparatus, equipment and appurtenances necessary for the above uses to be carried out except dwellings.

15.04 CONDITIONAL USES SUBJECT TO SITE PLAN REVIEW

The following uses are subject to conditional use standards in Section 21.06 (1) and Planning Commission review and approval:

1. Expansion or replacement in essentially the same location of a pre-existing legal dwelling.
2. Other uses accessory to those listed outright and conditionally and approved by the County Planning Commission per Section 21.06(2).
3. One temporary or portable residence when necessary to house a caretaker or a night watchman.

15.05 SITE PLAN REQUIREMENTS AND MINING STANDARDS

The following site plan and mining standards shall be approved by the Planning Commission before the beginning of any use requiring site plan review under this Article.

1. The applicant shall submit a site plan application in accordance with Section 20.10 of this Ordinance.
2. The applicant shall state how the proposed site will be reclaimed and subsequently used.
3. Use Setbacks:
 - A. Any mining, equipment, structural use or access roads within a Surface Mining Zone shall maintain a minimum setback of 250 feet from a noise or dust-sensitive use or structure and 100-feet from all designated wetlands unless a different setback is specified by the Planning Commission. Exception to these standards shall be allowed for the following:
 - (1) Agricultural activities.
 - (2) Access roads approved as a part of the site plan review.
 - (3) Landscaped berms.
 - (4) Written agreement(s) for a reduced setback made between the owner of the noise or dust sensitive use or structure located within 250 feet of the

proposed activity and the owner or operator of the proposed surface mine. The agreement shall be notarized and recorded in the Union County Clerk's Office and shall remain with the parcel if conveyed. The agreement shall be considered during site plan review.

B. Mineral and aggregate material storage and aggregate processing equipment creating noise and dust shall not be located closer than 1,320 feet from a noise or dust-sensitive use or structure, unless the applicant demonstrates that:

- (1) Due to the parcel size, topography, existing vegetation or location of conflicting uses or resources, there is no other on-site location that will have less noise or dust impacts; and
- (2) All Department of Environmental Quality noise control and air quality standards can be met by the proposed use for which the excavation is requested.

4. Size of Open Pit:

The size of an open pit in a mining area operation shall be set on a case-by-case basis through the Section 20.10 Site Plan Review Process. Continued mining may occur concurrently with the satisfactory completion of the required reclamation as specified by Department of Geology and Mineral Industries. An open pit operation occurring within 500-feet of another unreclaimed open pit mine under the same ownership shall comply with the Site Plan progression for opening and closing excavation sites. Any violation of this provision shall be recognized as a continuing violation of this ordinance and subject to cancellation of site plan approval upon conviction.

5. Air, Water and Noise Standards:

Air and water quality and noise level requirements shall comply with State and Federal standards. Unless agreed to in writing by adjoining property owner(s), existing waterways on the site are not changed in a manner which substantially interferes with waterway patterns on adjoining property or which drains waste materials or waste water onto adjoining property or waters of the state. The discharge of any contaminants or the disposal of any seepage waters shall be approved by the Department of Environmental Quality.

6. Vegetation:

Where a surface mining site is adjacent to a lake, stream or designated wetland area, all existing vegetation within 100 feet of the mean-high water mark shall be retained.

7. Road Maintenance Responsibility:

All improved or unimproved on-site roadways and nearby public roads providing access to the mining site shall be maintained in a durable dustless condition and any damage to public use or county roads, or state highways sustained by the use of the mining operator's heavy equipment shall be repaired on an annual basis or upon completion of the mining activity, whichever comes first.

8. Traffic Routing:

All trucks and heavy equipment transporting mining aggregate or processing materials shall avoid travel through residential areas, unless no other route is available, by using the routes approved on the site plan.

9. Maximum Heights:

Maximum height of all berms adjacent to excavation sites shall not exceed ten (10) feet. Storage or stock piles of overburden, reject or processed aggregate shall not exceed twenty (20) feet in height for a temporary period not to exceed two (2) years.

10. Screening and Fencing:

- A. Use of the existing land forms, an earthen berm and/or mature or fast growing vegetative screening shall be established to fully screen the view of any mineral and aggregate activity including related equipment located within 1,320 feet of a noise or dust sensitive area. Screening or fencing may be waived by the Planning Commission where steep slopes would render such barriers ineffective.
- B. Fencing or approved barrier shrubs shall be required where noise or dust sensitive uses are within 1320 feet. If fencing is used it shall be of cyclone type and a minimum of five (5) feet high.

15.06 IMPACT OVERLAY AREA - USES AND DEVELOPMENT STANDARDS

- 1. Uses Permitted Outright. Uses permitted outright in the underlying zone, except noise or dust sensitive uses or conflicting uses, may be permitted subject to the standards and criteria of the underlying zone(s).
 - A. Uses Allowed Conditionally
 - (1) Noise or dust sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone and this section.

- (2) Conditional uses in the underlying zone(s) which are not noise or dust sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone.
- B. Prohibited Uses. Uses identified through the Goal 5 process as incompatible with mining in all instances shall not be permitted within the Impact Area.
- C. Review Criteria. To approve uses allowed conditionally in the Impact Area, the applicant must demonstrate compliance with the following criteria:
 - (1) The proposed use will not interfere with or cause an adverse impact on lawfully established and lawfully operating mining operation;
 - (2) The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this chapter, or the terms of a state agency permit. The applicant for a new noise sensitive use shall submit an analysis prepared by an engineer or other qualified person, showing that applicable DEQ noise control standards are met or can be met by a specified date by the nearby mining operation.
 - (3) Any setbacks or other requirements imposed through the Goal 5 process have been met, or can be met by a specified date.

15.07 FINAL SITE PLAN APPROVAL

Following site plan approval and prior to beginning any surface mining activities, the Planning Director or designee shall physically view the site for conformance with site plan approval. When it has been determined that all conditions of the approved site plan have been met, final approval shall be issued.

15.08 EXPIRATION OF APPROVAL

The Site Plan shall expire 12-months from the date of approval unless the required permits have been issued and the mining operation has commenced.

15.09 PERFORMANCE GUARANTEE

The mining operator shall enter into a performance agreement with Union County guaranteeing faithful performance of all the requirements of a surface mining permit in a Surface Mining

Zone. The agreement shall be in accordance with the procedures and specifications outlined in Article 31.00 of this Ordinance.