

**SURFACE MINING OVERLAY
PLANNING COMMISSION RECOMMENDATION WITH STAFF RECOMMENDED
CHANGES
SEPTEMBER 24, 2014**

The following text amendments to the comprehensive plan regarding the surface mining overlay, and proposed changes to the mining code in Title 40 are based on the Planning Commission (PC) recommendations to the Board of County Commissioners from December 5, 2013.

Staff has proposed changes to the PC recommendation, which are shown as double underlined or ~~struck~~.

A. Planning Commission recommendation regarding Comprehensive Plan Goals and Policies, with proposed changes.

Current mineral lands policies can be found in the Comprehensive Plan Rural and Natural Resource Element, Chapter 3. The PC proposal is to retain the Goal language below, and to adopt new policy language.

Mineral Resource Lands

GOAL: To protect and ensure appropriate use of gravel and mineral resources of the county, and minimize conflict between surface mining and surrounding land uses.

3.5 Policies

3.5.1 Support the conservation of mineral resource lands for productive economic use by identifying and designating lands with a surface mining overlay that have long-term commercial significance for mineral extraction and that are not already characterized by urban growth.

3.5.2 Designate mineral resource lands based on the following:

- a. Geological, environmental, and economic factors, including, without limitation, consideration of the proven quality, quantity and characteristics of the resource; proximity to steep or unstable slopes, riparian and wetland areas, habitat for endangered or threatened species, flood hazard areas, parks, public preserves, or other sensitive lands; and economic impacts of mining and other uses of the area;
- b. Surrounding land uses, zoning, and parcel size, including, without limitation, consideration of proximity to and impacts on residentially zoned areas with existing densities of predominantly one dwelling unit per five acres or higher, and proximity to and impacts on agricultural and forest lands; and

- 44 c. Suitability and safety of the existing transportation system to bear the traffic
45 associated with mining, including, without limitation, the suitability of public
46 access roads to be used as haul roads, the distance to market, the need to
47 route truck traffic through residential areas, and adequacy of intersections to
48 handle mining traffic plus other traffic.
49 d. The surface mining overlay shall not be designated within rural residential-(R)
50 zones except to allow the expansion of an existing mining site.
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The above text replaces the designation criteria in the existing Matrix for Assessing Mineral Resources (Table 3.4) in the comprehensive plan matrix. The matrix is a cumbersome tool that is generally difficult to use as a policy document.

- 52
53 3.5.3 Ensure that mining-related activities on mineral resource lands follow best
54 management practices.
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56 3.5.4 Ensure that mineral extraction and processing operations minimize and mitigate
57 any significant adverse impacts on water, fish, wildlife, and nearby land uses.
58
59 3.5.5 Ensure that the use of adjacent lands will not interfere with the continued use of
60 designated mineral resource lands for the extraction of minerals. ~~in the~~
61 ~~accustomed manner and in accordance with best management practices.~~
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63 3.5.6 Establish notification standards whereby developments on lands in the vicinity of
64 designated mineral resource lands are given notice that they are locating in or
65 adjacent to a potential mining area.
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67 ~~3.5.7 The surface mining overlay shall not be designated within rural residential-(R)-~~
68 ~~zones except to allow the expansion of an existing mining site.~~
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Moved to 3.5.2(d). 'Friends of Livingston Mountain' still have an issue with the way this is worded.

- 70
71 ~~3.5.87~~ Surface mining ~~other than Columbia River dredging~~ shall not occur within the
72 100-year floodplains except for projects 1) with an approved Habitat Conservation
73 Plan, and 2) that are consistent with the shoreline master program.
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76 Implementation Chapter

77 Strategies for mineral resource lands:

- 78 • Maintain a map showing areas designated with the surface mining overlay and
79 permitted mining sites.
- 80 • Develop a program for coordinated monitoring and enforcement of conditions of
81 approval for active mining sites.
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85 B. Planning Commission recommendation regarding Surface Mining Overlay
86 designation/amendment procedures in Title 40, with proposed changes.
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The PC proposal is to add a new subsection (S) to Section 40.560.010 Changes to Districts, Amendments, Alterations; re-number subsequent sections; and correct citations.

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40.560.010 CHANGES TO DISTRICTS, AMENDMENTS, ALTERATIONS

S. Additional Criteria for Surface Mining Overlay Changes.

1. ~~Amendments to the plan map to designate~~ Designation of additional areas with the surface mining overlay shall only occur if ~~demonstrate that the following criteria have been met:~~
 - a. ~~designation criteria in the comprehensive plan have been met; and~~ The quality of the resource is sufficient for the intended uses;
 - b. ~~The quantity and characteristics of the resource including the size of the deposit, the depth of overburden, the distance to market, and the cost of transport and resource availability in the region, suggest that mining is economically viable;~~
 - b.e. at least sixty percent (60%) of the area within one thousand (1000) feet of the proposed mineral resource land is characterized by parcels of five (5) acres or larger.
2. ~~Amendments to the plan map to remove~~ Removal of the surface mining overlay shall only occur if ~~demonstrate that~~ one of the following conditions is met:
 - a. The mineral resources have been depleted;
 - b. There is evidence that the mining of the mineral resource is not economically feasible based on the factors listed in Section 40.560.010(S)(1)(b);
 - c. Environmental or access constraints make it impractical to mine the resource; or
 - d. The area has been brought into an urban growth boundary or adjacent land uses or developments are incompatible with mineral extraction.

T. S. Cumulative Impact.

U. T. Fees.

128 C. Planning Commission recommendation regarding Surface Mining Overlay Standards,
129 with proposed changes.
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The PC proposal is to repeal the current Section 40.250.020 and replace it with new language below.

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132 **40.250.020 SURFACE MINING OVERLAY DISTRICT**
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134 A. Purpose.

135 The purpose of the surface mining overlay district is to ensure the continued
136 availability of rock, stone, gravel, sand, earth and mineral products without disrupting
137 or endangering adjacent land uses, while safeguarding life, property and the public
138 welfare.
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140 B. Applicability.

- 141 1. The provisions in this section shall apply to parcels designated with the surface
142 mining overlay. ~~Surface mining activity and related processing within the~~
143 ~~Columbia River Gorge National Scenic Area is subject to Section 40.240. Where~~
144 ~~Section 40.250.020 is in conflict, the provisions of section 40.240 govern.~~
145 2. The provisions of this section shall apply only to new applications for surface mines
146 and related uses and expansions of existing mines. Operation of existing surface
147 mines and related uses shall conform to the conditions of approval adopted with
148 their site plan and/or conditional use approval.
149 3. Provisions of Chapter 78.44 RCW and Chapter 332-18 WAC pertaining to surface
150 mining that are applicable to Clark County are adopted by reference.
151 4. Surface mining activity and related processing within the Columbia River Gorge
152 National Scenic Area are subject to Chapter 40.240. Where Section 40.250.020
153 is in conflict with this section, the provisions of Chapter 40.240 govern.
154

155 C. Uses.

- 156 1. Permitted uses. In addition to uses allowed in the underlying zoning district, the
157 following uses are permitted in the surface mining overlay district:
158 ~~a. Extractions of rock, stone, gravel, sand, earth and minerals and the sorting,~~
159 ~~and stockpiling of such materials.~~
160 a. Temporary offices, shops or other accessory buildings and structures used for
161 the management and maintenance of onsite mining and processing
162 equipment.
163 2. Conditional uses. In addition to uses allowed conditionally in the underlying
164 zoning district, the following uses are allowed in the surface mining overlay district,
165 subject to conditional use approval:
166 a. Extractions of rock, stone, gravel, sand, earth and minerals and the sorting,
167 and stockpiling of such materials;
168 b. Asphalt mixing;
169 c. Concrete batching;
170 d. Clay bulking; and
171 e. Rock crushing.

This is a significant change from the PC recommendation. Under the PC recommendation, mining (by itself without an associated crusher or concrete batch plant) would be a Permitted use, subject to Type II review (a staff decision).

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D. Standards.

1. Site area. When the activity includes both extraction and any one of the other uses listed on Section 40.250.020(C)(2), the total site area shall be a minimum of twenty (20) acres. Activities which are limited to extraction only shall not have a minimum site size.
2. Setbacks.
 - a. A minimum two hundred- (200-) foot setback shall be required for all mining uses abutting existing residential structures or adjacent rural residential zoning. The setback may be reduced by the responsible official ~~approval authority~~ if the purposes of this chapter can be met with the reduced setback. The setback area shall be used only for roads, berms, landscaping, signs, fencing and reclamation activities.
 - b. Adjacent properties shall maintain a one hundred- (100-) foot setback from designated mineral resource land. The setback may be reduced by the ~~approval authority~~ responsible official if the purposes of this chapter can be met with the reduced setback or if it is not feasible to meet the setback due to site constraints. Setbacks shall not apply to existing structures.
3. Access. Roads into the site shall be gated and the site or mining area shall be fenced and posted "No Trespassing".
4. Noise. Maximum permissible noise levels must be in accordance with the provisions of Chapter 173-60 WAC or as identified in the SEPA document.
5. Hours and days of operation.
 - a. No operations shall take place on Sundays or on the following holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Easter, MLK Day, Veterans Day, and Christmas Day.
 - b. All operations and activities other than blasting and maintenance are restricted to the hours of 6:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday.
 - c. Blasting is restricted to the hours of 9:00 a.m. to 4:00 p.m. Monday through Friday.
 - d. Maintenance activities, excluding mining, crushing, and loading, may be performed outside the normal hours of operation, provided that no equipment with narrow-band (beeping) back-up alarms is used. Noise levels must comply with night-time noise requirements.
 - e. Loading and hauling outside of normal hours of operation may be approved by the responsible official provided that:
 - (1) the applicant provides at least fourteen (14) days' notice to the county prior to the event such that the county can provide at least ten (10) days' notice to property owners within one-half (1/2) mile of the site boundary and to owners of all parcels abutting local access roads to be used for hauling that are between the site and roads designated in the Arterial Atlas as connectors, arterials, or State highways;

- 215 (2) the applicant provides evidence that the contract requires delivery of rock or
216 rock products outside of normal operating hours; and
217 (3) all equipment shall utilize broadband back-up alarms or reverse-activated
218 strobe lights conforming to Mining Safety and Health Administration
219 (MSHA) requirements.
220 (4) In an emergency, the responsible official may waive the requirements of this
221 subsection.
- 222 6. Stormwater and erosion control must meet the standards of Chapter 40.385.
223 7. Blasting and mining activities ~~shall~~ must not adversely affect the quality or quantity
224 of groundwater or groundwater wells or cause damage to offsite structures.
225 8. Notice of blasting events shall be provided by the operator to property owners
226 within one-half (1/2) mile of the mining limits by mail at least seven (7) days prior to
227 blasting. Any person requesting notice via electronic communication shall be
228 notified at least twenty-four (24) hours prior to blasting.
229 9. Mining activities must meet applicable Federal, State and county standards
230 governing odors, dust, smoke, blasting and vibration. Lighting shall not cast
231 significant light or glare on adjacent properties.
232 10. The director of public works may require pavement wear agreements for public
233 roads used to access the site. Public access roads to mining sites must be
234 maintained to the satisfaction of the director of public works, to minimize problems
235 of dust, mud, potholes, runoff and traffic safety. All vehicles shall comply with
236 RCW 46.61.655 (escape of load materials and cleaning of vehicles).
237 11. Internal access roads shall be paved within one hundred (100) feet of a paved
238 county road or state highway to reduce tracking of dirt, mud and rocks.
239 12. The applicant shall identify the source or potential source and approximate amount
240 of water anticipated to be used on the site. If this amount exceeds the exemption
241 provided for under RCW 90.44.050, the applicant must present evidence that
242 adequate water can be made available without adversely affecting nearby uses.
243 13. Consistent with CCC 32.04.040, the operator shall grant access for inspection of
244 the mine operation in order for the county to monitor and, if necessary, enforce the
245 provisions of the conditional use permit.
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247 E. Approval Process.

- 248 ~~1.2.~~ Site plan approval is required prior to any surface mining use.
249 ~~2.4.~~ Plans shall be drawn to an engineer's scale and shall be of sufficient clarity to
250 indicate the nature and extent of the work proposed and show in detail that they will
251 conform to the provisions of this section and all other relevant laws, ordinances,
252 rules and regulations. The first sheet of each set of plans shall give the location of
253 the work, the names and addresses of the owner, and the person by whom they
254 were prepared. The plans shall include the following minimum information:
255 a. General vicinity maps of the proposed site;
256 b. Property boundaries and ~~accurate~~ contours of existing ground, details of
257 existing terrain, and details of existing area drainage;
258 c. Proposed elevations and contours of the greatest extent of the proposed
259 mining and proposed drainage channels and related construction;

- 260 d. Detailed plans of all surface and subsurface drainage devices, walls, cribbing,
 261 dams, berms, settling ponds and other protective devices to be constructed
 262 with or as a part of the proposed work, together with the maps showing the
 263 drainage area and the estimated runoff of the area served by any drains;
 264 e. Location of any buildings or structures on the property where the work is to be
 265 performed, and the location of any buildings or structures on land of adjacent
 266 property owners which are within two hundred (200) feet of the property;
 267 f. Location of access roads and primary haul routes.
 268 g. Stormwater calculations and proposed treatment facilities for runoff from
 269 access roads and impervious areas; ~~and~~
 270 h. A hydrogeology report which characterizes the groundwater and surface water
 271 and identifies wells within one-half (1/2) mile of the proposed mining limits and
 272 a monitoring and mitigation plan if there are existing wells within one-half (1/2)
 273 mile of the proposed site; and
 274 i. A traffic impact analysis including the following elements, or as directed by the
 275 director of public works:
 276 (1) Trip generation, including passenger & haul vehicles;
 277 (2) Trip assignment and distribution;
 278 (3) Capacity analysis: Existing and proposed operational level of service at the
 279 site access and intersections along primary and secondary haul routes
 280 including any proposed mitigations;
 281 (4) Safety analysis: Sight distance at intersections and crash history at
 282 intersections and along all haul route corridors, including any proposed
 283 mitigations;
 284 (5) Vehicle maneuvering analysis: Turning movements at intersections and
 285 tracking at intersections and horizontal curves including any proposed
 286 mitigations; and
 287 (6) Structural capacity analysis: Remaining life of primary and secondary haul
 288 routes under current and proposed loading including any improvements
 289 needed to achieve a fifteen- (15-) year structural capacity.
 290 ~~2. Site plan approval is required prior to any surface mining use.~~
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The requirement for site plan approval is not removed, just re-ordered to number (1) in this section.

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 293 ~~3. For those uses permitted under Section 40.250.020(C)(1), the responsible official~~
 294 ~~shall review and approve plans, specifications, and other supporting data through~~
 295 ~~a Type II-A process pursuant to Section 40.510.025.~~
 296 3.4. Conditional uses permitted under Section 40.250.020(C)(2) shall be reviewed
 297 through a conditional use process pursuant to Section 40.510.030.
 298 ~~4.5.~~ For temporary uses permitted under Section 40.250.020(C)(1) ~~(b)~~ that are not
 299 exempt from review per Section 40.260.220(C)(3)(b), the responsible official shall
 300 review and approve plans and specifications through a Type I process pursuant to
 301 Section 40.510.010.
 302 5.6. Notice required by Sections 40.250.020(E)(3) and (4) above shall be sent to
 303 owners of property within a radius of one (1) mile of the site and to owners of all

304 parcels abutting local access roads identified as the primary haul route that are
305 between the site and roads designated in the Arterial Atlas as collectors, arterials
306 or State highways.
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The PC requested that staff develop a Monitoring and Enforcement section. The following Subsection (F) is new language developed by staff that has not been reviewed by the PC.

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309 F. Monitoring and Enforcement.

- 310 1. Operating requirements and standards shall be implemented through compliance
311 with conditions of approval as specified in this section and in the conditional use
312 permit issued by the county.
- 313 2. In order to ensure compliance with conditions of approval the applicant shall
314 develop and conduct a monitoring program. The monitoring program shall be
315 approved by the county prior to beginning operations under the permit, and shall
316 include the following:
- 317 a. A statement of the operating requirements and standards for each condition of
318 approval in the permit for mineral extraction, materials processing, and
319 materials transport;
- 320 b. A description of the methodology for determining compliance with each
321 requirement and standard; and
- 322 c. A schedule for conducting the required monitoring.
- 323 3. At the applicant's expense, all results of the required monitoring shall be kept for at
324 least 10 years, and included in a report submitted to the county:
- 325 a. beginning twelve (12) months after approval of the conditional use permit;
326 b. continuing at twelve- (12-) month year intervals thereafter; and
327 c. as needed, in the determination of the responsible official, to correct any
328 instances of non-compliance.
- 329 4. The county will conduct a periodic performance review of permit requirements and
330 standards at the end of the first three years, and at three-year intervals after that.
331 The periodic review shall be a Type 2 land use decision. The periodic review shall
332 determine whether the facility is operating consistent with all existing permit
333 conditions.
- 334 5. The county will conduct an inspection of the mining facility no less than once per
335 year in order to assess the accuracy and effectiveness of the monitoring program
336 and, if necessary, enforce the provisions of the conditional use permit.
- 337 6. Failure to comply with the operating requirements and standards specified in the
338 conditional use permit may result in revocation of the conditional use permit.

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340 G. Resource Activity Notification.

- 341 1. All approvals for subdivisions, short plats, site plans, zone reclassifications,
342 manufactured home park site plan approvals, variances, conditional use permits,
343 shoreline permits and building permits issued or approved for land on or within one
344 thousand (1,000) feet of lands designated as natural resource land (agricultural,
345 forest or mineral lands), pursuant to RCW Chapter 36.70A.170, shall contain or be
346 accompanied by a notice stating the following:

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348 “The subject property is adjacent or in close proximity to designated mineral resource
349 land on which a variety of commercial mining activities may occur that are not compatible
350 with residential development. Potential disturbances or inconveniences may occur 24
351 hours per day and include but are not limited to: noise, blasting, odors, fumes, dust,
352 smoke, and operation of heavy machinery”.

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354 2. In the case of plats, short plats and binding site plans, notice shall also be included
355 in the plat or binding site plan dedication.

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358 D. Planning Commission recommendation on other Title 40 changes, with proposed
359 changes.

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361 **40.260.220 TEMPORARY USES AND STRUCTURES**

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363 C. Uses and Exceptions.

364 3. Exceptions. Certain structures and uses are exempt from the requirement to
365 obtain a temporary use permit. However, building and fire code requirements still
366 apply. The following are exempt from the requirement for a temporary use permit:

367 b. For nonresidential districts:

368 (1) Temporary construction trailers, construction materials, and equipment
369 storage areas, and construction offices accessory to a construction or
370 mining site.