

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
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HEARING IMPAIRED: (415) 904-5200

TH 4B



July 29, 1996

TO: Commissioners and Interested Parties

FROM: Tami Grove, District Director
Rick Hyman, Coastal Program Analyst

SUBJECT: SANTA CRUZ COUNTY: LOCAL COASTAL PROGRAM MINOR AMENDMENT
NO. 2-96

JJA 7/29/96

Santa Cruz County is requesting that its certified Local Coastal Program be amended to add and revise mining review procedures and to add and revise mining approval standards, consistent with State Mining Law. For example, some definitions are added or revised, application requirements are clarified, minor changes in standards are made, references to other Code and state law provisions are updated, State Law reclamation standards are incorporated, and financial assurance provisions, inspection requirements, and idled and abandoned mine standards (all pursuant to State law) are expanded; all in Chapter 16.54 of the County Code. The full text is available upon request. This amendment request was filed on July 24, 1996, pursuant to Section 30510(b) of the Coastal Act and Section 13553 of the California Code of Regulations.

The purpose of this notice is to advise interested parties of the determination by the Executive Director pursuant to Section 13555 of California Code of Regulations that the filed amendment is "minor" as defined in Section 13554. The proposed revisions fall under two categories allowed by Section 13554:

- changes in wording which make the use as designated in the zoning ordinances...more specific and which do not change the kind, location, or density of use and which are found...to be consistent with the land use plan...;
- change in the notification and hearing procedures that is consistent with the requirements of the Coastal Act.

Pursuant to Section 13555, the Executive Director will report in writing this determination to the Coastal Commission at its meeting of August 15, 1996, to be held at the Crowne Plaza--Holiday Inn, 5985 West Century Blvd., Los Angeles. He will also report any objections to the determination received within 10 days of posting of this notice. This proposed minor amendment will be deemed approved, unless one-third of the appointed members of the Commission request that it be processed as a major amendment (pursuant to Section 13555(b)). It will take effect immediately.

If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Rick Hyman or Diane Landry at the Central Coast District Office in Santa Cruz. If you wish to register an objection to the proposed "minor" amendment determination, please contact either of the above staff by August 13, 1996.

**SANTA CRUZ COUNTY: LOCAL COASTAL PROGRAM MINOR
AMENDMENT NO. 2-96**

ATTACHMENT

FULL TEXT OF PROPOSED AMENDMENTS

*PORTIONS WHICH ARE STATE LAW (FROM THE SURFACE MINING AND RECLAMATION
ACT OR REGULATIONS IMPLEMENTING THE ACT) SHOWN IN ITALICS*

PORTIONS WHICH ARE NEW SHOWN IN BOLD

PORTIONS SIMILAR TO EXISTING CERTIFIED ORDINANCE SHOWN IN PLAIN TYPE

DELETIONS FROM PLANNING COMMISSION VERSION SHOWN BY STRIKE-OUTS

NOTE: THE PLANNING COMMISSION VERSION INCLUDED A MAJOR REFORMATTING OF
THE CURRENTLY CERTIFIED ORDINANCE. A STRIKE-OUT (SHOWING DELETIONS) AND
HIGHLIGHTED (SHOWING ADDITIONS) VERSION IS ON FILE AT THE COMMISSION
OFFICE

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 16.54
OF THE SANTA CRUZ COUNTY CODE
RELATING TO MINING REGULATIONS
AND
~~ADDING SECTION 18.10.490 TO THE SANTA CRUZ
COUNTY CODE RELATING TO VESTED RIGHT DETERMINATION~~**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Chapter 16.54 of the Santa Cruz County Code is hereby amended to read:

PART I - GENERAL PROVISIONS

- 16.54.010 PURPOSE AND INTENT
- 16.54.012 ORDINANCE AMENDMENT
- 16.54.013 SCOPE OF ORDINANCE
- 16.54.014 APPLICABILITY OF ORDINANCE
- 16.54.020 DEFINITIONS
- 16.54.022 VESTED RIGHT DETERMINATION
- 16.54.023 PROTECTION OF THE ENVIRONMENT
- 16.54.024 PUBLIC NOTIFICATION
- 16.54.025 NOTIFICATION AND REVIEW BY DIRECTOR, DEPARTMENT OF
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- 16.54.026 NON-MINING USE WITHIN DESIGNATED MINING AREAS
- 16.54.027 FEES
- 16.54.028 PROPRIETARY INFORMATION; GENERAL

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- 16.54.030 MINING APPROVAL REQUIREMENTS
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- 16.54.074 REVIEW OF MINING OPERATIONS

PART IV - SUSPENSION OR ABANDONMENT

- 16.54.080 IDLE MINING OPERATIONS
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PART V - NON-COMPLIANCE, ENFORCEMENT AND APPEAL

- 16.54.090 ENFORCEMENT
- 16.54.091 VIOLATIONS
- 16.54.092 "STOP WORK" NOTICES
- 16.54.093 PENALTIES
- 16.54.094 FINANCIAL ASSURANCES; FORFEITURE
- 16.54.095 FINANCIAL ASSURANCES; RESPONSIBILITY
- 16.54.096 APPEALS TO COUNTY APPELLATE BODY
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- 16.54.100 CERTIFICATE OF COMPLIANCE REQUIREMENTS
- 16.54.101 APPLICATION REQUIREMENTS FOR RECLAMATION PLAN APPROVAL ONLY
- 16.54.102 ABEYANCE OF ENFORCEMENT

PART I

GENERAL PROVISIONS

16.54.010 PURPOSE AND INTENT

The Board of Supervisors hereby finds that extraction of minerals is important to the continued economic well-being of the County and to the needs of society. The regulation and reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The purpose of this Chapter is to regulate mining operations pursuant to standards provided herein or in other applicable law so as to:

- (a) **Recognize the importance of the conservation of lands containing significant mineral resources for future mineral development. Any use of lands containing significant mineral resources shall reserve the future option of extraction of minerals in conformance with the policies established in the County's General Plan, Chapter 5.**

Ordinance Amending Chapter 16.54

- (ab) *Eliminate residual hazards so as to protect the public and adjacent properties from health and safety hazards and other adverse effects.*
 - (bc) Protect water resources from adverse effects which might result from unregulated mining operations.
 - (cd) *Prevent or minimize adverse environmental effects and require that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses and implement the policies of the State of California Public Resources Code Section 2710, et seq., commonly known as the Surface Mining and Reclamation Act of 1975, as required by Section 2774(a) thereof.*
 - (de) *Encourage the conservation and production of minerals while giving consideration to values relating to recreation, watersheds, wildlife, range and forage, and aesthetic enjoyment.*
 - (ef) Provide for the reclamation of the land concurrently with mining operations.
 - (fg) Provide consistent performance standards applicable to all mining operations.
 - (gh) Identify and give public notice of any public hearing on any application for an a Mining Approval, Certificate of Compliance, Reclamation Plan Approval or Mining Operation Review pursuant to Section 16.54.024.
 - (hi) Implement the policies of the General Plan and Local Coastal Program Land Use Plan.
 - (j) **Provide for compliance with regulations adopted by the State Board of Mining and Geology, including, but not limited to, Title 14, California Code of Regulations, Section 3500 and following.**
- (+)(—(Ord. 1749, 8/1/72; 3333, 11/23/82; 3448, 8/23/83)

16.54.012 ORDINANCE AMENDMENT

Any revision to this Chapter which applies to the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When a revision to this Chapter constitutes an amendment to the Local Coastal Program, such revision shall be processed pursuant to the hearing and notification provisions of Chapter 13.03 and Section 16.54.024 and shall be subject to approval by the California Coastal Commission. All amendments to this Chapter shall be subject to certification by the State Board in conformance with Sections 2774.3 and 2774.5 of the Surface Mining and Reclamation Act. All standards incorporated by reference to statute, code, or regulation with another entity shall be automatically amended by the revised or successor statute, code, or regulation referenced.

(Ord. 3333, 11/23/82; 3448, 3/23/83; 3637, 3/26/85)

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16.54.013 SCOPE OF ORDINANCE

The provisions of this Chapter govern existing and proposed mining operations and reclamation of mined lands located in the County, including (without limitation) the following aspects thereof:

- (a) A new mining operation shall not be commenced within the County except on lands zoned "M-3", Mineral Extraction (Section 13.10.340), or "TP", Timber Production (Section 13.10.370) and then not until a Mining Approval authorizing said new mining operation has been issued in accordance with the terms of this Chapter.
- (b) Each proposed mining operation shall comply with the reclamation standards, Section 16.54.055 of this Chapter.
- (c) The Operator(s) of each mining site operating prior to ~~January 1, 1976~~ September 1, 1972, shall obtain a Certificate of Compliance in accordance with Section 16.54.100 of this Chapter.

(Ord. 1749, 8/1/72; 2123, 5/6/75; 3333, 11/23/82; 3448, 8/23/83)

16.54.014 APPLICABILITY OF ORDINANCE

- (a) The provisions of this Chapter shall apply to the operation of mining sites in this County and each of the following approval and review processes:
 - (1) A new Mining Approval, pursuant to Sections 16.54.030 ~~021~~ and 16.54.040.
 - (2) A Certificate of Compliance, pursuant to Section 16.54.100.
 - (3) A Reclamation Plan Approval only, pursuant to Section 16.54.101.
 - (4) Mining Approval Amendment, pursuant to Sections 16.54.032 ~~021~~ and 16.54.040 or 16.54.045.
 - (5) A Mining Operation Review, pursuant to Section 16.54.074 ~~075~~.
 - ~~(6) A Vested Rights Determination pursuant to Section 18.10.490.~~
- (b) *The provisions of this Chapter shall not apply to the following activities:*
 - (1) *Excavation or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.*
 - (2) *Prospecting or exploring for, or the excavation of minerals for commercial purposes and the removal of overburden in total amount of less than 1,000 cubic yards in any one location of one acre or less.*
 - (3) *Such other surface mining operations which the ~~Planning Commission~~ State Board determines to be of infrequent nature and which involve only minor surface disturbances.*

- (4) *On-site excavation and on-site earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site subject to all of the following conditions:*
- (i) All required permits for the construction, landscaping, related land improvements have been approved by a public agency in accordance with applicable provisions of state law and local adopted plans and ordinances, including, but not limited to, CEQA, Division 13 of the Public Resources Code (commencing with Section 21000).*
 - (ii) The County's approval of the construction project included consideration of the on-site excavation and on-site earthmoving activities pursuant to CEQA, Division 13 of the Public Resources Code (commencing with Section 21000).*
 - (iii) The approved construction project is consistent with the General Plan or zoning of the site.*
 - (iv) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.*
- (45) **Grading or on site excavation incidental to the development of land in accordance with plans which have been approved by the County in accordance with the Development Permit Procedure and which include a post-use rehabilitation, including (without limitation) a Solid Waste Facility Permit.**
- (6) *Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose*
- (7) *Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:*
- (i) The plant site is located on lands designated for industrial or commercial uses in the County General Plan and Local Coastal Program Land Use Plan.*
 - (ii) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the County.*
 - (iii) None of the minerals being processed are being extracted onsite.*

- (iv) All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.
- (8) The solar evaporation of sea water or bay water for the production of salt and related minerals.
- (9) Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters or other emergencies.
- (10) (i) Surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Reclamation Board for the purpose of flood control, if the Department of Water Resources adopts, after submission to and consultation with, the Department of Conservation, a reclamation plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulations of the board adopted pursuant to this chapter. The Department of Water Resources shall provide an annual report to the Department of Conservation by the date specified by the Department of Conservation on these mining activities.
- (ii) Nothing in this chapter shall require the Department of Water Resources or the Reclamation Board to obtain a permit or secure approval of a reclamation plan from any city or county in order to conduct surface mining operations specified in paragraph (1). Nothing in this chapter shall preclude the bringing of an enforcement action pursuant to Section 2774.1 of the Public Resource Code, if it is determined that a surface mine operator, acting under contract with the Department of Water Resources or the Reclamation Board on lands other than those owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources or the Reclamation Board, is otherwise not in compliance with this chapter.
- (11) Excavations or grading for the exclusive purpose of obtaining materials for roadbed construction and maintenance conducted in connection with timber operations or forest management on land owned by the same person or entity. This exemption is limited to excavation and grading that is conducted adjacent to timber operation or forest management roads and shall not apply to onsite excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavation for materials that are, or have been, sold for commercial purposes. This exemption shall be available only if slope stability and erosion are controlled in accordance with subdivision (f) of Section 3704 and subdivision (d) of Section 3706 of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations and, upon closure of the site, the person closing the site implements, where

necessary revegetation measures and postclosure uses, in consultation with the Department of Forestry and Fire Protection.

16.54.020 DEFINITIONS

Abandoned Mining Operation: *A mining operation which remains idle for over one year without an approved interim management plan.*

~~**Approval:** Any land use authorization issued by the County the absence of which would preclude lawful mining operation. An Approval may include (without limitation) a Mining Approval, Use or Development Permit, Certificate of Compliance, Reclamation Plan Approval, and/or a major or minor amendment to any such Approval.~~

Aquifer: *A saturated permeable geologic unit that can transmit significant quantities of water under ordinary hydraulic gradients.*

Aquifer, Sole Source: *An aquifer which is the sole or principal source of drinking water for an area as determined by the United States Environmental Protection Agency.*

Blast: *One or multiple detonations of explosives for the purpose of the primary dislocation of mineral deposits.*

Botanist, Horticulturist, or Plant Ecologist: *An independent, qualified plant botanist, horticulturist or plant ecologist determined by the Planning Director to have demonstrated experience in native plant restoration and demonstrated knowledge of plant communities unique to Santa Cruz County.*

Certificate of Compliance: *A land use approval verifying compliance of an existing mining operation with the provisions of this Chapter, the County General Plan, Local Coastal Plan, Zoning Ordinance, the Surface Mining and Reclamation Act, and other State or Federal law, and authorizing the continuation of existing mining operations in accordance there with.*

Contamination: *An impairment of the quality of the surface water and groundwater to a degree which creates a hazard to the public health through poisoning or through the spread of disease.*

Facility: *A building, processing plant, or other mining-related permanent structure.*

Groundwater: *That part of the subsurface water which is in the saturated zone.*

Hard Rock Mining: *The removal of granite, limestone, or other dense rock formation by blasting, ripping or other similar methods.*

Highwall: *The unexcavated face of exposed overburden and ore in a surface mine.*

Idle Mining Operation: *A mining operation curtailed for a period of one year or more by more than 90 percent of the operation's previous maximum annual mineral production (during the five years immediately preceding the curtailment), with the intent to resume those surface mining operations at a future date.*

Indigenous Plants: *Plants occurring naturally in an area, not introduced.*

Interim Management Plan: A brief, written report prepared by the Operator which provides measures the operator will implement to maintain the mining site in conformance with this Chapter and the Surface Mining and Reclamation Act, including (without limitation), each Approval issued pursuant thereto.

Major Mining Approval Amendment: A change in a Mining Approval, Reclamation Plan Approval, or Certificate of Compliance having a significant impact on the public health or safety or the environment related to or resulting from mining, phasing, or reclamation in connection with a mining operation.

Mining Approval: A land use approval authorizing a mining operation and reclamation thereof.

Mining Operation: All, or any part, of the process involved in surface or subsurface extraction of minerals, including (without limitation), the removal of overburden and mining directly from the mineral deposits, open pit mining of minerals naturally exposed, mining by the auger method, hydraulic mining, quarrying and dredging, tunneling or surface work incident to an underground mine. Mining operations shall include (without limitation) in-place distillation, retorting, leaching, blasting, production, or disposal of mining waste products or by-products, mining products and overburden. Prospecting and/or exploring for one or more minerals, without other activities described above, does not constitute a mining operation.

Mining Operation Review: A review process for a mining operation to investigate compliance with Mining Approval, Certificate of Compliance, or Reclamation Plan Approval conditions.

Mining Site or Mined Lands: Surface and subsurface and groundwater of areas in which a mining operation will be, is being, or has been conducted, including (without limitation): active mining areas, reclamation areas, drainage facilities, transportation routes within the limits of approved mining areas, storage and stockpile areas, areas for placement of overburden or mining waste, and areas in which land excavations, structures, facilities, equipment, machines, tools or other materials or property which result from, or are used in the mining operation, are located.

Mining Waste Product or By-Product: Includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools or other materials or property directly resulting from, or displaced by mining operation, excluding overburden.

Minor Mining Approval Amendment: Minor change to a mining operation having no significant impact on the environment, which may include (without limitation), minor change in hours of operation, drainage pattern or operational equipment.

Native Species: Plant species indigenous to California, using Pre-European as the historic time reference.

Noxious Weeds: Any species of plant that is or is likely to become destructive or difficult to control or eradicate.

Operator: Any person who is engaged in a mining operation, or who contracts with another to conduct an operation, except a person who is engaged in a mining operation as an employee with wages as sole compensation.

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Overburden: Soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by a mining operation.

Owner: Any person who has an ownership or leasehold interest in a mining site or mined lands.

Planning Director: The Director of the Planning Department or his or her designee.

Reclamation: The combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from mining operations including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses, and which create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

Reclamation Plan: A plan meeting the specific requirements for reclamation pursuant to Sections 16.54.040, 16.54.055 and 16.54.101-102 providing for the reclamation of any lands affected by a mining operations, as approved by the County.

Reclamation Plan Approval: A land use approval authorizing and requiring the reclamation of mined lands including the removal of all mining related structures and equipment which are not the subject of any existing or proposed mining operation in accordance with this Chapter, the County General Plan, Local Coastal Plan, and Zoning Ordinance and the Surface Mining and Reclamation Act.

Residual Hazard: A condition at a ceased, idle, or abandoned mining operation which is a threat to public health or safety, or the environment, or which constitutes a nuisance.

Sand Mining: The removal of sand or other loose rock formation by scraping, bulldozing, dredging or other similar methods.

Sensitive Habitat: Has the same definition as that set forth in County Code Section 16.32.040.

Spring: A place where ground water flows naturally from a rock or soil onto the land surface or into a body of surface water.

State Board: The State Mining and Geology Board.

State Geologist: A registered geologist appointed by the Director of the Department of Conservation, Division of Mines and Geology.

State Policy: The regulations adopted by the State Board.

Surface Mining and Reclamation Act (SMARA): Public Resources Code Division 2, Chapter 9, Section 2710 and following.

Topsoil: The upper part of the soil profile that is relatively rich in humus.

Vegetative Cover: Ratio (o/o) of the crown or shoot area of a species to the ground surface.

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Vegetative Density: The number of individuals or stems of each species rooted within the given reference area.

Vegetative Species-richness: The number of different plant species within the given reference area.

Watertable: The surface defined by the water levels in wells, not operating when measurements are taken, which tops saturated material.

Wetlands: The same as defined in the California Fish and Game Code, section 2785, subsection (g), or its successor. Active settlement basins or storage ponds used during legal mining operations shall not be considered wetlands as defined above.

16.54.022 VESTED RIGHT DETERMINATION

No person who has obtained a vested right to conduct a mining operation prior to September 1, 1972, shall be required to secure a Mining Approval for such mining operation as long as the vested right continues and as long as no substantial changes are made.

A person shall be deemed to have vested rights if, prior to ~~January 1, 1976~~, September 1, 1972 he or she has, in good faith and in reliance upon a Mining Approval or other lawful authorization, if the ~~mining~~ Mining ~~Approval~~ or other authorization was required, diligently commenced mining operations and incurred substantial expenses and liabilities for work and material therefor.

~~The procedures and standards set forth in County Code Section 18.10.490 shall apply to determine whether a person has a vested right to conduct mining operations.~~

16.54.023 PROTECTION OF THE ENVIRONMENT

Each Mining Approval, Certificate of Compliance, Reclamation Plan Approval or any amendment thereof and Mining Operation Review shall be processed and executed in compliance with Chapters 16.30, Riparian Corridor Protection Ordinance; Chapter 16.32, Sensitive Habitat Protection Ordinance; Chapter 16.40, Native American Cultural Sites; Chapter 16.44, Paleontological Resource Protection Ordinance; Chapter 16.52, Timber Harvest Ordinance; Chapter 16.01, CEQA and County Environmental Review Guidelines; and Chapter 13.11 of the County Code, entitled the Site, Architectural and Landscape Design Review Ordinance.

16.54.024 PUBLIC NOTIFICATION

Public notification of any public hearing for each Mining Approval, Certificate of Compliance, Reclamation Plan Approval or any amendment thereof, or Mining Operations Review, shall be given in accordance with Section 18.10.223, except that the mailing notification limit from the boundary of the property shall be increased to 0.5 miles.

16.54.025 NOTIFICATION AND REVIEW BY DIRECTOR, DEPARTMENT OF CONSERVATION AND OTHER PUBLIC AGENCIES

- ~~(a) The Planning Director shall notify the State Geologist in writing of the filing of an application for an Approval within thirty (30) days from the date of filing the application.~~

~~Not later than July 1 of each year the County shall submit to the State Geologist for each active or idle mining operation a copy of any Approval or a written statement that there has been no change in the information submitted for the previous year.~~

- ~~(a) The Planning Director shall notify the Director, Department of Conservation, of an application for a Mining Approval, Certificate of Compliance, Reclamation Plan (and the Department of Transportation whenever surface mining operations are proposed within the 100-year flood plain for any stream as shown in Zone A of flood insurance maps issued by the Federal Emergency Management Maps, and within one mile, upstream or downstream, or any state highway budge) approval or amendment thereof to conduct mining operations within thirty (30) days of filing of an application.~~

- ~~(b) Prior to approval, the Planning Director shall submit to the Director, Department of Conservation, the following documents for review:~~

- ~~(1) A mining operation's Reclamation Plan or amendment thereof, for a 30 day review.~~
- ~~(2) A mining operation's new financial assurance, including existing financial assurance or amendment thereof, for a 45 day review.~~

~~The Planning Director shall respond in writing to the written comments, from the Director, Department of Conservation within a reasonable amount of time.~~

- ~~(c) By July 1 of each year, the Planning Director shall submit to the Director, Department of Conservation, for each mining operation, a copy of the Mining Approval, Certificate of Compliance, Reclamation Plan Approval or amendment thereof or a statement that there have been no changes made to any Mining Approval, Certificate of Compliance, or Reclamation Plan.~~

- ~~(d) Prior to the approval or amendment of a Reclamation Plan, the Planning Director shall submit to the Director, Department of Conservation, a written document certifying that the Reclamation Plan is in conformance with all applicable requirements of the Surface Mining and Reclamation Act.~~

- ~~(be) Each application for an Mining Approval, Certificate of Compliance, Reclamation Plan Approval or major amendment thereof shall be referred to the Regional Water Quality Control Board, the State Division of Mines and Geology, Department of Conservation, the Monterey Bay Unified Air Pollution Control Board, the State Department of Fish and Game and any other public agency having jurisdiction and requesting a copy thereof, for comment and recommendation prior to environmental review of the project in accordance with the County's Environmental Review Guidelines. The Planning Director shall have forty five (45) days to evaluate and respond in writing to any comments received from the State Geologist. Copies of any comments from any agency (to which the application was referred) to the Planning Director shall be forwarded to the operator.~~

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(e) ~~The Planning Director shall submit a written document to the State Geologist certifying that any Approval complies with the Surface Mining and Reclamation Act.~~

(f) ~~Copies of any comments received from the Director, Department of Conservation, or any other public agency shall be referred to the operator.~~

16.54.026 NON-MINING USE WITHIN DESIGNATED MINING AREAS

Application for any use other than mining operations in areas designated in the General Plan as having significant mineral deposits, shall comply with the Surface Mining and Reclamation Act (including but not limited to Sections 2762 and 2763) and shall be reviewed and approved by the Planning Commission. A statement specifying the reason(s) for approving any proposed non-mining use shall be submitted by the Planning Director to the State Geologist Director, Department of Conservation, and State Board for review and comment prior to any action on the application by the Planning Commission.

16.54.027 FEES

Fees necessary for the administration and implementation of this Chapter including (without limitation) each Mining Approval, Certificate of Compliance, Reclamation Plan Approval or any amendment thereof, Mining Operation Review time extension, and mining operation inspection shall be set by resolution of the Board of Supervisors and paid by the operator as a prerequisite to the service, process, determination, or other action for which it is imposed.

(Ord. 2821, 12/4/79; 3333, 11/23/82; 3448, 8/23/83)

16.54.028 PROPRIETARY INFORMATION; GENERAL

(a) *At the written request of the Operator or owner, proprietary information submitted to the County shall be recognized where appropriate by the County as confidential in accordance with the California Public Records Act. However, such confidentiality determination shall not preclude the County from considering and addressing trucking activity, noise, and operating hours, or other relevant issues during public hearings and in Approval conditions.*

(b) *Any information in an annual report pursuant to Section 16.54.072 and 16.54.073 which includes or otherwise indicates the total mineral production, reserves or rate of depletion of any mining operation, shall not be disclosed to any member of the public.*

PART II

APPROVAL AND STANDARDS

16.54.029 GENERAL APPROVAL REQUIREMENTS

(a) The Planning Commission is hereby designated as the administrative body empowered to approve, conditionally approve or deny a Mining Approval, Certificate of Compliance, Reclamation Plan Approval or any major amendment thereof, at Level VI. The Planning

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Director is hereby designated as the administrative agency empowered to approve, conditionally approve or deny a Minor Mining Approval Amendment at Level IV.

- (b) ~~Except as specifically provided in this Chapter, the regulations prescribed in this Chapter and Chapter 18.10, shall control the procedure governing any Mining Approval, Certificate of Compliance, Reclamation Plan Approval, or any amendment thereof, or Mining Operation Review.~~
- (c) Applications for a Mining Approval, ~~or Major Mining Approval Amendment or Reclamation Plan Approval~~ within the Coastal Zone, as defined by the Coastal Zone combining zone district, pursuant to Chapter 13.10, shall require concurrent application for a Coastal Approval pursuant to Chapter 13.20.
- (d) Findings: The Planning Commission may grant ~~an Mining Approval, Certificate of Compliance, Reclamation Plan Approval, or major amendment thereof~~, as it was applied for, or in modified or conditioned form, or for a specific time limit, if, on the basis of the application and evidence submitted, it makes each the following findings:
 - (1) That the proposed location of the mining site and access thereto and the conditions under which it would be operated are not detrimental to the public health, safety, or welfare, or significantly injurious to the environment.
 - (2) That the proposed mining operation complies with each of the applicable provisions of this Chapter and all applicable State and/or Federal law.
 - (3) That the proposed mining operation complies with any applicable specific plan, the County's General Plan and the Local Coastal Plan Land Use Element (if applicable).
 - (4) That the proposed mining operation is consistent with all applicable County Ordinances, including without limitations Chapter 16.44, the Paleontological Resource Protection Ordinance.
 - (5) That significant surface and groundwater resources including springs and aquifers shall not be adversely affected as a result of the proposed mining operation.
 - (6) ~~That the proposed Reclamation Plan effectively mitigates all significant environmental impacts of the proposed Reclamation Plan have been effectively mitigated. That the Reclamation Plan has been reviewed pursuant to CEQA and the County's environmental review guidelines, and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible.~~
 - (7) The project is compatible with available service infrastructure and surrounding uses.
- (e) Following the granting of ~~an Mining Approval, Certificate of Compliance, or Reclamation Plan Approval~~, the Planning Director shall record the granting of the approval on the appropriate official Electronic Mapping Information System and sectional district zoning maps together with the following information:

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- (1) Permit number of the Mining Approval, ~~or Certificate of Compliance, or Reclamation Plan Approval. number.~~
 - (2) Owner's and Operator's name.
 - (3) Type of minerals to be extracted.
- (f) ~~Applicability of Chapter 18.10: Except as expressly modified by this Chapter, the permit and approval procedures set forth in Chapter 18.10 of the County Code shall apply to any application for an Mining Approval, Certificate of Compliance, Reclamation Plan Approval or amendment thereof.~~

16.54.030 MINING APPROVAL REQUIREMENTS

- (a) *No person shall do, cause, permit, aid, abet, or furnish equipment or labor for any new or expanded mining operation until an Mining Approval or Certificate of Compliance, or Reclamation Plan Approval, has been obtained for the mining site, except to the extent that such person has a vested right in accordance with Public Resources Code Section 2776, and County Code Section, 16.54.022.*
- (b) *Change of Operator: If a change of Operator should occur, the provisions of each and every applicable Mining Approval, Certificate of Compliance, Reclamation Plan Approval or amendment thereof shall remain in effect.*

16.54.031 RECLAMATION PLAN APPROVAL REQUIREMENT

No person shall conduct a mining operation unless a Reclamation Plan Approval including financial assurances required by Section 16.54.060 has been approved by the County for such operation, in compliance with this Chapter and the California Surface Mining and Reclamation Act.

Prior to County approval of a reclamation plan for any surface mining operation, the Planning Director shall submit such reclamation plan to the Director, Department of Conservation for a 30-day review and preparation of written comments if the Director so chooses, when submittal shall be made and processed in a manner consistent with Public Resources Code Section 2774(c) (d).

If a reclamation plan is determined not to substantially meet the requirements of this Chapter or the California Surface Mining and Reclamation Act, it shall be returned to the operator within 60 days. The operator shall have 60 days to revise the reclamation plan to address identified deficiencies and return it to the County for further review by the County. Unless the operator has duly and properly filed an appeal to the State Board with regard to non-approval of a reclamation plan and that appeal is pending before the State Board, the continuation of the surface mining operation is prohibited until the required reclamation plan is approved by the County.

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16.54.032 ~~APPROVAL AMENDMENT AMENDMENT APPROVAL REQUIREMENTS~~

- (a) *No person shall change any mining operation in a manner not expressly permitted under an existing Mining Approval, Certificate of Compliance, or Reclamation Plan Approval until a Minor or Major Mining Approval Amendment has been obtained for the mining site. Amendment of an Mining Approval or Certificate of Compliance, or Reclamation Plan Approval shall be governed by the provisions of Section 18.10.134 except as clarified and modified below.*
- (b) *Land uses, facilities and appurtenances not specifically applied for and approved by the Mining Approval or Certificate of Compliance, or Reclamation Plan Approval are prohibited until an application for a Mining Approval Amendment is filed by the Operator and approved by the Planning Director and/or Planning Commission in conformance with this Section.*
- (c) *Expansion of an existing mining operation beyond limits established in an Mining Approval or Certificate of Compliance, or Reclamation Plan Approval, or changes in resources to be mined beyond those authorized in an Mining Approval or Certificate of Compliance, or Reclamation Plan Approval, shall be processed as a new Approval in accordance with the requirements of this Chapter.*
- (d) *During the time that a County declared state of emergency exists, conditions of an Mining Approval or Certificate of Compliance, or Reclamation Plan Approval, may be temporarily changed by the Planning Director, in order to respond to circumstances resulting from the emergency.*
- (e) *A Minor variation to any condition required by this Chapter may be made by the Planning Director, pursuant to the authority contained in Section 18.10.134, and shall be forwarded as a written correspondence item on the next Planning Commission Agenda. ~~In reviewing the minor variation the Planning Commission may take any action authorized by this Chapter or County Code Section 18.10.134 to review any minor variation.~~ require the minor variation to be processed as a Minor or Major amendment or may add, delete, or revise any condition of the minor variation.*

16.54.040 ~~APPLICATION FOR MINING APPROVAL INCLUDING MAJOR MINING APPROVAL AMENDMENT~~

Except as otherwise provided in this Chapter, any application for an Mining Approval, Certificate of Compliance Approval, Reclamation Plan Approval, or Major Mining Approval Amendment shall contain the following information and documentation regarding the proposed and/or existing mining operation and the proposed reclamation of the mining site, and shall be prepared and completed in compliance with a form supplied by the Planning Director.

- (a) General Information.
 - (1) *A completed application on a form supplied by the Planning Director;*
 - (2) *Information containing name, address and telephone number of the applicant, the property owner(s), the owner(s) of each mineral right, any lessee, the Operator,*

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and any person designated by the owner or operator as an agent for the service of process;

- (3) A location and vicinity map;
- (4) A description of the *quantity and type of mineral commodities currently being mined or proposed to be mined*.
- (5) A statement describing each portion of the existing and/or proposed mining operation which has been continuously mined and the date on which mining operation commenced on each portion;
- (6) A description of each external and internal access route from and within the existing and/or proposed mining site.
- (7) A legal description together with a record of survey or licensed surveyor map showing the size and the boundaries of the entire parcel(s) or that portion of the parcel for which the Approval is sought. Those boundaries shall also be shown on all other maps submitted with the application;
- (8) An estimate of the maximum annual production of:
 - (i) Mineral commodity to be mined;
 - (ii) Overburden to be removed; and
 - (iii) Mining waste products or by-products to be produced.
- (9) An estimate of the total maximum anticipated production of:
 - (i) Each mineral commodity to be mined;
 - (ii) Overburden to be removed; and
 - (iii) Mining waste products or by-product(s) to be produced;
- (10) An estimate of annual and total anticipated quantity of overburden, mining waste products and by-product(s) to be shipped and/or retained on the mining site; and
- (11) Plans, and/or photographs of all proposed or existing buildings, structures and facilities for transportation, storage and processing of materials.

(b) Mining Plan

- (1) An estimated five-year interval mining plan including cross-sections clearly showing each of the following:
 - (i) *Depth and configuration of existing and/or proposed mining;*
 - (ii) **Phasing of mining on a five year interval basis;**
 - (iii) *Quantity and location of topsoil removed and proposed location of any topsoil stockpile;*
 - (iv) Quantity and location of overburden removed and location of any overburden stockpile; and
 - (v) **Existing contours and proposed five-year interval contours.**
- (2) A final mining plan including cross-sections clearly showing the following:

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- (i) *Final depth and configuration of mining site;*
- (ii) Quantity and location of overburden, mining waste products and any by-products;
- (iii) Final contours and cross-sections of mining site;
- (iv) **Plan and cross-sections for the final placement of overburden;**

(c) Technical Reports and Maps:

- (1) A map (1"=200' minimum scale, 10' contour interval) of the entire mining site prepared by a state licensed professional qualified to prepare such map clearly showing all existing physical features on the site including (without limitation): contours, watercourses, springs, ponds, lakes, levees, roads, railroads, conveyors, wells, utilities and structures.

The map shall show the property boundaries as shown on the record of survey or licensed surveyor map required by Section 16.54.040(a)7. and existing contours and structures on neighboring parcels within 200 feet of each property line.

- (2) A map (1"=200' minimum scale, 10' contour interval) of the entire property prepared by a state licensed professional qualified to prepare such map and prepared in consultation with a qualified botanist, horticulturist or plant ecologist clearly showing types of vegetative cover, exposed areas, and contours.
- (3) A map (1"=200' minimum scale, 10' contour interval) prepared by a professional determined by the Planning Director to be qualified to prepare such map of all appropriate hydrologic information and static groundwater elevations shown in relation to existing surface contours.
- (4) A report prepared by a registered geologist describing the general geology of the area, together with a detailed description of the geology and other pertinent geologic and geomorphic features of the mining site.
- (5) **A report prepared by the Operator describing present and proposed mining procedures, equipment and facilities, appurtenances, and maintenance procedures.**
- (6) A report prepared by the Operator describing the estimated daily quantity of water required for each mining operation, its course after use and a plan for a recycling process.
- (7) A report prepared by the Operator describing the maintenance plan for all present and proposed settling ponds and drainage structures.
- (8) **A report prepared by the Operator describing the nature of the processing of mineral products and disposal methods of the mining waste products or by-products.**
- (9) An engineered drainage plan addressing existing site drainage and all phases of the mining operation including stockpile sites for mined materials, overburden and mining waste products and by-products. **All drainage structures, including**

settlement basins, culverts, and drainage channels, shall be designed for a ten (10) year, six (6) hour duration, storm event.

- (10) An erosion control plan for all phases of the mining operation.
- (11) A hydrogeological report shall be required addressing protection of each groundwater aquifer and groundwater recharge area when a new mining site is proposed or as required by the Planning Director where and when there is reasonable cause to suspect adverse impact to groundwater supply or an aquifer. The report shall be prepared by an independent professional hydrologist approved by the Planning Director and shall address the following at minimum:
 - (i) Static and peak groundwater elevations throughout the proposed mining site; and
 - (ii) Potential impacts on each affected groundwater aquifer or spring including impact of wells associated with the mining operation;
 - (iii) Impact on adjacent wells; and
 - (iv) Impact of the removal of spring or groundwater recharge area on the underlying aquifer.
- (d) *Reclamation Plan: The reclamation plan shall be filed with the County by any person who owns, leases, or otherwise controls or operates on all, or any portion of any mining site or mined lands, and who plans to conduct surface mining operations on the lands. The reclamation plan shall contain all of the following information and documents, and all documentation for the reclamation plan shall be submitted to the County at one time.*
 - (1) *The name and address of the surface mining operator and the names and addresses of any persons designated by the operator as an agent for the service of process.*
 - (2) *The anticipated quantity and type of minerals for which the surface mining operation is to be conducted.*
 - (3) *The proposed dates for the initiation and termination of surface mining operation.*
 - (4) *The maximum anticipated depth of the surface mining operation.*
 - (5) *The size and legal description of the lands that will be affected by the surface mining operation, a map that includes the boundaries and topographic details of the lands, a description of the general geology of the area, a detailed description of the geology of the area in which surface mining is to be conducted, the location of all streams, roads, railroads, and utility facilities within, or adjacent to, the lands, the location of all proposed access roads to be constructed in conducting the surface mining operation, and the names and addresses of the owners of all surface interests and mineral interests in the lands.*
 - (56) *A description of, and a plan for, the type of surface mining to be employed, and a time schedule that will provide for the completion of surface mining on each segment of the mined lands so that reclamation can be initiated at the earliest*

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~~possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation, including a report prepared by the operator describing the steps or phases of the mining operation for which concurrent reclamation is feasible, including a proposed time schedule for such concurrent reclamation.~~

- (67) A description of the proposed use or potential uses of the mined lands after reclamation and evidence satisfactory to the Planning Director that all owners of a possessory interest in the land have been notified of the proposed use or potential uses of the reclaimed or mined lands.

~~(8) A description of the manner in which reclamation adequate for the proposed use or potential uses will be accomplished, including all of the following:~~

- (1) (i) A map of the final mining site showing the extent of the proposed reclamation.
- (2) (ii) One or more maps showing the phasing of the mining operation site and proposed corresponding reclamation.
- (3) (iii) A revegetation plan prepared pursuant to the standards of Section 16.54.055(e).
- (4) (iv) An engineered final drainage and erosion control plan for the reclaimed mining site including roads, overburden, mining waste product(s) and by-product(s) stockpile sites, and the mining floor. All drainage structures, including settlement basins, culverts and drainage channels shall be designed for a ten (10) year, six (6) hour, storm event.

- (7) (4) (v) ~~A description of the manner in which contaminants and mining by products, A description on how contaminants, including, but not limited to, asphalt, petroleum, and blasting by-products, will be mitigated, controlled, eliminated, or disposed.~~

(ii) ~~A description of the rehabilitation of streambeds and drainage channels significantly affected by the mining operation.~~

- (vi) A description of the manner in which affected streambed channels and streambanks will be rehabilitated to a condition minimizing erosion and sedimentation will occur.

~~(9) An assessment of the effect of implementation of the reclamation plan on future mining in the area.~~

- (10) A statement that each holder of possessory or ownership interest in the land which is the subject of the reclamation plan accepts responsibility reclaiming the mined lands in accordance with the reclamation plan.

~~(11) Any other information reasonably related information which the County Planning Director require by ordinance, requests in writing, including a report prepared by the operator describing the manner and time limits in which~~

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reclamation of the mining site or mined land, adequate for the proposed use or potential uses, will be accomplished, including:

- (7) (iii) (i) ~~A description of the effect of the implementation of the Reclamation Plan on any future mining within the property.~~
 - (v) (i) A description of the plan for maintenance of settling ponds and drainage systems after cessation of mining operations..
 - (vi) (ii) A description of the Plan for removal of residual hazards.
 - (vii) (iii) Any and all information reasonably determined necessary by the Planning Director to demonstrate compliance with the Reclamation Standards established pursuant to Section 16.54.055 this Chapter or the California Surface Mining and Reclamation Act.
- (12) *An item of information or a document required pursuant to this Section that has already been prepared as part of a permit application for the surface mining operation, or as part of an environmental document prepared for the project pursuant to Division 13 (commencing with Section 21000), may be included in the reclamation plan by reference, if that item of information or that document is attached to the reclamation plan when the County submits the reclamation plan to the Director, Department of Conservation, for review. To the extent that the information or document referenced in the reclamation plan is used to meet the requirements of subsection (a), the information or document shall become part of the reclamation plan and shall be subject to all other requirements of this chapter.*

16.54.045 APPLICATION REQUIREMENTS FOR A MINOR MINING APPROVAL AMENDMENT

Any application for a Minor Mining Approval Amendment shall contain the following information and documentation:

- (a) A complete application on a form supplied by the Planning Department.
- (b) A brief report by the Operator describing the requested amendment and including new or changed information required by Section 16.54.040 which is necessary to adequately consider said minor amendment.

The application shall be processed at Level IV and requires public notification in accordance with Section 16.54.024.

16.54.050 REQUIRED CONDITIONS AND STANDARDS FOR MINING APPROVAL CERTIFICATE OF COMPLIANCE RECLAMATION PLAN APPROVAL ONLY OR AMENDMENT THEREOF

- (a) Each recommended condition set forth in any statement, report, plan or other informational document submitted by the applicant pursuant to the application

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requirements of Section 16.54.040, as modified and/or approved by the Planning Commission, shall be incorporated as a condition of the related Approval.

- (b) Each property owner of a mining site, the applicant and the operator shall execute, date and return to the Planning Director two copies of a Declaration of Restrictions binding each to comply with each and every term and condition of the Mining Approval, ~~Certificate of Compliance, or Reclamation Plan Approval only.~~ Each such Declaration of Restrictions regarding an Approval, shall be executed by each signatory in such manner and formality as shall enable its recordation with the County Recorder, binding each and any successor(s) to comply with each such Approval, and every term and condition thereof. Said Declaration of Restrictions shall be in the form prepared by the Planning Director and shall be filed for recordation within 90 days of the effective date of said Approval. No map larger than 8-1/2 inches by 11 inches shall be recorded as part of said Declaration of Restrictions; rather, any such map may be referred to in the Declaration of Restrictions as being on file in the County Planning Department.
- (c) ~~The standards and/or conditions set forth in this subsection shall be imposed on Each Mining Approval, Certificate of Compliance, (to the extent lawfully required pursuant to Section 16.54.100), or Reclamation Plan Approval only, or any amendment of such Approval or Certificate and to the establishment, operation and maintenance of the uses approved or certified thereby. shall comply with each of the following standards and/or conditions:~~
- (1) Noise and Vibration. All facilities and equipment shall be constructed, maintained and operated in compliance with the Industrial Performance Standards of Section 13.10.445 and County General Plan Section 3.6.1. Maximum noise level measured at property boundaries shall be no greater than 60 dBa for a cumulative period of 15 minutes during any hour of operation. A lower noise level may be required by the Planning Commission if a health or safety effect or nuisance related to noise level is demonstrated. A higher noise level may be authorized by the Planning Commission if the increase in noise level is from construction related activity, the noise is generated only on a specified temporary basis and all neighbors, within 1,000 feet of the property, have been notified in writing of the increase in noise level by the operator.
 - (2) Air Pollution
 - (i) ~~Each application for Mining Approval, Certificate of Compliance or Reclamation Plan Approval only or amendment thereof, shall be referred to the Monterey Bay Unified Air Pollution Control District for comment(s) and recommendation(s) prior to the issuance of any Approval.~~
 - (ii) Each mining operation and reclamation activity shall be conducted in compliance with the requirements of the Monterey Bay Unified Air Pollution Control District.
 - (iii) Removal of vegetation shall only be permitted in accordance with the approved phasing plan.

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- (iv) **(ii)** Each mining operation shall be conducted so as to minimize dust, ~~particle~~ **particulate matter (PM₁₀)**, crystalline silica, and any other potentially significant effect of wind erosion.
- (v) **(iv)** Each interior road within the mining site shall be surfaced, treated or watered frequently enough to preclude wind and traffic generated dust from creating a nuisance affecting any nearby property or public road.
- (vi) **(v)** Each exterior entrance road shall be maintained reasonably free of dust and debris resulting from any mining operation. Each truck departing the mining site shall be loaded, wetted down or tarped in such a manner so as to comply with all state or federal laws and minimize spillage on any haul route.
- (vii) **(vi)** In a dry weather period during high wind conditions, each mining operation on an exposed slope shall be curtailed. Stockpiled sand products shall be watered or treated in a manner approved by the Planning Director during periods of high wind conditions so as to minimize off-site dust nuisance to nearby property.
- (viii) **(vii)** Each area vegetated with native species or communities, in either existing or reclaimed portions of any mining site shall be protected from dust nuisance by a method approved by the Planning Director.
- (ix) **(viii)** Each unvegetated disturbed area not actively involved in a mining operation, including any interim slope which does not meet final contours, shall be hydromulched, hydroseeded or otherwise treated by the start of the rainy season each year by a method and in a manner approved by the Planning Director so as to minimize off-site dust nuisance.

(3) Water

- (i) The use and discharge of water shall be conducted in compliance with all applicable Water District, County, State and Federal laws.
- (ii) Unless specifically described in a drainage and/or erosion control plan as required by Section 16.54.040 and approved by the Regional Water Quality Control Board and the Planning Director, no runoff from the mining site shall be discharged into any natural watercourse.
- (iii) The lowest elevation of any mining operation at any time shall be 20 feet above the peak groundwater elevation unless the Planning Commission **determines that a lower or higher elevation will ultimately benefit the recharge of the aquifer.**
- (iv) The groundwater recharge capacity of each aquifer or spring within the mining site shall be maintained at a pre-~~A~~approval level.
- (v) If the Planning Director determines that reasonable cause exists to suspect adverse impacts from a mining operation on groundwater supply, aquifer, sole source aquifer or spring, a complete hydrogeological report pursuant

to Section 16.54.090 shall be prepared. However, if the potential impacts are limited, the Planning Director may limit the report to address only the limited impacts identified.

(4) Drainage and Erosion Control

- (i) Drains, facilities and devices to control storm water runoff shall be constructed and maintained as required in order to prevent erosion and prevent the deposit of sand, silt or other materials into any natural watercourse or onto any property not owned or controlled by any owner or operator of a mining site. Prior to the construction of any settling pond, slurry pond, water reservoir, or storm drainage facility, engineered drainage plans (based on a 10-year storm [six hour duration]), which conform with the requirements of each applicable Approval shall be submitted to the Planning Director for review and approval.
- (ii) Each settling basin, drainageway, culvert, pump, pipeline and other drainage and erosion control features shall be maintained as necessary to assure that each is functioning properly as designed.
- (iii) Runoff originating from the mining site, stockpiles, unpaved on-site roads or other disturbed areas shall be contained on-site except as permitted under the Mining Approval, Certificate of Compliance, Reclamation Plan Approval only or amendment thereof. Runoff leaving any mining site shall comply with the requirements of the Regional Water Quality Control Board. Monitoring of runoff discharge by an independent laboratory, and/or installation of a continuous monitoring device, may be required as a condition of such Mining Approval, Amendment or Certificate of Compliance, Reclamation Plan Approval only or amendment thereof. The results of such required monitoring shall be submitted to the Planning Director within thirty (30) days after the monitoring results are obtained and shall also be included in the annual report.
- (iv) *All necessary measures shall be taken to prevent access to the mining site by off road vehicles and persons not associated with the mining operation or authorized by any Approval.*
- (v) *Each Operator shall minimize the surface area of the mining site which is stripped, mined or otherwise disturbed at any given time to the greatest extent compatible with reasonable mining and marketing requirements.*
- (vi) *Mining operation and reclamation shall be conducted to protect on-site and downstream beneficial uses of water in accordance with State and Federal law, including (without limitation) Porter-Cologne Water Quality Control Act, California Water Code Section 13000, et seq, and the Federal Clean Water Act, 33 USC Section 1251, et seq., and their respective successor laws.*
- (vii) *The quality of water, recharge potential, and storage capacity of groundwater aquifers which are the source of water for domestic, agricultural, or other uses dependent on the water, shall not be*

diminished, except as allowed in the applicable Mining Approval, Certificate of Compliance, Reclamation Plan Approval only or amendment thereof.

- (viii) *Erosion and sedimentation shall be controlled during construction, operation, reclamation, and closure of a mining operation to minimize siltation of lakes and watercourses, and to ensure that land and water resources are protected from erosion, gullyng, sedimentation and contamination.*
- (ix) *Where natural drainages are covered, restricted, rerouted, or otherwise impacted by a mining operation, mitigation measures and/or alternatives shall be required in the Mining Approval, Certificate of Compliance, Reclamation Plan Approval only or amendment thereof to assure that runoff shall not cause increased erosion or sedimentation, or other adverse environmental impacts.*
- (x) *When stream diversions are required, they shall be constructed in accordance with:*
 - (A) *The requirements and State law, including (without limitation) the stream and lake alteration agreement between the operator and the Department of Fish and Game; and*
 - (B) *The requirements of the federal law, including (without limitation) Federal Clean Water Act, Sections 301 (33 U.S.C. 1311) and Section 404 (33 U.S.C. Section 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).*
 - (C) *When no longer needed to achieve the purpose for which they were authorized, all temporary stream channel diversions shall be removed and the affected land reclaimed.*

(5) Setbacks

- (i) Each building, structure, facility and mining operation shall be located no closer to property boundaries than as shown on the applicable approved mining plan. The minimum setback (excepting entrance roads) shall be 150 feet.
- (ii) Notwithstanding (i) above, no crushing plant or other apparatus for the processing of any material shall be located within 200 feet of the boundary line of any property in a residential zoning district. However, if such a facility is placed below contiguous ground level, it may be located not less than 100 feet from such boundary line.
- (iii) Prior to excavating, clearing, or otherwise disturbing the land within 200 feet of a mining site boundary, a licensed surveyor or civil engineer employed by the operator shall provide survey markers at 200 foot intervals along both the mining site boundary line and the 150 foot setback line. Each marker shall be maintained in place until a clear, readily identifiable, working face is established at an approved setback line.

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(6) Sensitive Habitat Protection

(i) **Each sensitive habitat for rare, endangered, threatened, or unique wildlife or plants or communities thereof, located on the mining site shall be mapped and appropriate conditions imposed to assure that mining operation and reclamation reasonably preserve such sensitive habitat(s).**

(ii) *Mining operation and reclamation shall be conducted to protect sensitive habitats in accordance with the California Endangered Species Act, California's Fish and Game Code Section 2050, et seq., and the Federal Endangered Species Act, 16 U.S.C. Section 1531, et seq., or the respective successor laws.*

(7) Days and Hours of Operation. The Planning Commission may limit the hours and days of any mining operation except in the following situations:

(i) Where otherwise required by a public authority having superior jurisdiction;

(ii) Where otherwise necessary due to a declared public emergency;

(8) Off-Street Parking Requirements. Off-street parking shall be provided on the mining site for all equipment and for all employee vehicles. Each mining operation in the "M-3" or "TP" zone shall be exempt from any other off-street parking requirements prescribed by this Code.

(9) Screening. The Planning Commission shall require each mining operation and facility to be screened from any other property or any public road in the vicinity when such screening is necessary to block an unsightly operation or facility from view, or to insulate surrounding properties from noise from such mining operation. All types of screen shall be continuously maintained so as to carry out the intent of this Section.

A screen shall consist of one or a combination of the following types, the design of which shall be subject to prior approval by the Planning Commission:

(i) Wall: A wall shall consist of concrete, stone, brick or similar solid masonry material.

(ii) Berm: A berm shall be constructed of earthen materials and it shall be landscaped.

(iii) Fence: A fence shall be an open weave or mesh type and shall be combined with plant materials to form an opaque screen. Additional fencing requirements are set forth at Sections 16.54.050(e) ~~10~~ (c)(ii) and 16.54.055 ~~(e)~~ (i)(v).

(iv) Planting: Plant materials, when used for visual screening, shall consist of evergreen plants or trees of a native variety together with any necessary irrigation facility(ies) so as to establish the viability of the plants.

- (10) Haul Routes. The Planning Commission may establish each truck haul route to and from the mining site.
- (11) Posting of Signs and Construction of Fence. Within 90 days after an Mining Approval, Certificate of Compliance, or Reclamation Plan Approval, has been granted and continuously thereafter, the outer boundaries of the mining site shall be posted with signs providing notice of approved mining operations to the public. Each sign shall state in letters of not less than four inches in height: "MINING APPROVAL NUMBER ____" and in letters of not less than one inch in height: "THIS PROPERTY MAY BE USED FOR THE MINING AND PROCESSING OF ROCK, SAND, GRAVEL OR MINERALS. THE HOURS OF OPERATION AND MAINTENANCE ARE AS FOLLOWS: ____". Each sign shall be maintained in legible condition at all times. The entire mining site shall be fenced for safety and maintained by the owner or operator, to the extent and in the manner required by the Planning Commission.
- (12) Construction of Buildings and Processing Plants. In addition to the Mining Approval, Certificate of Compliance, or Reclamation Plan Approval, obtained pursuant to this Chapter, a building permit shall be required for the construction of new buildings, processing plants and other mining related permanent structures.
- (13) Timing of Mining Operation and Reclamation. A time schedule including a final completion date for reclamation shall be specified.
- (14) Reclamation Access. Access for County or State to the mining site to perform reclamation if the operator does not comply with the requirements of the reclamation plan shall be granted by the owner and/or Operator in the Approval.

16.54.055 RECLAMATION STANDARDS

- (a) Time Limitation: *Reclamation shall in all cases be completed within the time schedule set forth in the conditions for Mining Approval, Certificate of Compliance, Reclamation Plan Approval only or amendment thereof. All recontouring, revegetation and reclaiming efforts shall be phased to commence immediately upon completion of mining operation in any given area.*
- (b) Applicability of Standards. *Reclamation of mined lands shall be implemented in conformance with the standards in this Section. The standards shall apply to each mining operation set forth in subsections 16.54.055 (d) through (m) shall apply to each mining operation for which a Reclamation Plan was approved on or after January 15, 1993, to the extent that:*
 - (1) ~~The mining operation ceased in the mining area on or after September 1, 1972 (the effective date of the first County Mining Ordinance requiring reclamation); or the mining operation is using the mining area for an ongoing mining operation, even though mining in said mining area otherwise ceased prior to September 1, 1972.~~

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- (21) They are consistent with required mitigation identified in conformance with California Environmental Quality Act, provided that such mitigation is at least as stringent as the standards specified in this Section; and
- (32) They are consistent with the planned or actual subsequent use or uses of the mining site; and
- (43) Where an applicant demonstrates to the satisfaction of the Planning Director that an exception to the standards specified in this section is necessary based upon the approved end use, the Planning Director may approve a different standard for inclusion in the approved Reclamation Plan. Where the Planning Director allows such an exception, the approved Reclamation Plan shall specify verifiable, site-specific standards for reclamation. The Planning Director may set standards which are more stringent than the standards set forth in this section; however, in no case may the Planning Director approve a Reclamation Plan which sets any standard which is less stringent than the comparable standard specified in this section.
- (54) When substantial amendment is proposed to a Reclamation Plan which was approved prior to January 15, 1992²³, the standards set forth in this section shall be applied by the Planning Director in approving or denying approval of the amended Reclamation Plan.

~~(6) The standards in this section shall not apply and the standards at the time mining ceased or reclamation was completed (whichever is later) shall apply to mining operation:~~

~~(i) Which completed reclamation prior to January 1, 1992, in conformance with an approved Reclamation Plan; or~~

~~(ii) For which a Reclamation Plan has been approved prior to January 1, 1992.~~

~~(c) Mined lands for which a Reclamation Plan was approved between September 1, 1972, and January 15, 1993, shall be reclaimed pursuant to standards of the approved Reclamation Plan, including any amendments thereto authorized by Section 16.54.074 or Section 16.54.100.~~

~~(ed)~~ Performance Standards for Wildlife Habitat:

Wildlife and wildlife habitat shall be protected in accordance with the following standards:

- (1) Rare, threatened or endangered species as listed by the California Department of Fish and Game (California Code of Regulations, Title 14, sections 670.2-670.5), the U.S. Fish and Wildlife Service (50 CFR 17.11 and 17.12), or species of special concern as listed by the California Department of Fish and Game in the Special Animal List, Natural Diversity Data Base, shall be protected and their respective habitat conserved as prescribed by the Federal Endangered Species Act, 16 USC Section 1531, et seq., and the California Endangered Species Act, Fish and Game Code Section 2050, et seq. If avoidance cannot be achieved through the available alternatives, mitigation shall be proposed by the owner(s) and/or operator(s) in accordance with the provisions of the California

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Endangered Species Act, Fish and Game Code section 2050 et seq, and the Federal Endangered Species Act, 16 USC Section 1531, et seq.

- (2) *Wildlife habitat shall be established on disturbed land in a condition at least as good as that which existed before the lands were disturbed by the mining operation, unless the proposed end use precludes its use as wildlife habitat or the approved Reclamation Plan establishes a different habitat type than that which existed prior to mining.*
- (3) *Wetland habitat shall be avoided. Any wetland habitat impacted as a consequence of mining operations shall be mitigated at a minimum of one to one ratio to wetland habitat acreage and wetland habitat value.*

(de) *Performance Standards for Backfilling, Regrading, Slope Stability, and Recontouring:*

- (1) *Where backfilling is proposed for urban uses (e.g., roads, building sites, or other improvements sensitive to settlement), the fill shall be compacted in accordance with Section 7010, Chapter 70 and of the most current 1991 edition of the Uniform Building Code published by the International Conference of Building Officials, standards set forth in the County's Grading Ordinance (whichever standard is stricter), as appropriate for the approved end use.*
- (2) *Where backfilling is required for resource conservation purposes (e.g., agricultural, fish and wildlife habitat, wildland conservation), fill material shall be backfilled to the standards required for the resource conservation use involved.*
- (3) *Piles or dumps of mining waste products, by-products or overburden shall be stockpiled in such a manner as to facilitate phased reclamation. Such piles or dumps shall be segregated from topsoil and topsoil substitutes or growth media salvaged for use in reclamation.*
- (4) *Final reclaimed fill slopes, including permanent piles or dumps of mining waste products, by-products, rock and over-burden, shall not exceed 2:1 (horizontal:vertical), except when a site-specific geologic and engineering analysis demonstrates that the proposed final slope will have a minimum factor of safety that is suitable for the proposed end use, and when the proposed final slope can be successfully revegetated.*
- (5) *At closure, all fill slopes, including permanent piles or dumps of mining waste products, by-products and overburden shall conform with the surrounding topography and/or approved end use.*
- (6) *Final cut slopes, including highwalls or quarry faces of a sand mining operation, shall have a minimum slope stability factor of safety that is suitable for the proposed end use with a stability factor of safety not less than 1.2, and shall be no steeper than 1.5:1 (33 degrees) and shall be benched at a 30-foot vertical interval, and shall conform with the surrounding topography and/or approved end use. Final cut slopes, including highwalls and quarry faces of a hard rock mining operation, may be steeper than 1.5:1 (33 degrees) and have a greater bench interval than 30 feet if it can be demonstrated that a steeper slope or different bench interval is geologically stable, has a minimum slope stability factor of*

safety that is suitable for the proposed end use with a stability factor of safety not less than 1.2, and conforms with the surrounding topography and/or approved end use, does not create a threat to public health and safety, adversely affect a natural resource or reduce the feasibility of reclamation of a mining site.

- (7) *Permanent placement of piles or dumps of mining waste and overburden shall not occur within wetlands unless mitigation acceptable to the County and California Department of Fish and Game has been proposed to offset wetland impacts and/or losses.*

(ef) Performance Standards for Revegetation:

- (1) *Revegetation shall be part of the approved Reclamation Plan, unless it is not consistent with the approved end use.*

A native species vegetative cover suitable for the proposed end use and capable of self-regeneration without continued dependence on irrigation, soil amendments or fertilizer shall be established on disturbed land (including roads, ponds, streambeds, and other areas used in the mining operation) unless an artificially maintained landscape is introduced species are consistent with the approved Reclamation Plan or unless native species prove infeasible. Vegetative cover or density, and species-richness shall be, where appropriate, sufficient to stabilize the surface against effects of long-term erosion and shall be similar to naturally occurring habitats in the surrounding area. The vegetative density, cover and species richness of naturally occurring habitats shall be documented in baseline studies carried out prior to the initiation of mining activities. However, for areas that will not be reclaimed to prior conditions, the use of data from reference areas in lieu of baseline site data is permissible.

- (2) *Test plots conducted simultaneously with mining shall be required to determine the most appropriate planting procedures to be followed to ensure successful implementation of the proposed revegetation plan. The Planning Director may waive the requirement to conduct test plots when the success of the proposed revegetation can be documented from experience with similar species and conditions or by relying on competent professional advice based on experience with the species to be planted.*
- (3) *Where surface mining activities result in compaction of the soil, ripping, disking, or other means shall be used in areas to be revegetated to eliminate compaction and to establish a suitable root zone in preparation for planting. When it is not necessary to remove roadbase materials for revegetative purposes, the Planning Director may set a different standard pursuant to Subsection 16.54.055(b)(3)(iv).*
- (4) *Prior to closure, all access roads, haul roads, and other traffic routes to be reclaimed shall be stripped of any remaining roadbase materials, prepared in accordance with Subsection 16.54.055(f)(7)(e)(vii), covered with suitable growth media or top soil, and revegetated.*
- (5) *Soil analysis shall be required to determine the presence or absence of elements essential for plant growth and to determine those soluble elements that may be toxic to plants, if the soil has been chemically altered or if the growth media consists of other than the native topsoil. If soil analysis suggests that fertility*

levels or soil constituents are inadequate to successfully implement the revegetation program, fertilizer or other soil amendments may be incorporated into the soil. When native plant materials are used, preference shall be given to slow-release fertilizers, including mineral and organic materials that mimic natural sources, and shall be added in amounts similar to those found in reference soils under natural vegetation of the type being reclaimed.

- (6) Temporary access for exploration or other short-term uses on arid lands shall not disrupt the soil surface except where necessary to gain safe access. Barriers shall be installed when necessary to prevent unauthorized vehicular traffic from interfering with the reclamation of temporary access routes.
- (7) Native species shall be used for revegetation, except when introduced species are ~~necessary to meet the end uses specified in the approved consistent with the approved Reclamation Plan or native species prove infeasible.~~ Areas to be developed for industrial, commercial, or residential use shall be revegetated for the interim period, as necessary, to control erosion. In this circumstance, non-native plant species may be used if they are not noxious weeds and if they are species known not to displace native species in the area.
- (8) Planting shall be conducted during the most favorable period of the year for plant establishment.
- (9) Soil stabilizing practices shall be used where necessary to control erosion and for successful plant establishment. Irrigation may be used when necessary to establish vegetation.
- (10) If irrigation is used, the operator must demonstrate that the vegetation has been self-sustaining without irrigation for a minimum of two years prior to release of the financial assurances by the Planning Director, unless an artificially maintained landscape is consistent with the end use.
- (11) Noxious weeds shall be managed: (i) When they threaten the success of the proposed revegetation; (ii) To prevent spreading to nearby areas; and (iii) To eliminate fire hazard.
- (12) If recommended by the botanist, horticulturist or plant ecologist, plants and seed shall be propagated from sources on the site; ~~with the exception that commercially purchased seed of annual grasses, clover, vetch and Lotus coeperius may be used for any reclamation site.~~ If purchased, seed should be from a local source. A local source is defined as being as close as possible to the same geographic location or watershed, elevation, aspect, and soil type as the project.
- (13) The revegetation plan shall provide for re-establishing or enhancing any rare and endangered, or locally unique plant communities disturbed by any mining operation.
- (14) Success of revegetation shall be judged based upon the effectiveness of the vegetation for the approved end use, and by comparing the quantified measures of vegetative cover, density, and species-richness of the reclaimed mined lands to similar parameters of naturally occurring vegetation in the area. Either baseline data or data from nearby reference areas may be used as the standard for

comparison. Quantitative standards for success and the location(s) of the reference area(s) shall be set forth in the approved Reclamation Plan. Comparisons shall be made until performance standards are met provided that, during the last two years, there has been no human intervention, including, for example, irrigation, fertilization, or weeding. Standards for success shall be based on expected local recovery rates. Valid sampling techniques for measuring success shall be specified in the approved reclamation plan. Sample sizes must be sufficient to produce at least an 80 percent confidence level. Standard statistical methods in commonly available literature may be utilized for determining an 80 percent confidence level on a site-by-site basis. Examples of such literature include (without limitation) D. Mueller-Dombois and H. Ellenberg, 1978 "Aims and Methods of Vegetation Ecology", John Wiley & Sons, Inc., or D.D. Bonham 1988 "Measurement for Terrestrial Vegetation".

- (15) Protection measures, such as fencing of revegetated areas and/or the placement of cages over individual plants shall be used in areas where grazing, trampling, herbivory, or other causes threaten the success of the proposed revegetation. Fencing shall be maintained until revegetation efforts are successfully completed.

(fg) Performance Standards for the Removal of Buildings, Structures and Equipment:

All equipment, supplies, and other materials shall be stored in designated areas (as shown in the Mining Approval, Certificate of Compliance, or Reclamation Plan Approval). All mining waste shall be disposed of in accordance with State and Local health and safety ordinances. All buildings, structures, and equipment shall be dismantled and removed prior to final mine closure or within six months of termination of the mining operation (whichever is earlier) except those buildings, structures, and equipment approved in the reclamation plan as necessary for the end use.

(gh) Performance Standards for Topsoil Salvage, Maintenance, and Redistribution

When the approved Reclamation Plan calls for revegetation or cultivation of disturbed lands, the following performance standards shall apply to topsoil salvage, maintenance, and redistribution activities:

- (1) All salvageable topsoil suitable for revegetation shall be removed as a separate layer from areas to be disturbed by mining operations. Topsoil and vegetation removal shall not precede surface mining activities by more than one year, unless a longer time period is approved by the Planning Director.
- (2) Topsoil resources shall be mapped prior to stripping and the location of topsoil stockpiles shall be shown on a map in the Reclamation Plan. If the amount of topsoil needed to cover all surfaces to be revegetated is not available on site, other suitable material capable of sustaining vegetation (such as subsoil) shall be removed as a separate layer for use as a suitable growth media. Topsoil and suitable growth media shall be maintained in separate stockpiles. Test plots may be required to determine the suitability of growth media for revegetation purposes.
- (3) Soil salvage operations and phases of reclamation shall be carried out in accordance with a schedule that: (i) is set forth in the approved Reclamation

Plan; (ii) minimizes the area disturbed; and (iii) is designed to achieve maximum revegetation success allowable under the mining plan.

- (4) *Topsoil and suitable growth media shall be used to phase reclamation as soon as can be accommodated by the mining schedule presented in the approved reclamation plan following the mining of an area. Topsoil and suitable growth media that cannot be utilized immediately for reclamation shall be stockpiled in an area where it will not be disturbed until needed for reclamation. Topsoil and suitable growth media stockpiles shall be clearly identified to distinguish them from mine waste dumps. Topsoil and suitable growth media stockpiles shall be planted with a vegetative cover or shall be protected by other equally effective measures to prevent water and wind erosion and to discourage weeds. Relocation of topsoil or suitable growth media stockpiles for purposes other than reclamation shall require prior written approval from the Planning Director.*
- (5) *Topsoil and suitable growth media shall be redistributed in a manner that results in a stable, uniform thickness consistent with the approved end use, site configuration, and drainage patterns.*

(hi) Performance Standards for Tailing and Mining Waste Management

State Water Resources Control Board hazardous mining waste disposal regulations in Article 7 of Chapter 15 of Title 23, California Code of Regulations, shall govern ~~hazardous mining waste and tailings~~, and mine waste disposal units shall be reclaimed in conformance with this ~~article~~ Chapter.

(ij) Performance Standards for Closure of Surface Openings, Excavations or Hazardous Areas

- (1) *Except those used solely for blasting or those that will be mined through within one year, all drill holes, water wells, and monitoring wells shall be completed or abandoned in accordance with each of the following:*
 - (i) *Water Code Sections 13700, et seq, and 13800, et seq;*
 - (ii) *The applicable local ordinance adopted pursuant to Water Code Section 13803;*
 - (iii) *The applicable Department of Water Resources report issued pursuant to Water Code Section 13800; and*
 - (iv) *Subdivisions (1) and (2) of Section 2511(g) of Chapter 15 of Title 23 regarding discharge of waste to land.*
 - (v) *Prior to closure, all portals, shafts, tunnels, excavations or hazardous areas, or other surface openings to underground workings shall be fenced and gated or otherwise protected from public entry in a manner approved by the Planning Director in order to eliminate any threat to public safety and to preserve access for appropriate wildlife habitat. The mining operator and/or owner shall maintain said fencing, gating and or other protective device(s) during mining operations and thereafter.*

(k) Performance Standards for Surface Drainage Control

- (1) All final surface drainage control measures shall be designed for a 10-year storm, 6-hour duration and shall be incorporated into the Reclamation Plan. Passive drainage control measures such as broad berms and swales are encouraged.*
- (2) Surface mining and reclamation activities shall be conducted to protect on-site and downstream beneficial uses of water in accordance with the Porter-Cologne Water Quality Control Act, Water Code Section 13000, et. seq., and the Federal Clean Water Act, 33 USC Section 1251, et seq.*
- (3) The quality of water, recharge potential, and storage capacity of ground water aquifers which are the source of water for domestic, agricultural, or other uses dependent on the water, shall not be diminished, except as allowed in the approved Reclamation Plan.*
- (4) Erosion and sedimentation shall be controlled during all phases of construction, operation, reclamation, and closure of a surface mining operation to minimize siltation of lakes and watercourses, as required by the Regional Water Quality Control Board or the State Water Resources Control Board.*
- (5) Surface runoff and drainage from surface mining activities shall be controlled by berms, silt fences, sediment ponds, revegetation, hay bales, or other erosion control measures, to ensure that surrounding land and water resources are protected from erosion, gullyng, sedimentation and contamination. erosion control methods shall be designed to handle runoff from not less than the 10 year/6 hour intensity storm event.*
- (6) Where natural drainages are covered, restricted, rerouted, or otherwise impacted by surface mining activities, mitigating alternatives shall be proposed and specifically approved in the reclamation plan to assure that runoff shall not cause increased erosion or sedimentation.*
- (7) When stream diversions are required, they shall be constructed in accordance with:*
 - (i) The stream and lake alteration agreement between the operator and the Department of Fish and Game; and*
 - (ii) The requirements of the Federal Clean Water Act, Section 301 (33 USC 1311) and Section 404 (33 USC 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403).*
- (8) When no longer needed to achieve the purpose for which they were authorized, all temporary stream channel diversions shall be removed and the affected land reclaimed.*
- (l) Mining is prohibited on agricultural lands by County regulation; nevertheless if any mining occurs in agricultural lands, reclamation standards for agricultural lands shall comply with Sections 3707 and 3708 of the California Code of Regulations.*

- (m) *Mining is prohibited in riparian areas by County regulation; nevertheless if any mining occurs in riparian areas, reclamation standards for streambed mining operations shall comply with section 3710 of the California Code of Regulations.*

16.54.060 FINANCIAL ASSURANCES - REQUIREMENTS

Financial assurances made payable to the County and State Geologist the California Department of Conservation shall be submitted by the operator for each new and existing mining operation for which reclamation is required to ensure that adequate reclamation is performed in accordance with the approved Reclamation Plan.

The submittal of financial assurances, shall comply with the following criteria:

- (a) *Financial assurances may take the form of cash, surety bonds, irrevocable letters of credit, trust funds, or other forms specified mechanisms adopted by to the State Geologist State Board through the regulatory process and reasonably determined by the Planning Director to be adequate to perform reclamation in accordance with the approved Reclamation Plan.*
- (b) *Financial assurances shall remain in effect for the duration of the mining operation and any additional period necessary to complete adequate reclamation. However, financial assurances shall no longer be required of a mining operation and shall be released upon written notification by the Planning Director to the Operator and State Geologist Director, Department of Conservation upon documentation that reclamation has been completed in accordance with the approved Reclamation Plan.*
- (c) **The Planning Director shall base the amount of financial assurances necessary to secure adequate reclamation on estimates prepared by a registered civil engineer and a botanist, horticulturist or plant ecologist retained by the Operator and approved by the Planning Director. The botanist, horticulturist or plant ecologist shall have demonstrated experience in revegetation of mining sites and reestablishing native plant communities and the registered civil engineer shall have demonstrated experience in the design and maintenance of drainage systems and reclamation of mining sites. The amount of financial assurances shall be reviewed annually by the Planning Director and adjusted to account for new lands disturbed by the mining operation, inflation and reclamation accomplished in accordance with the approved Reclamation Plan.**

16.54.061 FINANCIAL ASSURANCES - PROCESS

- (a) *Prior to approving a financial assurance for a new or major amended mining operation, or an existing mining operation which does not have financial assurances which received County approval prior to January 1, 1991, the Planning Director shall present a review of the amount and type of financial assurance to the Planning Commission in a public hearing to ensure that the financial assurance is adequate to ensure reclamation and substantially meets the applicable requirements of Public Resources Code Sections 2772, 2773, and 2773.1 and this Chapter.*
- (b) *The amount and type of financial assurance for an existing mining operation which has received County approval of its financial assurance prior to January 1, 1991, shall be*

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reviewed and determined administratively by the Planning Director whose decision shall be final. The review of existing financial assurances shall not be considered a project for purposes of the California Environmental Quality Act.

- (c) *Prior to County ~~County~~ approving approval of a financial assurance for any mining operation, the Planning Director shall submit such financial assurance, including any existing financial assurance, to the State Geologist for review and comment Director, Department of Conservation for a 45-day review and preparation of written comments if the Director so chooses, which submittal shall be made and processed in a manner consistent with Public Resources Code Section 2774 (C) and (d).*

The State Geologist shall prepare written comments within forty-five (45) days and the Planning Director shall evaluate in writing within a forty-five (45) day comment period thereafter any written comments received from the State Geologist. A copy of each written comment shall be forwarded to the Operator.

- (d) *A financial assurance determined not to substantially meet the requirements of this Chapter or the California Surface Mining and Reclamation Act shall be returned to the operator within 60 days. The operator shall then have 60 days to revise the financial assurance to address identified deficiencies and return it to the County for further review by the County and the Director, Department of Conservation. Unless the operator has duly and properly filed an appeal to the State Board with regard to non-approval of a financial assurance, and that appeal is pending before the State Board, the continuation of the surface mining operation is prohibited until the required financial assurance is approved by the County.*

PART III

INSPECTION, REVIEWS AND REPORTS

16.54.070 QUARTERLY INSPECTION OF MINING OPERATIONS

- (a) Each mining operation shall be subject to a quarterly inspection by the Planning Director to assure compliance with conditions of all Aapprovals and with the applicable requirements of the Surface Mining and Reclamation Act.
- (b) The Planning Director shall notify the Operator in writing of any observed noncompliance.
- (c) *If, during any inspection, the Planning Director determines that reasonable cause exists to suspect adverse impacts from a mining operation on groundwater supply, aquifer, sole source aquifer or spring, the Planning Director may require a hydrogeological report as defined by scope in Section 16.54.040(c)11. However, if the potential impacts are limited, the Planning Director may limit the report to address only the limited impacts identified.*
- (d) Payment of an inspection fee by the Operator or owner shall be made in accordance with Section 16.54.027, shall be a condition of all Aapprovals, and failure to make timely payment of said fee shall constitute non-compliance with such condition.

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16.54.071 ANNUAL INSPECTIONS OF MINING OPERATIONS

- (a) In conjunction with one of the quarterly inspections pursuant to Section 16.54.070, an annual inspection by the Planning Director shall be performed within six (6) months of the receipt of a copy of the required annual report to the ~~State Geologist Director, Department of Conservation~~ to determine whether the mining operation is in conformance with conditions of all Approvals.
- (b) Each annual inspection shall be conducted by the Planning Director or his/her designee or by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or a state-registered forester, who is experienced in land reclamation, who is an employee or contractor of the County, and who has not been an employee or contractor of the mining operation in any capacity during the 12 months preceding the annual inspection.
- (c) Each annual inspection shall be conducted in accordance with provisions set forth in a form approved by the State Board.
- (d) The Planning Director shall notify the ~~State Geologist Director, Department of Conservation~~ within thirty (30) days from the date of inspection that the inspection has been conducted. The Planning Director's notice to the ~~State Geologist Director, Department of Conservation~~ shall contain:
- (1) A copy of the completed inspection form;
 - (2) A statement whether or not the mining operation is in compliance or non-compliance with this Chapter and the Surface Mining and Reclamation Act, and if not, a statement specifying which aspects of the mining operation are inconsistent therewith; and
 - (3) A statement of whether the mining operation has any appeal pending in the case of a Operator with vested rights under Public Resources Code Section 2770(b); a review of existing financial assurances pending pursuant to Public Resources Code Section 2770(c); or an appeal pending pursuant to Public Resources Code Section 2770(e) or 2770(h).
- (e) A copy of the Planning Director's notice to the ~~State Geologist Director, Department of Conservation~~ pursuant to County Code Subsection 16.54.071(a) shall be forwarded to the Operator together with any supporting documentation, including (without limitation) the inspection report prepared by said geologist, engineer, landscape architect or forester.
- (f) Payment of the reasonable cost of the annual inspection shall be the sole responsibility of the Operator. In addition, a fee for administrative processing of said inspection and said notice shall be paid by the Operator in accordance with Section 16.54.027.

16.54.072 QUARRY ANNUAL REPORTS TO STATE

- (a) The owner, lessor, lessee or any other person in charge of a mining operation shall forward to the ~~State Geologist Director, Department of Conservation~~ not later than July

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1, 1991, and every year thereafter not later than on the anniversary date established by the ~~State Geologist Director, Department of Conservation~~, upon a form furnished by the ~~State Geologist Director, Department of Conservation~~, an annual report which includes each of the following:

- (1) The name, address and telephone number of the person, company or other owner of the mining operation;
- (2) The name, address and telephone number of a designated agent who resides in the State of California, and who will receive and accept service of all orders, notices, and processes of the Planning Director, State Board, ~~State Geologist Director, Department of Conservation~~, or court;
- (3) The location of the mining operation, its name, and its mine number as issued by the Bureau of Mines, or the ~~State Geologist Director, Department of Conservation~~, its section, township, range, latitude, longitude, and approximate boundaries of the mining operation marked on an United States Geological Survey 7 1/2-minute or 15-minute quadrangle map;
- (4) Identification of the County of Santa Cruz as the lead agency;
- (5) The approval date of the mining operation's Reclamation Plan;
- (6) The mining operation's status as active, idle, reclaimed, or in the process of being reclaimed;
- (7) Each commodity produced by the mine and the type of mining operation;
- (8) Proof of annual inspection by the County of Santa Cruz;
- (9) Proof of financial assurances;
- (10) Ownership of the property by the assessor's parcel number(s) and total assessed value of the mining operation;
- (11) The approximate permitted size of the mining operation in acres;
- (12) The approximate total acreage of land, newly disturbed by the mining operation during the previous calendar year;
- (13) The approximate total of disturbed acreage reclaimed during the previous calendar year;
- (14) The approximate total unreclaimed disturbed acreage remaining as of the end of the calendar year;
- (15) The total production for each mineral commodity produced during the previous year; and,
- (16) A copy of the approved Reclamation Plan in the initial annual report and any subsequent amendments or conditions of approval to any existing Reclamation Plan approved by the County of Santa Cruz.

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- (b) *Subsequent annual reports shall include only any changes in information submitted for the previous report and:*
 - (1) *Any amendments to the Reclamation Plan.*
 - (2) *Review of financial assurances.*
 - (3) *Notification of any pending appeal.*
- (c) *If the State Geologist-Director, Department of Conservation notifies the operator of any deficiency in the annual report, the Operator shall correct each deficiency and submit the revised report to the State Geologist-Director, Department of Conservation and Planning Director within 30 days from the date of notification by the State Geologist-Director, Department of Conservation.*
- (d) *Each annual report to the State Geologist-Director, Department of Conservation and each corrective report shall be submitted concurrently to the Planning Director.*

16.54.073 ANNUAL REPORT TO THE PLANNING DIRECTOR

In conjunction with addition to the annual report to the State Geologist-Director, Department of Conservation, as required under Section 16.54.072, and in order to ensure compliance with all approved conditions, a report to the Planning Director shall be prepared by a professional determined by the Planning Director to be qualified to prepare such report in consultation with appropriate independent consultants. The report shall be submitted by the Operator to the Planning Director by April-July 1 of each year. If the Planning Director determines the need for an independent consultant, the Operator shall retain an independent consultant approved by the County. All costs of such report and its review shall be paid by the Operator. The report shall include the following unless waived or modified in writing by the Planning Director:

- (a) A report on compliance with each of the conditions of all Approvals.
- (b) An analysis of any change in any significant environmental condition or mining operation which has not been anticipated in the Mining Approvals or Certificate of Compliance, or Reclamation Plan Approval
- (c) A current aerial photograph of the entire site (1"=200') showing property lines, facilities, stripped areas, and revegetated areas together with a report on the extent of excavation and reclamation completed in the previous year and projected for the coming year. Each fifth year, a current photogrammetric topographical map prepared from current aerial photographs (1"=200', 10 foot contour interval) showing all the requirements of the above required aerial photograph, shall be submitted.
- (d) A noise report prepared by an independent, qualified noise/ acoustical consultant retained by the Operator and approved by the Planning Director. Any draft noise report, as well as the final annual noise report shall be submitted to the Planning Director and the Operator. Each noise report shall determine whether or not the Operator is in compliance with noise conditions of the Mining Approvals, Certificate of Compliance, or Reclamation Plan Approval, and shall investigate and make recommendations (relative to noise mitigation) regarding.

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- (1) Any mining equipment to be used on the mining site;
 - (2) Noise protection berming (existing and proposed), and;
 - (3) Any other significant noise resulting from the mining operation. The Operator shall implement all recommendations of the noise consultant determined to be necessary by the Planning Director for compliance with the conditions of the Approvals.
- (e) A revegetation report prepared by a botanist, horticulturist or plant ecologist retained by the Operator and approved by the Planning Director. ~~Any draft revegetation report, as well as the~~ The final annual report shall be submitted to the Planning Director and the Operator. All costs of such report shall be paid by the Operator. The revegetation report shall describe the degree of success in achieving the objectives of the revegetation plan, and shall identify any changes or additional measures which may improve results. The Operator shall implement all recommendations of the botanist or horticulturist or plant ecologist determined to be necessary by the Planning Director for compliance with the conditions of the Mining Approvals, Certificate of Compliance, or Reclamation Plan Approval.
- (f) Written verification of renewal of financial assurances.
- (g) A report to be held as proprietary information pursuant to Section 16.54.028(b), stating the annual amounts of production and shipping of mining products.

16.54.074 REVIEW OF MINING OPERATIONS

At the time of original issuance of a Mining Approvals, Certificate of Compliance or Reclamation Plan Approval, or amendment thereof, a schedule shall be set by the Planning Commission and specified in said Approval to review each such Approval, at a public hearing for compliance with Approval conditions. In no case shall the time set for review be in excess of five years. New conditions shall not be imposed as part of the review process unless: (a) there is a threat to public health and safety; (b) there is a significant injurious threat to the environment; (c) there is a nuisance; (d) there is or a violation of Approval conditions; (e) there is a change in the scope of operations; or (f) the ordinance in effect at the time the Mining Approval, Certificate of Compliance or Reclamation Plan Approval being reviewed was originally approved, or the Approval itself, authorized imposition, modification, amendment or review by the County of new conditions by the County. If one or more new conditions are recommended after public hearing by the Planning Commission for imposition as part of the review process ~~an~~ the Planning Commission may, in its discretion, continue the hearing on the review and order the Operator to provide such notice of the continued hearing as the Planning Commission deems appropriate, and subsequently consider final imposition of such new condition(s) at that continued hearing. ~~on a Mining Approvals, Certificate of Compliance or Reclamation Plan Approval, an Amendment thereto shall be initiated by the Operator or the County pursuant to this Chapter and County Code Section 18.10.134.~~

(Ord. 1947, 8/1/72; 3333, 11/23/82; 3448, 8/23/83)

PART IV

SUSPENSION OR ABANDONMENT

16.54.080 IDLE MINING OPERATION

- (a) *Within ninety (90) days of an approved mining operation becoming idle, as defined in Section 16.54.020, the Operator shall submit to the Planning Director for administrative review and approval an Interim Management Plan.*
- (b) *The Interim Management Plan may remain in effect for a period not to exceed five (5) years at which time the Planning Director shall do one of the following:*
 - (1) *Hold a public hearing before the Planning Commission regarding a possible renewal of the Interim Management Plan for another five (5) years; or*
 - (2) *Require the Operator to commence and complete reclamation in accordance with the approved Reclamation Plan.*
- (c) *Within sixty (60) days of the receipt of the Interim Management Plan, the Planning Director shall administratively review and approve or deny the Plan in accordance with this Chapter, so long as the Plan satisfies the requirements of this Chapter and the California Surface Mining and Reclamation Act.*
- (d) *The Planning Director shall notify the operator in writing of any deficiencies in the Plan and the operator shall have thirty (30) days to submit a revised Interim Management Plan.*
- (e) *The Planning Director shall administratively approve or deny the revised Interim Management Plan within sixty (60) days of receipt. If the Planning Director denies approval of the revised Interim Management Plan, the Operator may appeal that action to the Planning Commission, which shall schedule a public hearing within forty-five (45) days of the filing of the appeal.*
- (f) *All idle mining operations shall be subject to annual reports pursuant to Sections 16.54.072 and 16.54.073 and inspections pursuant to Sections 16.54.070 and 16.54.071.*
- (g) *All idle mining operations shall conform to applicable Approval conditions, this Chapter and the Surface Mining and Reclamation Act.*
- (h) *If the mining operation remains idle after the expiration of the Interim Management Plan and no public hearing regarding the renewal of the Interim Management Plan is pending before the County the Operator shall commence reclamation in accordance with the approved Reclamation Plan of the Interim Management Plan is pending before County.*
- (i) *The Interim Management Plan shall not be considered a project as defined in for purposes of the California Environmental Quality Act.*

16.54.081 ABANDONMENT OF MINING OPERATIONS

- (a) *Unless review or appeal of an Interim Management Plan pursuant to Section 16.54.080 is pending, a mining operation which remains idle for over one (1) year without approval of an Interim Management Plan, shall be considered abandoned and the Operator shall commence and complete reclamation in accordance with the approved Reclamation Plan.*
- (b) If the mining operation is abandoned pursuant to Section 16.54.081(a) and the Operator has failed to timely commence and complete reclamation in accordance with the approved Reclamation Plan, the Planning Director shall commence enforcement proceedings.
- (c) Each abandoned mining operation without a valid Mining Approvals Certificate of Compliance or Reclamation Plan Approval only and which represents a threat to public health or safety shall constitute a nuisance and be deemed in violation of the County Code and shall be subject to the enforcement provisions of this Chapter, the County Code (including, without limitations, nuisance abatement proceedings pursuant to Chapter 1.14), SMARA, and any other enforcement methods established by law.

PART V

NON-COMPLIANCE, ENFORCEMENT AND APPEAL

16.54.090 ENFORCEMENT

- (a) It shall be unlawful for any person whether as owner, Operator, applicant, principal, agent, employee, or otherwise to perform an action or allow a situation to continue in violation of the provisions of this Chapter, Surface Mining and Reclamation Act, or any Approval condition. Each violation shall be subject to enforcement action in accordance with the provisions of this Chapter, Chapter 1.12 and 18.10 and all other applicable provisions of law.
- (b) *If the Planning Director or the State Geologist-Director, Department of Conservation, determines, based upon annual inspection pursuant to Section 16.54.071, quarterly inspection pursuant to Section 16.54.070 or any other inspection, that a mining operation is not in compliance with this Chapter, the Planning Director or State Geologist-Director, Department of Conservation, may notify the Operator of that violation by certified mail. If the violation extends beyond thirty (30) days after the date of the Planning Director or the State Geologist-Director, Department of Conservation, notification, the Planning Director or State Geologist-Director, Department of Conservation, may issue an order by certified mail requiring the operator to comply with this Chapter. If the Planning Director or the Director, Department of Conservation determines for any reason that the operator does not have an approved Reclamation Plan, then the Planning Director or the Director, Department of Conservation may issue an order requiring the operator to cease all mining activities on the mining site. or, if the Operator does cease all of the mining activities.*
- (c) An order pursuant to subsection (b) shall not take effect until the Operator has been provided a hearing before the Planning Commission for orders issued by the Planning Director the or State Board for orders issued by the State Geologist-Director.

~~Department of Conservation~~, concerning the alleged violation. Any order issued under subsection (b) shall specify which aspects of the mining operation are inconsistent with this Chapter, shall specify a time for compliance which the Planning Director or ~~State Geologist-Director, Department of Conservation~~, determines is reasonable taking into account the seriousness of the violation, and any good faith efforts to comply with applicable requirements, and shall set a date for the hearing, which shall not be sooner than thirty (30) days after the date of the order.

- (d) An Operator who violates or fails to comply with an order, issued under subsection (b) after the order's effective date, as provided in subsection (c), or who fails to submit an annual report pursuant to Sections 16.54.072 and 16.54.073 to the ~~State Geologist-Director, Department of Conservation~~, or knowingly provides incorrect or false information in the annual report, shall be subject to an order by the Planning Director or the ~~State Geologist-Director, Department of Conservation~~, imposing an administrative penalty of not more than five thousand dollars (\$5,000.) per day, assessed from the original date of non-compliance with this Chapter. The penalty may be imposed administratively by the Planning Director or ~~State Geologist-Director, Department of Conservation~~. In determining the amount of administrative penalty, the Planning Director or ~~State Geologist-Director, Department of Conservation~~, shall take into consideration the nature, the circumstances, extent and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic saving, if any, resulting from the violation and other matters justice may require. Orders setting administrative penalties shall become effective upon issuance thereof, and payment shall be made to the Planning Director or the ~~State Geologist-Director, Department of Conservation~~, within thirty (30) days, unless the Operator petitions the Board of Supervisors, the State Board or the Superior Court for review. Any order shall be served by certified mail upon the Operator.
- (e) If the Planning Director or the ~~State Geologist-Director, Department of Conservation~~, determines that the mining operation is not in compliance with this Chapter, so that the mining operation presents an imminent and substantial endangerment to the public health or environment, the County or the Attorney General, on behalf of the ~~State Geologist-Director, Department of Conservation~~, shall seek an order from a court of competent jurisdiction enjoining the mining operation.
- (f) The Planning Director shall have the primary responsibility for enforcing this Chapter. In cases where the State Board is not the lead agency, enforcement actions may be initiated by the ~~State Geologist-Director, Department of Conservation~~, only after the violation has come to the attention of the ~~State Geologist-Director, Department of Conservation~~, and either of the following occurs:
 - (1) The Planning Director has been notified by the ~~State Geologist-Director, Department of Conservation~~, in writing of the violation for at least fifteen (15) days, and has not taken appropriate enforcement action; or
 - (2) The ~~State Geologist-Director, Department of Conservation~~, determines that there is a violation which amounts to an imminent and substantial endangerment to the public health or safety, or to the environment.
- (g) In addition to other liabilities and remedies provided by this Chapter, failure to commence action to rectify each and every deficiency or failure to complete reclamation satisfactorily and in a timely manner on any segment of the mining site area in

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conformance with the approved Reclamation Plan within thirty (30) days after written specification of such deficiency(ies) or reclamation failure(s) by the Planning Director, shall constitute sufficient grounds for revocation of an Mining Approval, Certificate of Compliance, or Reclamation Plan Approval. No Mining Approval, Certificate of Compliance, or Reclamation Plan Approval shall be issued to allow mining or other development or use of any property as to which any deficiency or reclamation failure exists, unless such Mining Approval, Certificate of Compliance, or Reclamation Plan Approval requires correction of such deficiency or reclamation failure by a time and in a manner satisfactory to the County and the State Geologist-Director, Department of Conservation.

- (h) Any failure to comply with the required conditions of any Mining Approval, Certificate of Compliance or Reclamation Plan Approval only or failure to carry out mining operations and reclamation in accordance with approved plans shall be unlawful and a public nuisance endangering the health, safety, and general welfare of the public and a detriment to the surrounding community.
- (i) In addition to any other remedy provided by this Chapter for the abatement, removal and enjoinder of a public nuisance caused by any mining operation, the nuisance may be abated in conformance with Chapter 1.14 of the County Code.
- (j) The Operator shall be responsible for any and all failures of the drainage or detention systems at the mining site. If a failure should occur, immediate corrective actions shall be taken by the Operator as required by the Planning Director and the State Department of Fish and Game. Corrective action shall include all clean up, repair and restoration of the mining site and all other affected property(ies) and resources to the maximum extent feasible, the expenses of which shall be paid by the Operator.

16.54.091 VIOLATIONS

- (a) It shall be unlawful for any person to knowingly do, cause, permit, aid, abet, suffer or furnish equipment or labor for any new mining operation unless the land is zoned "M-3" Mineral Extraction or "TP" Timber Production or other zoning consistent with mining operations; and the required Approvals have been obtained and is in effect which authorizes the mining operation.
- (b) It shall be unlawful for any person to exercise an Mining Approval, Certificate of Compliance, or Reclamation Plan Approval which authorizes a mining operation without complying with all of the conditions of such Approval.
- (c) It shall be unlawful for any person to knowingly do, cause, permit, aid, abet or furnish equipment or labor for any work in violation of a Stop Work notice from and after the date it is posted on the site until the Stop Work notice is authorized to be released by the Planning Director.

(Ord. 3451-A, 8/23/83)

16.54.092 "STOP WORK" NOTICES

In addition to any order pursuant to Section 16.54.090, if the Planning Director determines that any mining operation does not comply with an Mining Approval, Certificate of Compliance or Reclamation Plan Approval only, SMARA or this Chapter, the Planning Director may issue an order to stop such noncompliance (including if necessary, obtaining a court order to stop) all work at the mining site until corrective measures have been completed. The mining site shall be posted with a "Stop Work" notice. (Ord. 3451-A, 8/23/83)

16.54.093 PENALTIES

In addition to any penalties pursuant to Section 16.54.090, each violation of this Chapter shall be a misdemeanor punishable as provided in Sections 1.08.010 through 1.08.050 of the County Code. Any person convicted of a misdemeanor, the penalty for which is not otherwise prescribed, shall be punishable by a fine of not more than \$1,000.00 per day or by imprisonment for not more than six months, or by both such fine and imprisonment. It shall be a separate offense for each and every day during any portion of which any violation of or failure to comply with any condition of an Mining Approval, Certificate of Compliance or Reclamation Plan Approval only or with any provision of this Chapter, the County Code or SMARA is committed, continued or permitted.

(Ord. 3451-A, 8/23/83)

16.54.094 FINANCIAL ASSURANCES; FORFEITURE

If the Planning Commission or the State Board, (following a public hearing), or ~~State Geologist~~ determines that an Operator is financially incapable of performing reclamation in accordance with the approved Reclamation Plan or has abandoned the mining operation without commencing reclamation, either the Planning Director or the ~~State Geologist Director~~, Department of Conservation, shall do all the following:

- (a) *Notify the Operator by personal service or certified mail that the Planning Director or the ~~State Geologist Director, Department of Conservation~~, intends to take the appropriate action to forfeit the financial assurances and specify the reasons for this action.*
- (b) *Allow the Operator sixty (60) days to commence or cause the commencement of reclamation in accordance with the approved Reclamation Plan and require that reclamation be completed within the time limits specified in the approved Reclamation Plan or some other time period mutually agreed by the Planning Director or ~~State Geologist Director, Department of Conservation~~, and the Operator.*
- (c) *Proceed to take appropriate action to require forfeiture of the financial assurances if the Operator does not substantially comply with the reclamation requirements.*
- (d) *Use the proceeds from the forfeited financial assurances to conduct and complete reclamation in accordance with the approved Reclamation Plan. In no event shall the financial assurance be used for any other purpose except such use may include off-site mitigation of any loss of sensitive habitat or other losses. The Operator is responsible for the costs of conducting and completing reclamation in accordance with the approved*

Reclamation Plan which are in excess of the proceeds from the forfeited financial assurances.

16.54.095 FINANCIAL ASSURANCES: RESPONSIBILITY

The lead agency shall have the primary responsibility to seek forfeiture of financial assurances and to reclaim mining sites. Where the County is the lead agency, this responsibility is hereby delegated to the Planning Director. However, even in cases where the State Board is not the lead agency, the ~~State Geologist-Director, Department of Conservation~~, may act to seek forfeiture of financial assurances, and reclaim mining sites only if both of the following occurs:

- (a) The financial incapability of the Operator or the abandonment of the mining operation has come to the attention of the ~~State Geologist-Director, Department of Conservation~~.*
- (b) The Planning Director has been notified in writing by the ~~State Geologist-Director, Department of Conservation~~, of the financial incapability of the Operator or the abandonment of the mining operation for at least fifteen (15) days, and has not taken appropriate measures to seek forfeiture of the financial assurances and reclaim the mine site; and one of the following has occurred:*
 - (1) The Planning Director has been notified in writing by the ~~State Geologist-Director, Department of Conservation~~, that failure to take appropriate measures to seek forfeiture of the financial assurances or to reclaim the mining site shall result in actions being taken against the County.*
 - (2) The ~~State Geologist-Director, Department of Conservation~~, determines that there is a violation which amounts to an imminent and substantial endangerment to the public health or safety or to the environment.*
 - (3) The Planning Director notifies the ~~State Geologist-Director, Department of Conservation~~, in writing that its good faith attempts to seek forfeiture of the financial assurances have not been successful.*

16.54.096 APPEALS TO COUNTY APPELLATE BODY

Except as otherwise expressly provided by the procedures set forth in this Chapter an appeal of an action taken under this Chapter may be made in conformance with the appeal procedures set forth at Section 18.10.300 through 18.10.360 of the County Code.

(Ord. 2821, 12/4/79; 3333, 11/23/82; 3448, 8/23/83)

16.54.097 APPEALS TO THE STATE BOARD

- (a) Any person may appeal to the State Board after exhausting all applicable remedies before the County in order to substantiate that the County has either:*
 - (1) Failed to act according to due process or has relied on consideration not related to specific requirements of the Surface Mining and Reclamation Act and this Chapter in reaching a decision to deny approval of a Reclamation Pplan*

submitted to the Planning Director for approval after July 1, 1990, (and, for which no mining had begun on the site before that date) or financial assurances submitted to the Planning Director after January 1, 1994, for reclamation, or

- (2) *Failed to act within a reasonable time of receipt of a completed application, for a Reclamation Plan Approval or submittal of financial assurances, or*
 - (3) *Failed to review and approve existing financial assurances originally submitted to the Planning Director after January 1, 1994.*
- (b) *An applicant whose request for Mining Approval in an area of statewide or regional significance has been finally denied by the Planning Commission County, or any person who is aggrieved by the issuance of an Mining Approval in an area of designated statewide or regional significance may appeal the action of the County to the State Board within fifteen (15) days from the County's final decision.*

16.54.098 APPEALS AND REVIEW OF ORDER

- (a) *Within thirty (30) days of the issuance of an order setting an administrative penalty pursuant to Section 16.54.090, the Operator may appeal to the Planning Commission Board of Supervisors, if the Planning Director has issued that order for review of the order. If the Operator does not file an appeal within the time limits set by this subsection, the order setting administrative penalty shall not be subject to review by any court or agency.*
- (b) *The appeal to the Planning Commission, and any further appeals to the County Board of Supervisors shall be governed by Section 18.10.300 through 18.10.360 of the County Code.*
- (c) *The Planning Commission Board of Supervisors or the State Board may affirm, modify, or set aside, in whole or in part, by its own order, any order of the Planning Director or the State Geologist State Board Director, Department of Conservation, respectively, setting administrative penalties reviewed by the Planning Commission Board of Supervisors or the State Board.*
- (d) *Any Operator aggrieved by an order of the Planning Director Board of Supervisors or the State Board may obtain review of the order by filing in the Superior Court a petition for writ of mandate within thirty (30) days following the issuance of the order. Any Operator aggrieved by an order of the Planning Director or State Geologist Director, Department of Conservation, setting an administrative penalty for which the Planning Commission Board of Supervisors or State Board denies an appeal review may obtain review of the order in the Superior Court by filing in the court a petition for writ of mandate within thirty (30) days following denial of review. The provisions of Section 1094.5 of the Code of Civil Procedure govern these judicial proceedings, except that in every case the County court shall exercise its independent judgment. If the Operator does not petition for a writ of mandate within the time limits, an order of the Planning Director Board of Supervisors or State Board shall not be subject to review by any court or agency.*

PART VI

TRANSITION PROVISIONS

16.54.100 CERTIFICATE OF COMPLIANCE REQUIREMENTS

- (a) Notwithstanding Section 13.10.260, within ten years after January 1, 1976, each operator of an existing mining operation shall submit an application for and obtain approval of a Certificate of Compliance with the County Mining Ordinance. Each application for a Certificate of Compliance shall conform with all provisions of this Chapter pertaining to Mining Approvals and Mining Approval Amendments except as modified below.
- (b) At the time of the hearing of an application for a Certificate of Compliance, the Planning Commission shall impose such conditions as are deemed necessary in each instance to bring the existing mining operation into full compliance with all applicable permits and approvals and terms of this Chapter including establishment of a time limit for compliance. However no new requirement, modified condition or new condition shall be imposed which is unreasonable as applied to conditions which have resulted from operations conducted prior to the effective date of Ordinance No. 1749 (September 1, 1972). No requirements or conditions necessary to respond to a threat to public health and-or safety, a significant injurious threat to the environment, or a nuisance shall be considered unreasonable.
- (c) Procedures for processing a Certificate of Compliance shall be the same as for an Mining Approval, except that an application for a Certificate of Compliance:
 - (1) Shall not be deemed an application for rezoning under Section 13.10.215.220; and
 - (2) Shall not constitute a waiver of any existing vested right under an existing use permit, except to the extent that such right has been specifically and validly modified pursuant to subsection (b) of this Section.
- (d) Compliance with this Section is hereby made a condition of all existing use permits. Failure to apply for and obtain a Certificate of Compliance thereunder shall be grounds for revocation of the use permit pursuant to Section 18.10.135.

(Ord. 2123, 5/6/75; 3333, 11/23/82; 3448, 8/23/83)

16.54.101 APPLICATION REQUIREMENTS FOR RECLAMATION PLAN APPROVAL ONLY

Except as provided in this Chapter, any application for a Reclamation Plan Approval only shall contain the following information and documentation regarding the proposed reclamation of the mining site and shall be prepared and completed in compliance with the reclamation standards of this Chapter and in accordance with a guideline form supplied by the Planning Director:

- (a) All information and documentation as required under Section 16.54.040(a)1., 2., 3., and 7.

(b) All information and documentation as required under Section 16.54.040(c)1., 2., 4., 7.

(c) All information and documentation as required under Section 16.54.040(d).

16.54.102 ABEYANCE OF ENFORCEMENT

Any enforcement action which may be brought against an Operator or owner who has received approval of financial assurances for reclamation prior to January 1, 1991, or a person who has filed an appeal to the State Board or to the County Board of Supervisors, shall be held in abeyance pending review of existing financial assurances or the resolution of the pending appeal to the State Board or County Board of Supervisors.

SECTION III

This ordinance shall take effect on the 31st day after final passage or upon certification by the California Coastal Commission, whichever is later.

PASSED AND ADOPTED this _____ day of _____, 199__, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:

County Counsel

Distribution: Agricultural Policy Advisory Commission
Agricultural Commissioner
CAO
County Counsel
Planning Department