

**ARTICLE 40.00
SURFACE MINING IMPACT AREA (SMIA)
OVERLAY ZONE**

SECTION 40.01 PURPOSE

The purpose of the SMIA Overlay Zone is to protect designated surface mining resources in Surface Mining Zones from new development which conflicts with the removal and/or processing of a mineral or aggregate resource while allowing property owners near surface mining sites reasonable use of their property.

SECTION 40.02 LOCATION

The SMIA Overlay Zone shall apply to all property located within one-quarter mile of the boundary of a Surface Mining Zone, except property located within an urban growth boundary, a city limits or another county.

SECTION 40.03 APPLICATION OF PROVISIONS

The SMIA Overlay Zone and its provisions shall be applied in combination with each Surface Mining Zone.

The SMIA Overlay Zone standards and provisions shall apply in addition to those specified in the underlying zone. If a conflict occurs between the provisions of the SMIA Overlay Zone and the provisions of the underlying zone, the provisions of the SMIA Overlay Zone shall govern.

SECTION 40.04 USES PERMITTED OUTRIGHT

Uses permitted outright shall be those identified in the underlying zone(s), except noise or dust sensitive uses or structures as defined in Section 1.08 shall be identified as conditional uses subject to Section 40.05 provisions.

SECTION 40.05 CONDITIONAL USES

The following uses may be established as conditional uses subject to Planning Commission review and approval:

1. Conditional uses in the underlying zone(s) that are not noise or dust sensitive uses or structures shall be reviewed as conditional uses subject to the standards and provisions of the underlying zone.
2. Noise or dust sensitive uses or structures shall be reviewed as conditional uses subject to standards and provisions in Section 40.06 and site plan review and approval requirements in Section 40.07.

SECTION 40.06 DEVELOPMENT STANDARDS

The following standards shall apply to all dwellings in a SMIA Overlay Zone:

1. **Setbacks**

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

 - A. No noise or dust-sensitive use or structure established or constructed after the designation of the SMIA Overlay Zone shall be located within 250 feet of any Surface Mining Zone, except as provided in Section 15.05 A. 4.
 - B. No noise or dust-sensitive use or structures established or constructed after the designation of the SMIA Overlay 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 Section 15.05.
2. **Minimum Lot Size**

The lot size in a SMIA Overlay Zone shall be that prescribed in the underlying zone.

SECTION 40.07 SITE PLAN REQUIREMENTS

1. **Applicability**
 - A. New dwellings, new noise and dust sensitive uses or structures, or additions exceeding 10% of the size of the existing dwellings or noise and dust-sensitive uses or structures shall be subject to site plan review and approval.
 - B. **Waiver of Remonstrance.** The applicant for site plan approval in the SMIA Overlay Zone shall sign and record with the Union County Clerk 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.

SECTION 40.08 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 with 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% of the dollar amount of the improvement costs.

SECTION 40.09 EXEMPTIONS

The following shall be exempt from this section:

- A. Uses in the SMIA Overlay Zone which are not within one-quarter mile of any identified resource in the Surface Mining Zone after all reclamation has occurred.
- B. Continuation and maintenance of a conforming or nonconforming use established prior to the effective date of this Ordinance.
- C. The employment of land for farm and forest use.
- D. Additions to a dwelling existing on the effective date of this Ordinance which are completely screened from the surface mining site by the existing dwelling.