§ 23-2703. Declaration of policy.

1. The legislature hereby declares that it is the policy of this state to foster and encourage the development of an economically sound and stable mining industry, and the orderly development of domestic mineral resources and reserves necessary to assure satisfaction of economic needs compatible with sound environmental management practices. The legislature further declares it to be the policy of this state to provide for the management and planning for the use of these non-renewable natural resources and to provide, in conjunction with such mining operations, for reclamation of affected lands; to encourage productive use including but not restricted to the planting of forests, the planting of crops for harvest, the seeding of grass and legumes for grazing purposes, the protection and enhancement of wildlife and aquatic resources, the establishment of recreational, home, commercial, and industrial sites; to provide for the conservation, development, utilization, management and appropriate use of all the natural resources of such areas for compatible multiple purposes; to prevent pollution; to protect and perpetuate the taxable value of property; to protect the health, safety and general welfare of the people, as well as the natural beauty and aesthetic values in the affected areas of the state.

2. For the purposes stated herein, this title shall supersede all other state and local laws relating to the extractive mining industry; provided, however, that nothing in this title shall be construed to prevent any local government from:

a. enacting or enforcing local laws or ordinances of general applicability, except that such local laws or ordinances shall not regulate mining and/or reclamation activities regulated by state statute, regulation, or permit; or

b. enacting or enforcing local zoning ordinances or laws which determine permissible uses in zoning districts. Where mining is designated a permissible use in a zoning district and allowed by special use permit, conditions placed on such special use permits shall be limited to the following:

(i) ingress and egress to public thoroughfares controlled by the local government;

(ii) routing of mineral transport vehicles on roads controlled by the local government;

(iii) requirements and conditions as specified in the permit issued by the department under this title concerning setback from property boundaries and public thoroughfare rights-of-way natural or man-made barriers to restrict access, if required, dust control and hours of operation, when such requirements and conditions are established pursuant to subdivision three of section 23-2711 of this title;

(iv) enforcement of reclamation requirements contained in mined land reclamation permits issued by the state; or

c. enacting or enforcing local laws or ordinances regulating mining or the reclamation of mines not required to be permitted by the state; or

d. enacting or enforcing local laws or ordinances requiring the monitoring of groundwater impacts resulting from mining or the reclamation of mines within counties with a population of one million or more which draw their primary source of drinking water for a majority of county residents from a designated sole source aquifer.

3. No agency of this state shall consider an application for a permit to mine as complete or process such application for a permit to mine pursuant to this title, within counties with a population of one million or more which draw their primary source of drinking water for a majority of county residents from a designated sole source aquifer, if local zoning laws or ordinances prohibit mining uses within the area proposed to be mined.