

Surface Mining Impact Area Combining Zone

What is a Surface Mining Impact Area (SMIA) Combining Zone?

The purpose of the SMIA zone is “to protect the surface mining resources . . . 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.”

Land use regulations for the SMIA zone are found in chapter 18.56 of the Deschutes County Code. The SMIA zone boundary extends one-half mile from the boundary of any site zoned Surface Mining (SM), excluding property within an urban growth boundary, city or another county.

What land uses are affected by the SMIA standards?

1. A new dwelling;
2. A “noise-sensitive” or “dust-sensitive” use or structure, such as a church, school or hospital; or
3. An addition to a dwelling or use which exceeds 10% of the size of the existing structure except when the addition is completely screened (see next section).

What uses are exempt from the SMIA provisions?

1. Continued use and maintenance of a structure or use established before July 16, 1990;
2. An addition to a dwelling constructed before July 16, 1990, if the addition will be completely screened from the surface mining site by the existing dwelling;
3. An addition to a dwelling or use constructed before July 16, 1990, which is 10 percent or less of the size of the existing structure; or
4. Employment of land for farm or forest use.

What is required when a property is in a SMIA zone?

Site plan review is required prior to issuance of any building permit for a noise or dust sensitive use or structure in the SMIA zone. An “abbreviated” review procedure is allowed for property located at least one-quarter mile (1,320 feet) from an SM zone when there are at least two dwellings or other noise or dust-sensitive uses located between the proposed building site and the nearby mining site. All other properties located in a SMIA zone require “regular” site plan review.

What standards must be met for site plan approval?

A 250- foot setback from any SM zone.

A one-quarter mile setback from an existing or proposed surface mining processing or storage site.

Conformity with the site-specific ESEE (Environmental, Social, Energy and Economic) analysis for the nearby surface mining site(s).

The proposed use must not prevent the nearby surface mining operation from meeting the setbacks, standards and conditions set forth in the zoning ordinance for surface mining activities.

A Waiver of Remonstrance must be completed, notarized and recorded with the County Clerk by the applicant.

What is a Waiver of Remonstrance?

A Waiver of Remonstrance is a statement that is signed and notarized by the property owner. The statement is recorded with the County Clerk and attached to the chain of title for the property. The Waiver states that the property owner and his or her successors will not now or in the future complain about the allowed surface mining activities on the nearby surface mining site. This waiver must be completed and recorded prior to issuance of any building permits.

Can the 250-foot setback ever be reduced?

If you and the owner of a surface mining site enter into a written agreement for a lesser setback the County may approve a reduction in the 250-foot setback requirement. The agreement must be reviewed by the County before being notarized and recorded with the County Clerk by the applicant.

How do I apply?

You need to submit the correct fee and application materials in order for your application to be complete. The Planning Division will not accept incomplete applications until the missing material is provided.

Application materials:

1. An application form, filled out and signed;
2. A map identifying:
 - a. property boundaries and the building site;
 - b. the location of the mining site; and
 - c. for “abbreviated” review, at least two properties with existing dwellings or other noise or dust-sensitive uses located closer to the mining site than the subject property;
3. The deed showing the current owners of the property;
4. The correct application fee