

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

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MARY SUE PENHOLLOW
COUNTY CLERK

An Ordinance Amending Section 18.04.1240 and *
adding Section 18.116.260 of Title 18 of the *
Deschutes County Code and Declaring an Emergency. *

ORDINANCE NO. 97-006

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON,
ORDAINS as follows:

Section 1. Amendment. Section 18.04.1240, Definitions, is amended as set forth in Exhibit A attached hereto and incorporated herein, with new language set out in red-line and language to be deleted is in strike-out.

Section 2. Addition. Section 18.116.260, Rock crushing outside the SM zone, is added as set forth in Exhibit B attached hereto and incorporated herein, with new language set out in red-line and language to be deleted in strike-out.

Section 3. Severability. The provisions of this ordinance are severable. If any section, sentence, clause or phrase of this ordinance is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Codification. County Legal Counsel shall have the authority to format the provisions contained herein in a manner that will integrate them into the County Code consistent with the Deschutes County Form and Style Manual for Board Documents. Such codification shall include the authority to make such changes, to make changes in numbering systems and to make such numbering changes consistent with interrelated code sections. In addition, as part of codification of these ordinances, County Legal Counsel may insert appropriate legislative history reference. Any legislative history references included herein are not adopted as part of the substance of this ordinance, but are included for administrative convenience and as a reference. They may be changed to correct errors and to conform to proper style without action of the Board of County Commissioners.

Section 5. Repeal of Ordinances as Affecting Existing Liabilities. The repeal, express or implied, of any ordinance, ordinance provision, code section, or any map or any line on a map incorporated therein by reference, by this amending ordinance shall not release or extinguish any duty, condition, penalty, forfeiture, or liability previously incurred or that may hereafter be incurred under such ordinance, unless a provision of this amending ordinance shall so expressly provide, and such ordinance


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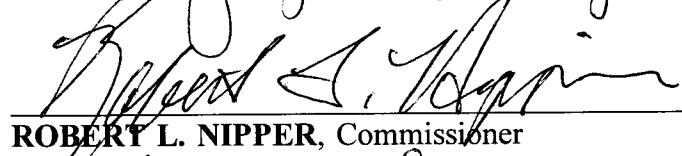
repealed shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such duty, condition, penalty, forfeiture, or liability, and for the purpose of authorizing the prosecution, conviction and punishment of the person or persons who previously violated the repealed ordinance.

Section 6. Emergency. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance takes effect on its passage.

DATED this 5 day of March 1997.

**BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON**


NANCY POPE SCHLANGEN, Chair


ROBERT L. NIPPER, Commissioner


LINDA L. SWEARINGEN, Commissioner

ATTEST:


Anita Mutsaers
Recording Secretary

EXHIBIT A
Ordinance No. 97-006

0156-1984

Deletions are in ~~strike-out~~, additions are redlined.

18.04.1240 Definition - Surface mining.

"Surface mining" means

A. Includes:

1. All or any part of the process of mining by removal of the overburden and extraction of natural mineral deposits thereby exposed by any method including, open pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits, except those constructed for access roads;

2. Mining which involves more than 1,000 cubic yards of material or excavation prior to mining of a surface area of more than one acre.

B. Does not include:

1. The construction of adjacent or off-site borrow pits which are used for access roads to the surface mine.

2. Excavations and crushing of sand, gravel, clay, rock or other similar materials conducted by a landowner, contractor or tenant on the landowner's property for the primary purpose of construction, reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction and other on-site construction, or non-surface impacts of underground mines.

3. Batching and blending of mineral and aggregate into asphaltic concrete or portland cement concrete.

EXHIBIT B
Ordinance No. 97-006

Deletions are in ~~strike-out~~, additions are redlined.

18.116.260 Rock crushing outside the SM zone.

A. The following standards apply to all on-site rock crushing activity outside the SM zone:

1. The subject property has received site plan, tentative plat or final plat approval for the construction or maintenance activity for which on-site rock crushing occurs;

2. Rock crushing equipment has a valid Oregon Department of Environmental Quality air contaminant discharge permit;

3. The volume of material excavated on-site does not exceed the amount necessary to complete on-site construction and maintenance;

4. Rock crushing equipment and all activity directly associated with crushing such as truck traffic is located at least 500 feet from the nearest noise-sensitive or dust-sensitive use or structure, unless an exception to this standard is allowed pursuant to subsection 18.116.260(F);

5. No off-site material is brought on-site for crushing;

6. Rock crushing equipment is removed from the site within 30 days of completing the crushing activity; and

7. Excavated and crushed material not used for on-site construction or landscaping is removed from the site prior to occupancy, where a site plan is approved, or within 60 days of completing all road, utility or other improvements where a tentative or final plat is approved.

B. On-site rock crushing for

on-site construction and maintenance is permitted outright in any zone, except Flood Plain (FP), or in any combining zone, except Wildlife Area (WA), Landscape Management (LM) or Sensitive Bird and Mammal Habitat (SBMH), if the requirements of subsection 18.116.260(A) and the following standards are met:

1. Rock crushing activity, including set-up and crushing, occurs for no more than 60 consecutive days on a site within any one-year period;

2. Rock crushing occurs Monday through Friday, between 7:00 a.m. and 5:00 p.m., and not on legal holidays; and

3. Water is available on-site to provide dust control.

C. Except for the activity allowed outright as set forth under subsection 18.116.260(B), a temporary use permit for rock crushing for on-site construction and maintenance may be permitted in any zone or combining zone subject to approval of the Planning Director or Hearings Body under the provisions of subsection 18.116.260(D).

D. Use Limitations. On-site rock crushing provided for under subsection 18.116.260(C) may be approved upon satisfaction of the requirements in subsection 18.116.260(A) and the following:

1. The site under consideration is suitable for rock crushing and rock crushing is compatible with the existing uses within 500 feet of the rock crushing equipment, based upon the proposed duration of use of the equipment and the natural and physical features of the site, including but not limited

to, general topography, natural hazards and natural resource values;

2. An engineer registered in Oregon verifies in writing that the operation of the rock crushing equipment will meet applicable DEQ noise standards; and

3. Sufficient water is available on-site to provide approved methods of dust control.

E. Application requirements. An application for a temporary use permit for on-site rock crushing shall contain the following:

1. A detailed explanation of the proposed construction and rock crushing activities, including the duration and operating characteristics of rock crushing;

2. A map drawn to scale showing the location of property boundaries, setbacks to the rock crushing activity and any topographic features in the immediate vicinity of the proposed rock crusher;

3. A written explanation describing how each of the requirements in subsection 18.116.260(D) will be met; and

4. Any additional information which will assist in the evaluation of the proposed rock crushing.

F. Setback exceptions. An exception to the setback requirement in subsection 18.116.260(A) shall be allowed pursuant to a notarized written agreement for a lesser setback made between the owner of the noise-sensitive or dust-sensitive use or structure located within 500 feet of the proposed rock crushing activity and the owner or operator of the rock crusher.