

**Chapter 18.56. SURFACE MINING IMPACT AREA COMBINING ZONE - SMIA**

- 18.56.010. Purpose.**
- 18.56.020. Location.**
- 18.56.030. Application of Provisions.**
- 18.56.040. Uses Permitted Outright.**
- 18.56.050. Conditional Uses Permitted.**
- 18.56.060. Dimensional Standards.**
- 18.56.070. Setbacks.**
- 18.56.080. Use Limitations.**
- 18.56.090. Specific Use Standards.**
- 18.56.100. Site Plan Review and Approval Criteria.**
- 18.56.110. Abbreviated SMIA Site Plan Review.**
- 18.56.120. Waiver of Remonstrance.**
- 18.56.130. Development Agreement and Performance Bond.**
- 18.56.140. Exemptions.**

**18.56.010. Purpose.**

The purpose of the SMIA zone is to protect the surface mining resources of Deschutes County from new development which conflicts with the removal and processing of a mineral and aggregate resource while allowing owners of property near a surface mining site reasonable use of their property.

(Ord. 90-014 §5, 1990)

**18.56.020. Location.**

The SMIA zone shall apply to all property located within one-half mile of the boundary of a surface mining zone. However, the SMIA zone shall not apply to any property located within an urban growth boundary, city or other county. The extent and location of the SMIA Zone shall be designated at the time the adjacent surface mining zone is designated.

(Ord. 90-014 §5, 1990)

**18.56.030. Application of Provisions.**

The standards set forth in DCC 18.56 shall apply in addition to those specified in DCC Title 18 for the underlying zone. If a conflict in regulations or standards occurs, the provisions of DCC 18.56 shall govern.

(Ord. 90-014 §5, 1990)

**18.56.040. Uses Permitted Outright.**

Uses permitted outright shall be those identified in the underlying zone(s) with which the SMIA Zone is combined.

(Ord. 90-014 §5, 1990)

**18.56.050. Conditional Uses Permitted.**

Uses permitted conditionally shall be those identified as conditional uses in the underlying zone(s) with which the SMIA Zone is combined and shall be subject to all conditions of the underlying zone(s) as well as the conditions of the SMIA Zone.

(Ord. 90-014 §5, 1990)

**18.56.060. Dimensional Standards.**

In the SMIA Zone, the lot size shall be that prescribed in the underlying zone.  
(Ord. 90-014 §5, 1990)

**18.56.070. Setbacks.**

The setbacks shall be the same as those prescribed in the underlying zone, except as follows:

- A. No noise-sensitive or dust-sensitive use or structure established or constructed after the designation of the SMIA Zone shall be located within 250 feet of any surface mining zone, except as provided in DCC 18.56.140; and
- B. No noise-sensitive or dust-sensitive use or structure established or constructed after the designation of the SMIA Zone shall be located within one-quarter mile of any existing or proposed surface mining processing or storage site, unless the applicant demonstrates that the proposed use will not prevent the adjacent surface mining operation from meeting the setbacks, standards and conditions set forth in DCC 18.52.090, 18.52.110 and 18.52.140, respectively.
- C. Additional setbacks in the SMIA Zone may be required as part of the site plan review under DCC 18.56.100.
- D. An exception to the 250-foot setback in DCC 18.56.070(A), shall be allowed pursuant to a written agreement for a lesser setback made between the owner of the noise-sensitive or dust-sensitive use or structure located within 250 feet of the proposed surface mining activity and the owner or operator of the proposed surface mine. Such agreement shall be notarized and recorded in the Deschutes County Book of Records and shall run with the land. Such agreement shall be submitted and considered at the time of site plan review or site plan modification.

(Ord. 90-035 §§1 and 2, 1990; Ord. 90-014 §5, 1990)

**18.56.080. Use Limitations.**

No dwellings or additions to dwellings or other noise-sensitive or dust-sensitive uses or structures shall be erected in any SMIA Zone without first obtaining site plan approval under the standards and criteria set forth in DCC 18.56.090 through 18.56.120.

(Ord. 90-014 §5, 1990)

**18.56.090. Specific Use Standards.**

The following standards shall apply in the SMIA Zone:

New dwellings, new noise-sensitive and dust-sensitive uses or structures, and additions to dwellings or noise and dust-sensitive uses or structures in existence on the effective date of Ordinance No. 90-014 which exceed 10 percent of the size of the existing dwelling or use, shall be subject to the criteria established in DCC 18.56.100.

(Ord. 90-014 §5, 1990)

**18.56.100. Site Plan Review and Approval Criteria.**

- A. Elements of Site Plan. A site plan shall be submitted in a form prescribed by the Planning Director or Hearings Body detailing the location of the proposed noise-sensitive use, the location of the nearby surface mine zone and operation, if any, and other information necessary to evaluate the approval criteria contained in DCC 18.56.100.
- B. Site plan review and approval, pursuant to the County Uniform Land Use Action Procedures Ordinance, shall be required for all uses in the SMIA Zone prior to the commencement of any construction or use.

- C. The Planning Director or Hearings Body may grant or deny site plan approval and may require such modifications to the site plan as are determined to be necessary to meet the setbacks, standards and conditions described above.
  - D. The site plan shall be approved if the Planning Director or Hearings Body finds that the site plan is consistent with the site-specific ESEE analysis in the surface mining element of the Comprehensive Plan and that the proposed use will not prevent the adjacent surface mining operation from meeting the setbacks, standards and conditions set forth in DCC 18.52.090, 18.52.110 and 18.52.140, respectively.
  - E. Public notice shall be as set forth in DCC Title 22, the Uniform Development Procedures Ordinance, except that in all cases notice of the receipt of an SMIA application shall be sent to the mine owners and/or operators whose SM-Zoned site triggered the SMIA review.
- (Ord. 91-020 §1, 1991; Ord. 90-035 §3, 1990; Ord. 90-014 §5, 1990)

**18.56.110. Abbreviated SMIA Site Plan Review.**

- A. A new or enlarged noise- or dust-sensitive use to which DCC 18.56.110 applies that is at least one-quarter mile from an SM Zone and that has at least two dwellings or other noise- or dust-sensitive uses between it and the SM zone is presumed to meet the approval criteria set forth in DCC 18.56.100(D), and shall be processed under DCC 18.56.110.
  - B. Abbreviated SMIA site plan review shall require the submission of an application in a form prescribed by the Planning Director or Hearings Body and such documentation as is necessary to demonstrate conformance with DCC 18.56.110(A).
  - C. Unless the underlying zoning at the SMIA site would require additional review of the proposed use for some other land use permit, abbreviated site plan review shall be conducted (1) administratively without prior public notice; (2) with public notice of the Findings and Decision mailed consistent with DCC 18.56.100(E), to all persons entitled to receive notice; and (3) with an appeal period and procedures as set forth in DCC Title 22, the Uniform Development Procedures Ordinance. Appellants may submit evidence to overcome the presumption set forth in DCC 18.56.110(A).
- (Ord. 91-020 §1, 1991; Ord. 90-035 §4, 1990; Ord. 90-014 §5, 1990)

**18.56.120. Waiver of Remonstrance.**

The applicant for site plan approval in the SMIA Zone shall sign and record in the Deschutes County Book of Records a statement declaring that the applicant and his successors will not now or in the future complain about the allowed surface mining activities on the adjacent surface mining site.

(Ord. 90-014 §5, 1990)

**18.56.130. Development Agreement and Performance Bond.**

As a condition of site plan approval, the applicant may be required to execute a development agreement with the County and performance bond or other form of security approved by the County to ensure full and faithful performance of any improvements required to meet the setbacks, standards and conditions set forth above. Any bond shall be for 110 percent of the dollar amount of the improvement costs.

(Ord. 90-014 §5, 1990)

**18.56.140. Exemptions.**

The following shall be exempt from the provisions of DCC 18.56:

- A. Uses in the SMIA Zone which are not within one-half mile of any identified resource in the SM Zone after all reclamation has occurred.
- B. Continuation and maintenance of a conforming or nonconforming use established prior to the effective date of Ordinance No. 90-014.
- C. The employment of land for farm or forest use.

D. Additions to noise-sensitive or dust-sensitive uses or structures existing on the effective date of Ordinance No. 90-014 or established or constructed in accordance with DCC Chapter 18.56 which are completely screened from the surface mining site by the existing use or structure.  
(Ord. 2004-013 §5, 2004; Ord. 90-014 §5, 1990; Ord. 86-053 §12, 1986; Ord. 86-018 §12, 1986; Ord. 85-002 §8, 1985; Ord. 83-037 §15, 1983)