

CHAPTER 18.56 SURFACE MINING IMPACT AREA COMBINING ZONE; SMIA

18.56.070 Setbacks

A. General/Discretionary Standards:

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

1. No noise-sensitive or dust-sensitive use or ~~structure-building~~ 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~~
2. 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;
3. Additional setbacks in the SMIA Zone may be required by the Planning Director or Hearings Body as part of the site plan review under DCC 18.56.100; ~~and-~~
4. 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. The agreement shall be submitted at the time of site plan review or site plan modification. Such- Upon approval, the agreement shall be notarized and recorded in the Deschutes County Official 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.~~

B. Clear and Objective Standards pursuant to DCC 22.08.040:

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

1. No dwellings shall be approved after the designation of the SMIA Zone within 250 feet of any surface mining zone, except as provided in DCC 18.56.140; and
2. No dwellings shall be approved after the designation of the SMIA Zone within one-quarter mile of any existing or proposed surface mining processing or storage site unless the site is a preexisting or nonconforming site as defined in DCC 18.52.160.

HISTORY

Adopted by Ord. PL-15 on 11/1/1979

Amended by Ord. 90-014 §5 on 7/12/1990

Amended by Ord. 90-035 §§1 and 2 on 9/5/1990

Amended by Ord. 2025-002 §11 on 2/26/2025

Amended by Ord. 2025-009 §3 on 6/18/2025

18.56.080 Use Limitations

No dwelling units, additions to dwelling units ~~or, other~~ noise-sensitive ~~structures buildings, or~~ dust-sensitive ~~uses or structures buildings~~ 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.

HISTORY

Adopted by Ord. PL-15 on 11/1/1979

Amended by Ord. 91-014 §5 on 3/13/1991

Amended by Ord. 2025-002 §11 on 2/26/2025

Amended by Ord. 2025-009 §3 on 6/18/2025

18.56.090 Specific Use Standards

The following ~~shall be subject to the criteria established in DCC 18.56.100 or DCC 18.56.110 standards~~ shall apply in the SMIA Zone:

- A. New dwelling units;
- B. ~~Other new noise-sensitive and dust-sensitive uses or structures buildings; and~~
- C. ~~Additions to dwelling units, in existence on the effective date of Ordinance No. 90-014, which increase the floor area of the structure by 10 percent or more; or~~
- D. ~~Addition to other noise and dust sensitive uses or structures buildings, in existence on the effective date of Ordinance No. 90-014, which increase the lot area associated with use or floor area of the structure by 10 percent or more. exceed 10 percent of the size of the existing dwelling or use, shall be subject to the criteria established in DCC 18.56.100.~~

HISTORY

Adopted by Ord. PL-15 on 11/1/1979

Amended by Ord. 90-014 §5 on 7/12/1990

Amended by Ord. 2025-002 §11 on 2/26/2025

Amended by Ord. 2025-009 §3 on 6/18/2025

18.56.100 Site Plan Review And Approval Criteria

- A. Elements of Site Plan Application. ~~An site plan application~~ 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 ~~DCC Title 22–County Uniform Land Use Action Procedures Ordinance~~, shall be required for all development types uses listed under DCC 18.56.090 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 shall~~ require ~~such~~ modifications to the site plan ~~as are determined to be if~~ 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 ~~development~~use will not prevent the ~~adjacent abutting~~ 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~~and in all cases notice ~~of the receipt~~ of an SMIA site plan review~~application~~ shall be sent to the mine owners and/or operators whose SM-~~Zoned~~zoned site ~~necessitated~~triggered the SMIA review.

HISTORY

Adopted by Ord. PL-15 on 11/1/1979

Amended by Ord. 90-014 §5 on 7/12/1990

Amended by Ord. 90-035 §3 on 9/5/1990

Amended by Ord. 91-020 §1 on 5/29/1991

Amended by Ord. 2025-002 §11 on 2/26/2025

Amended by Ord. 2025-009 §3 on 6/18/2025

18.56.110 Abbreviated SMIA Site Plan Review

- A. An abbreviated site plan review under DCC 18.56.110 shall be required for uses or structures, as specified in DCC 18.56.090, if all of the following are met:
1. The lot or parcel is at least one-quarter mile from an SM Zone; and
 - 1-2. There are at least two dwellings or other noise-sensitive or dust-sensitive uses between the lot or parcel and the SM-zoned site necessitating the review. new or enlarged noise- or dust-sensitive use, as specified in DCC 18.56.090, 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 in~~ 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. (1) aAdministratively without prior public notice;
 2. (2) with public nNotice of the Findings and Decision shall be mailed consistent with DCC 18.56.100(E), to all persons entitled to receive notice; and

~~1.3.(3) with a~~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).

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [90-014](#) §5 on 7/12/1990

Amended by Ord. [90-035](#) §4 on 9/5/1990

Amended by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [2025-002](#) §11 on 2/26/2025

Amended by Ord. 2025-009 §3 on 6/18/2025

18.56.120 Waiver Of Remonstrance

~~As a condition of~~The applicant for site plan approval ~~under DCC 18.56.100 or DCC 18.56.110, in the SMIA Zone~~the property owner shall sign and record in the Deschutes County Official Records a ~~statement~~ Waiver of Remonstrance declaring that the ~~applicant-property owner~~ and ~~his~~their successors will not now or in the future complain about the allowed surface mining activities on the ~~adjacent~~ surface mining site(s) neecessitating the review.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [90-014](#) §5 on 7/12/1990

Amended by Ord. [2025-002](#) §11 on 2/26/2025

Amended by Ord. 2025-009 §3 on 6/18/2025

18.56.130 Development Agreement And Performance Bond

A. General/Discretionary Standard: As a condition of site plan approval under DCC 18.56.100 or DCC 18.56.110, the property owner 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.

B. Clear and Objective Standard pursuant to DCC 22.08.040: Execution of a development agreement and/or performance bond is not permitted. All improvements, required setbacks, standards, and conditions must be installed and approved prior to building permit approval.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [90-014](#) §5 on 7/12/1990

Amended by Ord. [2025-002](#) §11 on 2/26/2025

Amended by Ord. 2025-009 §3 on 6/18/2025

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; and
- D. Additions to noise-sensitive or dust-sensitive uses or structures-buildings, which are completely screened from the surface mining site by the existing use or structure, if the use or structure was: if DCC 18.56.140(D)(1) or DCC 18.56.140(2) is met and DCC 18.56.140(D)(3) is met:
 - 1. The use or structure existed eExisting on the effective date of Ordinance No. 90-014; or
 - 2. The existing use was established or constructed in accordance with DCC Chapter 18.56; and
 - 1-3. which areThe addition is completely screened from the surface mining site by the existing use or structure.

HISTORY

Adopted by Ord. PL-15 on 11/1/1979

Amended by Ord. 83-037 §15 on 6/1/1983

Amended by Ord. 85-002 §8 on 2/13/1985

Amended by Ord. 86-018 §12 on 6/30/1986

Amended by Ord. 86-053 §12 on 6/30/1986

Amended by Ord. 90-014 §5 on 7/12/1990

Amended by Ord. 2004-013 §5 on 9/21/2004

Amended by Ord. 2025-002 §11 on 2/26/2025

Amended by Ord. 2025-009 §3 on 6/18/2025