



Surface Mining

Reviews and Administration

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Surface Mining

Surface mining in Whatcom County may occur under certain conditions in specific zoning districts.

Surface mining in Whatcom County is the process or business of extracting minerals, including but not limited to sand, gravel, shale, rock, coal, soil, peat, or clay, from an open excavation in the earth.

All property owners of surface mining activity in Whatcom County are required to file an annual registration form and fee by February 9. The annual registration and fee is not a permit or authorization to operate.

Development and performance standards

All surface mining is subject to certain development and performance standards (WCC 20.73.650 and 20.73.700) including:

- Paved access approved by Whatcom County Engineering;
- Maximum noise levels;
- Noise restrictions within or adjacent to residential or rural zoning.

No excavation is allowed within 300 feet of an existing well used for potable water.

No new mineral processing or mining support activities shall be located on or occur within the 5-year zone of contribution for a designated

well head protection area. Equipment wash water or processing water shall be contained in retention or settling ponds. A Washington Department of Ecology, General Permit may substitute for this requirement.

Mobile equipment parking, maintenance, storage, and stationary or semi-mobile equipment shall be located; at least 100 horizontal feet from an exposed water table, 20 feet above the seasonal high groundwater level, upon unexcavated land (except dredging equipment), and shall be located within lined bermed areas with adequate capacity to accommodate, contain, and allow the removal of chemical spills (except dredging equipment).

Fuel and oil tanks shall be double containment, surrounded by berms, stored above ground, and not within 20 vertical feet above the seasonal high groundwater level.

A fuel spill waste management plan shall be maintained and available on site.

Fencing or other deterrent is required to prevent unauthorized dumping and to assure public safety.

A fill and grading or landfill permit is required for back filling of offsite materials.

Types of use designations

Surface mining may be allowed as the following uses;

THE PLANNING AND DEVELOPMENT SERVICES HANDOUT SERIES

Administration Approval Use

An administrative approval use permit is required for:

- Washing and sorting within the Mineral Resource Land (MRL) special overlay districts.
- New or expanding mining activity within the MRL zone.

Conditional Use

A conditional use permit is required for:

- Surface mining located outside of the MRL zone;
- Crushing and concrete/asphalt batch plants; and
- Surface mining for farm enhancement.

Nonconforming Use

Nonconforming use, or “grandfathering”, means that surface mining at a particular location was in existence when restricting regulations were adopted.

If challenged by the public or the administrator, an affidavit of nonconformity can formally preserve the nonconformity by proving that the use preceded regulations.

Except for operations with a valid state or local surface mining permit, any lawful surface mining use may continue on a parcel as both existed before the regulations, provided excavation does not exceed the average of the five years preceding November 09, 1992.

Other non-conforming use criteria are listed in WCC 20.83.020 and 20.83.030.

Prohibited Use

Surface mining activity is prohibited when it is not considered one of the above use designation types.

Zoning Districts

Surface mining may occur as one of the use designations with appropriate approval in the following zoning districts;

- Rural (R)
- Agricultural (AG)
- Rural Forestry (RF)
- Commercial Forestry (CF)
- Mineral Resource Land (MRL) special overlay district.

The Washington State Surface Mining Act (SMA) Reclamation

Surface mine reclamation is regulated under Chapter 78.44 RCW by the Washington Department of Natural Resources (DNR), Sedro Woolley, (360) 856-3500. Whatcom County works in tandem with the DNR to ensure that state reclamation and County land use regulations work cooperatively. The two sets of rules are linked together but it is important to note the clear distinction in their individual purposes.

Groundwater protection

Ground water protection is regulated predominantly under the State Water Pollution Control Act (Chapter 90.48 RCW), the State Water Resources Act of 1971, and ground water quality standards of Chapter 173-200 WAC, by the Washington Department of Ecology (DOE), (425) 649-7293. The DOE issues a General Permit to all surface mining activities subject to those regulations.

Mineral Resource Land (MRL) special overlay district designation

Any landowner may apply for MRL designation as a Comprehensive Plan amendment. *“Procedures for Amending the Whatcom County Comprehensive Plan and Zoning”*, outlines the process and fees, and is available from the Planning Division of PDS, (360) 676-6907.

Fees

Please refer to the current Whatcom County Unified Fee Schedule.

Information

Due to the administrative complexity of these regulations, it is usually best to visit with our Geologist to answer any additional questions.

Planning and Development Services
5280 Northwest Drive
Bellingham, Washington 98226 USA
E-mail: pds@co.whatcom.wa.us

Staff Contact: County Geologist
Phone: (360) 676-6907