

**CALIFORNIA COASTAL COMMISSION**

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Filed: October 12, 2000  
Extension: November 15, 2000  
Staff: S. Craig  
Staff Report: September 20, 2001  
Hearing Date: October 11, 2001  
Commission Action:

**TO:** COMMISSIONERS AND INTERESTED PARTIES

**FROM:** Steve Scholl, Deputy Director  
Chris Kern, North Central Coast District Supervisor  
Susan Craig, Coastal Planner

**SUBJECT:** **San Mateo County LCP Amendment No. 3-00 (Part B) – Surface Mining and Reclamation Ordinance, Implementation Plan Amendment (Major)**  
(Meeting of October 11, 2001 in Coronado)

**SYNOPSIS:****Amendment Description:**

The County of San Mateo is requesting certification of LCP Amendment No. 3-00 (Part B) to the County's certified Implementation Plan (Zoning Regulations) that would update and revise the County's surface mining and reclamation ordinance to bring it into compliance with the state Surface Mining and Reclamation Act of 1975 (SMARA) as required by the state Mining and Geology Board. (See Exhibit 1 for the complete text of the Zoning Regulations amendment as proposed by the County. See Exhibit 2 for the existing Surface Mining and Reclamation Ordinance.)

**Summary of Staff Recommendation:**

The majority of the proposed changes to the surface mining and reclamation ordinance in the San Mateo County Implementation Plan are minor and the amendment as submitted is generally adequate to carry out the provisions of the Land Use Plan. However, several modifications are suggested to clarify the procedures for issuing Coastal Development Permits for surface mining



**California Coastal Commission**  
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Staff: S. Craig Approved by:  
San Mateo County LCP Amendment #3-00 (PartB)

and reclamation activities in the County's Coastal Zone to more effectively carry out the provisions of the LUP. The staff recommends that the Commission, upon completion of a public hearing, deny the Implementation Program amendment as submitted and then certify the amendment if modified as suggested.

Commission staff believes that for the most part, the amendment conforms with and adequately carries out the provisions of the County's Land Use Plan. All of the existing zoning designations and use standards set forth for each zoning district would remain as currently certified, and would continue to dictate where extractive uses can occur in conformance with corresponding LUP designations. The surface mining and reclamation ordinance as proposed to be amended sets forth standards and procedures for reviewing and issuing mining permits and reclamation plans required for surface mining within the County. The ordinance does not affect or preclude procedures or standards for reviewing or issuing Coastal Development Permits required for surface mining in the County's Coastal Zone.

However, because the objective of the proposed Zoning Regulations amendment is to revise and update the County's surface mining and reclamation ordinance procedures consistent with state law, staff suggests several modifications to further achieve this objective and to clarify surface mining Coastal Development Permit requirements. The suggested modifications include language to clarify that (1) the surface mining and reclamation ordinance does not govern the issuance of Coastal Development Permits, (2) surface mining may take place in the Coastal Zone of the County only if it is consistent with the Coastal Act and/or the San Mateo County certified Local Coastal Program, (3) Coastal Development Permits for mining activities shall either be reviewed by the Coastal Commission pursuant to the Coastal Act for development within the Commission's retained jurisdiction, or by the County, or the Commission on appeal, for development within the County's coastal permit jurisdiction pursuant to the certified Local Coastal Program standards governing the issuance of Coastal Development Permits, and (4) the Coastal Commission, rather than the certified local government, shall administratively adjudicate all vested right determinations for purposes of Coastal Development Permit requirements pursuant to the Coastal Act and all other applicable law.

The Commission's procedures require that if the Commission wishes to certify an amendment with modifications, the Commission must first deny the LCP amendment request as submitted, and then certify the amendment if modified as suggested to incorporate the recommended changes. Therefore, staff recommends that the Commission, upon completion of the public hearing, deny the Implementation Plan amendment as submitted, and then certify the amendment if modified as suggested.

The appropriate motions and resolutions to adopt the staff recommendation are found on pages 3 and 4 of this report.

**Analysis Criteria**

To approve the amendment to the Implementation Plan (IP), the Commission must find that the Implementation Plan, as amended, conforms with and is adequate to carry out the provisions of the Land Use Plan (LUP) of the County's certified LCP.

**Additional Information:**

For further information, please contact Susan Craig at the Central Coast District Office (831) 427-4863. Correspondence should be sent to the District Office at 725 Front St., Suite 300, Santa Cruz, CA 95060

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**I. STAFF RECOMMENDATION, MOTION, AND RESOLUTIONS FOR SAN MATEO COUNTY LCP AMENDMENT NO. 3-00 (PART B) - SURFACE MINING AND RECLAMATION ORDINANCE, MAJOR)**

**MOTION I:** I move that the Commission reject Implementation Program Amendment No. 3-00 (Part B) to the San Mateo County LCP as submitted.

**STAFF RECOMMENDATION OF REJECTION:**

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the Implementation Program Amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:**

The Commission hereby denies certification of the Implementation Program Amendment submitted for the San Mateo County LCP and adopts the findings set forth below on grounds that the Implementation Program Amendment as submitted does not conform with and is inadequate to carry out the provisions of the Land Use Plan as certified. Certification of the Implementation Program Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment as submitted.

**MOTION II:** I move that the Commission certify Implementation Program Amendment No. 3-00 (Part B) to the San Mateo County LCP if it is modified as suggested in this staff report.

**STAFF RECOMMENDATION:**

Staff recommends a YES vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies the Implementation Program Amendment for the San Mateo County LCP if modified as suggested on the grounds that the Implementation Program Amendment with the suggested modifications conforms with and is adequate to carry out the provisions of the Land Use Plan as certified. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

**II. SUGGESTED MODIFICATIONS**

**KEY FOR MODIFICATIONS TO COUNTY LANGUAGE:**

The attached Exhibit No. 1 presents the complete text of the Zoning Regulations amendment as proposed by the County. In this section, the resulting revised text proposed by the County is shown in regular type, while additions suggested by the Commission are in **bold underline** and suggested deletions are in ~~strikethrough~~.

**SUGGESTED MODIFICATION NO. 1:** Section 7702.0 of the San Mateo County Zoning Regulations shall be modified as follows:

**SECTION 7702.0. PURPOSES AND INTENT.** The County of San Mateo recognizes that the extraction of minerals is essential to the continued economic well-being of the County and to the needs of society and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The County also recognizes that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications therefore may vary accordingly.

The purpose and intent of this Chapter are to ensure the continued availability of important mineral resources, while regulating surface mining operations as required by

California's Surface Mining, and Reclamation Act of 1975 (Public Resources Code Section 2710 et seq.), as amended hereinafter referred to as "SMARA," Public Resources Code (PRC) Section 2207 (relating to annual reporting requirements), and State Mining and Geology Board Regulations (hereinafter referred to as "State Regulations") for surface mining and reclamation practice (California Code of Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.) to ensure that:

- (a) Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.
- (b) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.
- (c) Residual hazards to the public health and safety are eliminated.

**This chapter shall not govern the issuance of a Coastal Development Permit for mining and reclamation activities in the Coastal Zone. Pursuant to Section 30600 of the California Coastal Act, Coastal Development Permits shall be required for all mining and reclamation activities in the Coastal Zone which constitute development under Section 30106 of the California Coastal Act. Coastal Development Permits shall either be reviewed: (1) by the Coastal Commission pursuant to the Coastal Act for development within the Commission's retained jurisdiction; or (2) by the County, or the Commission on appeal, pursuant to the certified Local Coastal Program standards governing the issuance of Coastal Development Permits for development within the County's Coastal Development Permit jurisdiction.**

**SUGGESTED MODIFICATION NO. 2:** Section 7702.1 of the San Mateo County Zoning Regulations shall be modified as follows:

**SECTION 7702. 1. DEFINITIONS.** The definitions set forth in this section shall govern the construction of this Chapter.

(a) Area of Regional Significance. An area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.

(b) Area of Statewide Significance. An area designated by the Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime

importance in meeting future needs for minerals in the State and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local or regional significance.

(c) Borrow Pits. Excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

(d) Compatible Land Uses. Land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.

**(e) Development Requiring a Coastal Development Permit pursuant to Sections 30600 and 30106 of the Coastal Act. "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.**

(e)(f) Haul Road. A road along which material is transported from the area of excavation to the processing plant or stockpile area of the surface mining operation.

(f)(g) Idle. Surface mining operations curtailed for a period of one year or more, by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.

(g)(h) Incompatible Land Uses. Land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of

the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.

~~(h)~~(i) Mined Lands. The surface, subsurface, and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.

~~(i)~~(j) Minerals. Any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

~~(j)~~(k) Operator. Any person who is engaged in surface mining operations, or who contracts with others to conduct operations on his/her behalf, except a person who is engaged in surface mining operations as an employee with wages as his/her sole compensation.

(l) 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 surface 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 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.

(m) Stream Bed Skimming. Excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.

(n) Surface Mining Operations. All, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations include, but are not limited to, in-place distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, stream bed skimming, and segregation and stockpiling of mined materials (and recovery of same).

**SUGGESTED MODIFICATION NO. 3:** Section 7702.3 of the San Mateo County Zoning Regulations shall be modified as follows:

SECTION 7702.3 SCOPE. Except as provided in this Chapter, no person shall conduct surface mining operations unless a permit, Reclamation Plan, and financial assurances for reclamation have first been approved by the County. Any applicable exemption from this requirement does not automatically exempt a project or activity from the application of other regulations, ordinances or policies of the County, including but not limited to, the application of CEQA, the requirements of Site Approvals or other permits, the payment of development impact fees, or the imposition of other dedications and extractions as may be permitted under the law. The provisions of this Chapter shall apply to all lands within the County, public and private.

**This chapter shall not govern the issuance of a Coastal Development Permit for mining or reclamation activities in the Coastal Zone. Pursuant to Section 30600 of the California Coastal Act, Coastal Development Permits shall be required for all mining and reclamation activities in the Coastal Zone which constitute development under Section 30106 of the California Coastal Act. Coastal Development Permits shall either be reviewed (1) by the Coastal Commission pursuant to the Coastal Act for development within the Commission's retained jurisdiction or; (2) by the County, or the Commission on appeal, pursuant to the certified Local Coastal Program standards governing the issuance of Coastal Development Permits for development within the County's Coastal Development Permit jurisdiction.**

This Chapter shall not apply to the following activities, subject to the above-referenced exceptions:

(a) Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.

(b) 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:

(1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of State law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act ("CEQA," Public Resources Code, Division 13, Section 21 000 et seq.).



- (2) The County's approval of the construction project included consideration of the on-site excavation and on-site earthmoving activities pursuant to CEQA.
  - (3) The approved construction project is consistent with the general plan and zoning of the site.
  - (4) 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.
- (c) Operation of a plant site used for mineral processing, including associated on-site structures, equipment, machines, tools, or other materials, including the on-site stockpiling and on-site recovery of mined materials, subject to all of the following conditions:
- (1) The plant site is located on lands designated for industrial or commercial uses in the County's General Plan.
  - (2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial or surface mining activities by the County.
  - (3) None of the materials being processed are being extracted on site.
  - (4) All reclamation work has been completed pursuant to the approved Reclamation Plan for any mineral extraction activities that occurred on site after January 1, 1996.
- (d) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.
- (e) 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.
- (f) Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.
- (g) The solar evaporation of seawater or bay water for the production of salt and related minerals.

(h) 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.

(i) Road construction and maintenance for timber or forest operations if the land is owned by the same person or entity, and if the excavation is conducted adjacent to timber or forest operation roads. This exemption is only available if slope stability and erosion are controlled in accordance with Board regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and post-closure uses in consultation with the Department of Forestry and Fire Protection. This exemption does not apply to on-site excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavations for materials that are, or have been, sold for commercial purposes. Class One and Class Two watercourses shall be defined per the California Department of Forestry and Fire Protection regulations as follows: (1) a Class One stream has a domestic supply downstream and fish present in it, and (2) a Class Two stream does not have a domestic supply located downstream but does have fish present.

**SUGGESTED MODIFICATION NO. 4:** Section 7702.5 of the San Mateo County Zoning Regulations shall be modified as follows:

No person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit to mine so long as the vested right continues and as long as no substantial changes have been made in the operation except in accordance with SMARA, State Regulations, and this Chapter. Where a person with vested rights has continued surface mining in the same area subsequent to January 1, 1976, he shall obtain County approval of a Reclamation Plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-Act mining, the Reclamation Plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act (January 1, 1976).

**This section is applicable only to local vested rights determinations and is not applicable to vested right determinations for purposes of Coastal Development Permit requirements. The California Coastal Commission, rather than the County, shall administratively adjudicate all vested right determinations for purposes of Coastal Development Permit requirements pursuant to the Coastal Act and all other applicable law.**

All other requirements of State law and this Chapter shall apply to vested mining operations.

**III. FINDINGS FOR DENIAL OF IMPLEMENTATION PLAN AMENDMENT NO. 1-00 (Part B) AS SUBMITTED, AND APPROVAL IF MODIFIED**

**A. Background**

As a result of the State Legislature's adoption of the Surface Mining and Reclamation Act (SMARA) in 1975, the County adopted a Surface Mining and Reclamation Ordinance in the early 1980's. Since that time, the State Legislature has amended SMARA 17 times. At their August 14, 1998 meeting, the State Surface Mining and Reclamation Board determined that San Mateo County's Surface Mining and Reclamation Ordinance was not in accordance with SMARA in a number of areas. As a result, the State has encouraged the County to adopt its model Surface Mining and Reclamation Ordinance for Cities and Counties so that the regulations are consistent. The County wants to revise and update the local surface mining and reclamation ordinance because if it is not brought into conformance with state law, the Mining and Geology Board can supersede local authority over surface mining in the County.

**B. Description of Proposed Amendment**

The proposed changes to the County's surface mining and reclamation ordinance are primarily technical in nature and do not significantly change the existing surface mining practices in the County. The ordinance does not approve any specific mining project, but rather, sets forth standards and procedures for the review of surface mining and reclamation permit applications. The standards and procedures in the ordinance pertain to mining permits and reclamation plans and do not specifically apply to the review or issuance of Coastal Development Permits. The Coastal Development Permit process contained in the LCP is an additional review process required for surface mining and reclamation projects in the Coastal Zone, independent of the standards and procedures in the surface mining and reclamation ordinance. The proposed ordinance requires that all projects subject to SMARA comply with the ordinance and any other applicable local, state or federal laws and regulations, including the County LCP and the Coastal Act.

Examples of proposed changes to the surface mining and reclamation ordinance involve (1) establishing procedures for the review and approval of reclamation plans, (2) financial assurances, (3) the issuance of permits to conduct surface mining operations, (4) general terms and references, and (5) incorporating the state Surface Mining and Reclamation Act by reference. Because the County surface mining and reclamation ordinance pertains specifically to the review and processing of mining permits and reclamation plans, the proposed changes discussed below do not change the standards or procedures for the issuance of Coastal Development Permits for surface mining in the County's Coastal Zone.

In the existing surface mining and reclamation ordinance, various definitions and other aspects of the state SMARA law are incorporated directly into the local ordinance. The County has found that when the Mining and Geology Board amends its definitions or interpretations, the local ordinance becomes outdated, and in some instances, comes into conflict with the state law or the

Mining and Geology Board's regulations. To simplify the local ordinance and avoid the need for revisions each time the Mining and Geology Board amends its statutes or regulations, the proposed amended ordinance incorporates the state Surface Mining and Reclamation Act by reference to assure that the County's ordinance will automatically stay in conformance with state SMARA regulations. The County's ordinance directs the user to specific sections of the state law which must be followed and also clarifies that when the regulations of the local ordinance are more restrictive of mining operations than state law, the more restrictive sections of the local ordinance apply.

The ordinance as amended results in an updated surface mining and reclamation program that is in compliance with the requirements of the Surface Mining and Reclamation Act. The proposed changes do not eliminate the standards or requirements set forth by the County's certified LCP pertaining to Coastal Development Permits. Additionally, the proposed changes do not change the kind, location, intensity, or density of use that is presently allowed for any property in the County's LCP. The revised ordinance, as amended, is attached as Exhibit 1.

### C. LCP Amendment Analysis

Section 30513 of the Coastal Act establishes the criteria for Commission action on proposed amendments to certified Implementation Plans (IP). Section 30513 states, in applicable part:

*...The commission may only reject zoning ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection specifying the provisions of land use plan with which the rejected zoning ordinances do not conform or which it finds will not be adequately carried out together with its reasons for the action taken.*

To approve the amendment, the Commission must find that the amended Implementation Plan will conform with and adequately carry out the provisions of the Land Use Plan (LUP) as certified. In general, the proposed amendment to the Zoning Regulations is consistent with and adequate to carry out the LUP. The proposed Zoning Regulations amendment would not change the kind, location, density, or intensity of uses currently allowed by the certified LCP. All of the existing zoning designations and the use standards set forth for each zoning district would remain as currently certified, and would continue to dictate where surface mining and mineral extraction could occur in conformance with corresponding LUP designations.

As discussed previously, the proposed surface mining and reclamation ordinance sets forth standards and procedures for reviewing and issuing mining permits and reclamation plans required for surface mining operations. In the County Coastal Zone, Coastal Development Permits are also required for surface mining and reclamation activities. The surface mining and reclamation ordinance as amended does not eliminate the requirements or standards for Coastal Development Permits. While the surface mining and reclamation ordinance includes operational

standards for mining, the surface mining and reclamation ordinance does not provide specific standards for Coastal Development Permits. LUP Policy 1.2 provides a definition of development pursuant to Section 30106 of the Coastal Act. LUP Policy 1.1 requires a Coastal Development Permit for all development in the Coastal Zone, subject to certain exemptions. The resource and protection policies of the LUP act as the standard of review for Coastal Development Permits for surface mining projects and provide for the protection of environmentally sensitive habitat areas, coastal wetlands, marine resources, biological productivity and the quality of coastal waters. Although the surface mining and reclamation ordinance as proposed does not incorporate specific standards pertaining to the protection of coastal wetlands and other environmentally sensitive habitat areas, the ordinance as amended does not eliminate or change the Coastal Development Permit review process or required findings for approval.

The proposed amendment would result in a revised and updated surface mining and reclamation ordinance which would be generally adequate to carry out the provisions of the certified LUP. However, a few modifications are necessary to further clarify portions of the ordinance to more effectively carry out the LUP. One of the County's main objectives of the proposed amendment is to revise and update the surface mining and reclamation ordinance to ensure consistency with state law. As submitted, certain sections do not adequately describe Coastal Development Permit requirements or procedures applicable to surface mining and reclamation activities and therefore do not adequately carry out the provisions of the LUP. However, if modifications are made to these particular sections, the amendment would effectively carry out the provisions of the LUP. The suggested modifications are outlined below.

**1. Purposes and Intent, Definitions, and Scope**

The County proposes to repeal existing Sections 7702 through 7706 of the Zoning Regulations and add new Sections 7702 through 7707.0 to clarify the purpose, content, and findings of the surface mining and reclamation ordinance. These sections, as amended, explain that the purpose and intent of the surface mining and reclamation ordinance is to implement the provisions of the California Surface Mining and Reclamation Act of 1975, as most recently amended. Section 7702 goes on to outline the findings that support the implementation of the surface mining and reclamation ordinance in the County. The surface mining and reclamation ordinance, as proposed to be amended, would be incorporated into the County's certified Local Coastal Program, but the ordinance does not refer to the review or processing of Coastal Development Permits for surface mining and reclamation activities in the Coastal Zone. The ordinance sets forth standards and procedures that apply only to mining permits and reclamation plans. The standards and procedures pertaining to the review and processing of Coastal Development Permits for surface mining are set forth elsewhere in the LCP. To clarify permit requirements for surface mining projects in the Coastal Zone and more effectively carry out the LUP, the Commission includes **Suggested Modification No. 1, Suggested Modification No. 2, and Suggested Modification No. 3**. Suggested Modifications Nos. 1 & 3 clarify that the County surface mining and reclamation ordinance applies to the review of reclamation plans and mining permits only and that the ordinance does not govern the issuance of Coastal Development

Permits for mining and reclamation activities. There are two quarries located in the Coastal Zone – Pilarcitos Quarry, an active privately owned quarry; and the Pescadero Quarry, a publicly owned quarry that is currently in the process of being reclaimed. Neither quarry is located in areas of the Commission's retained Coastal Development Permit jurisdiction but instead are located in areas of the County's Coastal Development Permit jurisdiction. To clarify the standard of review for Coastal Development Permits required for surface mining in the Coastal Zone and more effectively carry out the certified LUP, Suggested Modifications Nos. 1 & 3 also state that Coastal Development Permits shall either be reviewed by the Coastal Commission for any future development within the Commission's retained Coastal Development Permit jurisdiction pursuant to the Coastal Act, or by the County, or Commission on appeal, for development within the County's Coastal Development Permit jurisdiction pursuant to the certified Local Coastal Program standards governing the issuance of Coastal Development Permits. Suggested Modifications No. 1 & 3 further clarify that surface mining may take place in the Coastal Zone only if the proposed surface mining is consistent with the Coastal Act and the certified local coastal program. Suggested Modification No. 2 adds to the ordinance a definition of development requiring a Coastal Development Permit. Suggested Modification Nos. 1, 2, and 3 will ensure that users of the Zoning Regulations will not overlook Coastal Development Permit requirements that are in addition to the permit standards and requirements set forth by the surface mining and reclamation ordinance.

## 2. Vested Rights Determinations

The proposed surface mining and reclamation ordinance includes language concerning vested rights. Vested mining operations in the County are subject to all requirements of SMARA. However, the section pertaining to legal vested mining operations does not reflect the procedures regarding vested rights determinations for purposes of Coastal Development Permits. As noted previously, one of the County's objectives of the proposed Zoning Regulations amendment is to revise and update procedural requirements consistent with state law. To further achieve this objective, the Commission includes **Suggested Modification No. 4**. Suggested Modification No. 4 makes an addition to Section 7702.5 pertaining to legal vested mining operations to accurately reflect the language of Subchapter 1 of Chapter 6 (sections 13200-13205) of the Commission's Administrative Regulations. Suggested Modification No. 4 clarifies that the section in the County surface mining and reclamation ordinance is applicable only to local vested rights determinations and is not applicable to vested right determinations for purposes of Coastal Development Permit requirements. The section added by Suggested Modification No. 4 further clarifies that the Coastal Commission, rather than the certified local government, shall administratively adjudicate all vested right determinations for purposes of coastal development requirements.

## 3. Conclusion

The ordinance as amended results in an updated surface mining and reclamation program that is in compliance with the requirements of the Surface Mining and Reclamation Act. The surface

mining and reclamation ordinance sets forth standards and procedures for reviewing and issuing mining permits and reclamation plans. The proposed changes do not change or eliminate the standards or requirements set forth by the County's certified LUP pertaining to Coastal Development Permits. Additionally, the proposed changes do not change the kind, location, intensity, or density of use that is presently allowed for on any property in the County's LCP.

For the most part, the Zoning Regulations amendment as proposed conforms with and adequately carries out the provisions of the County's Land Use Plan. All of the existing zoning designations and use standards set forth for each zoning district would remain as currently certified, and would continue to dictate where extractive uses can occur in conformance with corresponding LUP designations. However, as discussed above, some sections of the amendment as proposed are not inclusive or clear enough to be fully consistent with Coastal Development Permit requirements of the certified LUP. Therefore, the Implementation Plan amendment as submitted does not adequately carry out the provisions of the LUP. However, with the addition of the suggested modifications, the amended surface mining and reclamation ordinance would be more comprehensive and accurate, and would more effectively carry out the provisions of the LUP.

Therefore, the Commission finds the County's Implementation Plan, as modified, conforms with and is adequate to carry out the requirements of the certified Land Use Plan consistent with Section 30513 of the Coastal Act.

**D. California Environmental Quality Act**

In addition to making a finding that the amendment is in full compliance with the Coastal Act, the Commission must make a finding consistent with Section 21080.5 of the Public Resources Code. Section 21080.5(d)(2)(A) of the Public Resources Code requires that the Commission not approve or adopt an LCP:

*...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the activity may have on the environment.*

As discussed in the findings above, the amendment request with the incorporation of the suggested modifications is consistent with the California Coastal Act. The Commission finds that approval of the Implementation Plan with the incorporation of the suggested modifications to implement the Land Use Plan will not result in significant environmental effects within the meaning of the California Environmental Quality Act.





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JUN 11 2001

ATTACHMENT A

ORDINANCE NO. \_\_\_\_\_

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

\* \* \* \* \*

AN ORDINANCE AMENDING THE COUNTY  
SURFACE MINING AND RECLAMATION ORDINANCE

\* \* \* \* \*

The Board of Supervisors of the County of San Mateo, State of California, ORDAIN that Division VI, Part Four, Chapter 3, Sections 7702 through 7706 are repealed and add Division VI, Part Four, Chapter 3, Sections 7702.0 through 7707.0 as follows:

DIVISION VI. PLANNING, PART FOUR: MISCELLANEOUS

CHAPTER 3. SURFACE MINING AND RECLAMATION ORDINANCE

SECTIONS:

- 7702.0 PURPOSE AND INTENT
- 7702.1 DEFINITIONS
- 7702.2 INCORPORATION BY REFERENCE
- 7702.3 SCOPE
- 7702.4 SURFACE MINING PERMIT - SUPPLEMENTAL USES
- 7702.5 VESTED RIGHTS
- 7703.0 PROCESS
- 7703.1 STANDARDS FOR RECLAMATION
- 7703.2 STATEMENT OF RESPONSIBILITY
- 7703.3 FINDINGS FOR APPROVAL
- 7703.4 FINANCIAL ASSURANCES
- 7703.5 INTERIM MANAGEMENT PLANS
- 7703.6 ANNUAL REPORT REQUIREMENTS
- 7703.7 INSPECTIONS
- 7703.8 VIOLATIONS AND PENALTIES
- 7703.9 APPEALS
- 7704.0 FEES
- 7705.0 MINERAL RESOURCE PROTECTION
- 7706.0 SEVERABILITY
- 7707.0 EFFECTIVE DATE

EXHIBIT NO. 1
APPLICATION NO.
SMC-MAJ-3-00(B)
1 of 14 California Coastal Commission

**SECTION 7702.0. PURPOSES AND INTENT.** The County of San Mateo recognizes that the extraction of minerals is essential to the continued economic well-being of the County and to the needs of society and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The County also recognizes that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications therefore may vary accordingly.

The purpose and intent of this Chapter are to ensure the continued availability of important mineral resources, while regulating surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (Public Resources Code Section 2710 et seq.), as amended, hereinafter referred to as "SMARA," Public Resources Code (PRC) Section 2207 (relating to annual reporting requirements), and State Mining and Geology Board Regulations (hereinafter referred to as "State Regulations") for surface mining and reclamation practice (California Code of Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.), to ensure that:

- (a) Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable conditions which is readily adaptable for alternative land uses.
- (b) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.
- (c) Residual hazards to the public health and safety are eliminated.

**SECTION 7702.1. DEFINITIONS.** The definitions set forth in this section shall govern the construction of this Chapter.

- (a) Area of Regional Significance. An area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.
- (b) Area of Statewide Significance. An area designated by the Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the State and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local or regional significance.
- (c) Borrow Pits. Excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

- (d) Compatible Land Uses. Land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.
- (e) Haul Road. A road along which material is transported from the area of excavation to the processing plant or stockpile area of the surface mining operation.
- (f) Idle. Surface mining operations curtailed for a period of one year or more, by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.
- (g) Incompatible Land Uses. Land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.
- (h) Mined Lands. The surface, subsurface, and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.
- (i) Minerals. Any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.
- (j) Operator. Any person who is engaged in surface mining operations, or who contracts with others to conduct operations on his/her behalf, except a person who is engaged in surface mining operations as an employee with wages as his/her sole compensation.
- (l) 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 surface 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 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.

- (m) Stream Bed Skimming. Excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.
- (n) Surface Mining Operations. All, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations include, but are not limited to, in-place distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, stream bed skimming, and segregation and stockpiling of mined materials (and recovery of same).

**SECTION 7702.2. INCORPORATION BY REFERENCE.** The provisions of SMARA (PRC Section 2710 et seq.), PRC Section 2207, and State Regulations CCR Section 3500 et seq., as those provisions and regulations may be amended from time to time, are made a part of this Chapter by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this Chapter are more restrictive than correlative State provisions, this Chapter shall prevail.

**SECTION 7702.3. SCOPE.** Except as provided in this Chapter, no person shall conduct surface mining operations unless a permit, Reclamation Plan, and financial assurances for reclamation have first been approved by the County. Any applicable exemption from this requirement does not automatically exempt a project or activity from the application of other regulations, ordinances or policies of the County, including but not limited to, the application of CEQA, the requirements of Site Approvals or other permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be permitted under the law. The provisions of this Chapter shall apply to all lands within the County, public and private.

This Chapter shall not apply to the following activities, subject to the above-referenced exceptions:

- (a) Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.
- (b) 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:
  - (1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of State law and locally adopted plans and ordinances, including, but not limited to, the

California Environmental Quality Act ("CEQA," Public Resources Code, Division 13, Section 21000 et seq.).

- (2) The County's approval of the construction project included consideration of the on-site excavation and on-site earthmoving activities pursuant to CEQA.
  - (3) The approved construction project is consistent with the general plan and zoning of the site.
  - (4) 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.
- (c) Operation of a plant site used for mineral processing, including associated on-site structures, equipment, machines, tools, or other materials, including the on-site stockpiling and on-site recovery of mined materials, subject to all of the following conditions:
- (1) The plant site is located on lands designated for industrial or commercial uses in the County's General Plan.
  - (2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial or surface mining activities by the County.
  - (3) None of the materials being processed are being extracted on site.
  - (4) All reclamation work has been completed pursuant to the approved Reclamation Plan for any mineral extraction activities that occurred on site after January 1, 1996.
- (d) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.
- (e) 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.
- (f) Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.
- (g) The solar evaporation of seawater or bay water for the production of salt and related minerals.

- (h) 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.
- (i) Road construction and maintenance for timber or forest operations if the land is owned by the same person or entity, and if the excavation is conducted adjacent to timber or forest operation roads. This exemption is only available if slope stability and erosion are controlled in accordance with Board regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and post-closure uses in consultation with the Department of Forestry and Fire Protection. This exemption does not apply to on-site excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavations for materials that are, or have been, sold for commercial purposes. Class One and Class Two watercourses shall be defined per the California Department of Forestry and Fire Protection regulations as follows: (1) a Class One stream has a domestic supply downstream and fish present in it, and (2) a Class Two stream does not have a domestic supply located downstream but does have fish present.

**SECTION 7702.4. SURFACE MINING PERMIT - SUPPLEMENTAL USES.** When a surface mining permit has been granted according to these regulations and while operations are in conformity with the conditions of the permit, the property shall be used exclusively for surface mining operations and the following specific uses:

- (a) The stockpiling of rock, sand, gravel, and other minerals, including the installation, maintenance or operation of rock crushing equipment.
- (b) Batching plants or mixing plants for cement treated bases, Portland cement or asphaltic concrete, where permitted as a condition of the permit.
- (c) Resource management activities, when determined appropriate as a condition of the surface mining permit.
- (d) Such structures and facilities which are necessary for the conducting of normal related business, including a caretaker's dwelling, provided the dwelling is only on premises during the duration of the permit, or that it is so sited on the property as to conform to the purpose and intent of a single-family dwelling and is consistent with the appropriate zoning district regulations.
- (e) Any use permitted in the zone, subject to the limitations and conditions set forth in the district, and provided that the Planning Commission specifically authorizes such use in the permit and makes a finding regarding compatibility.

**SECTION 7702.5. VESTED RIGHTS.** No person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit to mine,

so long as the vested right continues and as long as no substantial changes have been made in the operation except in accordance with SMARA, State Regulations, and this Chapter. Where a person with vested rights has continued surface mining in the same area subsequent to January 1, 1976, he shall obtain County approval of a Reclamation Plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-Act mining, the Reclamation Plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act (January 1, 1976).

All other requirements of State law and this Chapter shall apply to vested mining operations.

#### SECTION 7703.0. PROCESS.

- (a) Applications for a Site Approval or Reclamation Plan for surface mining or land reclamation projects shall be made on forms provided by the Planning and Building Division. Said application shall be filed in accord with this Chapter and procedures to be established by the Planning Director. The forms for Reclamation Plan applications shall require, at a minimum, each of the elements required by SMARA (Sections 2772-2773) and State Regulations, and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed Reclamation Plan, to be established at the discretion of the Planning Director. As many copies of the Site Approval application as may be required by the Planning Director shall be submitted to the Planning and Building Division.
- (b) As many copies of a Reclamation Plan application as may be required shall be submitted in conjunction with all applications for Site Approvals for surface mining operations. For surface mining operations that are exempt from a Site Approval pursuant to this Chapter, the Reclamation Plan application shall include information concerning the mining operation that is required for processing the Reclamation Plan. All documentation for the Reclamation Plan shall be submitted to the County at one time.
- (c) Applications shall include all required environmental review forms and information prescribed by the Planning Director.
- (d) Upon completion of the environmental review procedure and filing of all documents required by the Planning Director, consideration of the Site Approval or Reclamation Plan for the proposed or existing surface mine shall be completed pursuant to Division VI, Part Four, Chapter 3, Sections 7702 through 7707 of the County's Zoning Regulations at a public hearing before the Planning Commission, and pursuant to Section 2774 of the Public Resources Code.
- (e) Within thirty (30) days of acceptance of an application for a Site Approval for surface mining operations and/or a Reclamation Plan as complete, the Planning and Building Division shall notify the State Department of Conservation of the filing of the application(s). Whenever mining operations are proposed in the 100-year floodplain of any

stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any State highway bridge, the Planning and Building Division shall also notify the State Department of Transportation that the application has been received.

- (f) The Planning and Building Division shall process the application(s) through environmental review pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the County's environmental review guidelines.
- (g) Subsequent to the appropriate environmental review, the Planning and Building Division shall prepare a staff report with recommendations for consideration by the Planning Commission.
- (h) The Planning Commission shall hold at least one noticed public hearing on the Site Approval and/or Reclamation Plan.
- (i) Prior to final approval of a Reclamation Plan, financial assurances (as provided in this Chapter), or any amendments to the Reclamation Plan or existing financial assurances, the Planning Commission shall certify to the State Department of Conservation that the Reclamation Plan and/or financial assurance complies with the applicable requirements of State law, and submit the plan, assurance, or amendments to the State Department of Conservation for review. The Planning Commission may conceptually approve the Reclamation Plan and financial assurance before submittal to the State Department of Conservation. If a Site Approval is being processed concurrently with the Reclamation Plan, the Planning Commission may simultaneously also conceptually approve the Site Approval. However, the Planning Commission may defer action on the Site Approval until taking final action on the Reclamation Plan and financial assurances. If necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve the Site Approval for the mining operations until cost estimates for financial assurances have been reviewed by the State Department of Conservation and final action has been taken on the Reclamation Plan and financial assurances.

Pursuant to PRC Section 2774(d), the State Department of Conservation shall be given 30 days to review and comment on the Reclamation Plan and 45 days to review and comment on the financial assurance. The Planning Commission shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. Staff shall prepare a written response describing the disposition of the major issues raised by the State for the Planning Commission's approval. In particular, when the Planning Commission's position is at variance with the recommendations and objections raised in the State's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the Planning Commission shall be promptly forwarded to the operator/applicant.



- (j) The Planning Commission shall then take action to approve, conditionally approve, or deny the Site Approval and/or Reclamation Plan, and to approve the financial assurances pursuant to PRC Section 2770(d).
- (k) The Planning and Building Division shall forward a copy of each approved Site Approval for mining operations and/or approved Reclamation Plan, and a copy of the approved financial assurances to the State Department of Conservation. By July 1 of each year, the Planning and Building Division shall submit to the State Department of Conservation for each active or idle mining operation a copy of the Site Approval or Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year.

**SECTION 7703.1. STANDARDS FOR RECLAMATION.**

- (a) All Reclamation Plans shall comply with the provisions of SMARA (Section 2772 and Section 2773) and State Regulations (CCR Sections 3500-3505). Reclamation Plans approved after January 15, 1993, Reclamation Plans for proposed new mining operations, and any substantial amendments to previously approved Reclamation Plans, shall also comply with the requirements for reclamation performance standards (CCR Sections 3700-3713).
- (b) The County may impose additional performance standards as developed either in review of individual projects, as warranted, or through the formulation and adoption of Countrywide performance standards.
- (c) Reclamation activities shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that may be disturbed again in future operations. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the County. Each phase of reclamation shall be specifically described in the Reclamation Plan and shall include: (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) criteria for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation.

**SECTION 7703.2. STATEMENT OF RESPONSIBILITY.** The person submitting the Reclamation Plan shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be kept by the Planning and Building Division in the mining operation's permanent record. Upon sale or transfer of the operation, the new operator shall submit a signed statement of responsibility to the Planning and Building Division for placement in the permanent record.

**SECTION 7703.3. FINDINGS FOR APPROVAL.**

- (a) Site Approvals. In addition to any findings required by the County's Zoning Regulations, Site Approvals for surface mining operations shall include a finding that the project complies with the provisions of SMARA and State Regulations.
- (b) Reclamation Plans. For Reclamation Plans, the following findings shall be required:
  - (1) That the Reclamation Plan complies with SMARA Section 2772 and Section 2773, and any other applicable provisions.
  - (2) That the Reclamation Plan complies with applicable requirements of State Regulations (CCR Sections 3500-3505, and Sections 3700-3713).
  - (3) That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are consistent with this Chapter and the County's General Plan and any applicable resource plan or element.
  - (4) 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.
  - (5) That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values.
  - (6) That the Reclamation Plan will restore the mined lands to a usable condition which is readily adaptable for alternative land uses consistent with the General Plan and applicable resource plan.
  - (7) That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that Department. Where the County's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

**SECTION 7703.4. FINANCIAL ASSURANCES.**

- (a) To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the County shall require as a condition of approval security which will be released upon satisfactory performance. The applicant may pose security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to the County and the State Mining and Geology Board as specified in

State Regulations, and which the County reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved Reclamation Plan. Financial assurances shall be made payable to the County of San Mateo and the State Department of Conservation.

- (b) Financial assurances will be required to ensure compliance with elements of the Reclamation Plan, including but not limited to, revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if necessary.
- (c) Cost estimates for the financial assurance shall be submitted to the Planning and Building Division for review and approval prior to the operator securing financial assurances. The Planning Director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within 45 days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the County has reason to determine that additional costs may be incurred. The Planning Director shall have the discretion to approve the financial assurance if it meets the requirements of this Chapter, SMARA, and State Regulations.
- (d) The amount of the financial assurance shall be based upon the estimated costs of reclamation for the years or phases stipulated in the approved Reclamation Plan, including any maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities in the upcoming year. Cost estimates should be prepared by a California registered professional engineer and/or other similarly licensed and qualified professionals retained by the operator and approved by the Planning Director. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved Reclamation Plan, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs. Financial assurances to ensure compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved Reclamation Plan shall be based upon cost estimates that include but may not be limited to labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator other than the permittee. A contingency factor of ten percent (10%) shall be added to the cost of financial assurances.
- (e) In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, the County or State Department of Conservation may need to contract with a third party commercial company for reclamation of the site.

- (f) The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required).
- (g) The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.
- (h) Revisions to financial assurances shall be submitted to the Planning Director each year prior to the anniversary date for approval of the financial assurances. The financial assurance shall cover the cost of existing disturbance and anticipated activities for the next calendar year, including any required interim reclamation. If revisions to the financial assurances are not required, the operator shall explain, in writing, why revisions are not required.

**SECTION 7703.5. INTERIM MANAGEMENT PLANS.**

- (a) Within 90 days of a surface mining operation becoming idle, the operator shall submit to the Planning and Building Division a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all Site Approval conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the Planning and Building Division, and shall be processed as an amendment to the Reclamation Plan. IMPs shall not be considered a project for the purposes of environmental review.
- (b) Financial assurances for idle operations shall be maintained as though the operation were active.
- (c) Upon receipt of a complete proposed IMP, the Planning and Building Division shall forward the IMP to the State Department of Conservation for review. The IMP shall be submitted to the State Department of Conservation at least 30 days prior to approval by the Planning Commission.
- (d) Within 60 days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Planning Director and the operator, the Planning Commission shall review and approve or deny the IMP in accordance with this Chapter. The operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator and the Planning Director, to submit a revised IMP. The Planning Commission shall approve or deny the revised IMP

within sixty (60) days of receipt. If the Planning Commission denies the revised IMP, the operator may appeal that action to the Board of Supervisors.

- (c) The IMP may remain in effect for a period not to exceed five years, at which time the Planning Commission may renew the IMP for another period not to exceed five years, or require the surface mining operator to commence reclamation in accordance with its approved Reclamation Plan.

**SECTION 7703.6. ANNUAL REPORT REQUIREMENTS.** Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the County Planning and Building Division on a date established by the State Department of Conservation, upon forms furnished by the State Mining and Geology Board. New mining operations shall file an initial surface mining report and any applicable filing fees with the State Department of Conservation within 30 days of permit approval, or before commencement of operations, whichever is sooner. Any applicable fees, together with a copy of the annual inspection report, shall be forwarded to the State Department of Conservation at the time of filing the annual surface mining report.

**SECTION 7703.7. INSPECTIONS.** The Planning and Building Division shall arrange for inspection of a surface mining operation within six months of receipt of the annual report required in Section 7703.6, to determine whether the surface mining operation is in compliance with the approved Site Approval and/or Reclamation Plan, approved financial assurances, and State regulations. In no event shall less than one inspection be conducted in any calendar year. Said inspections may be made by a State registered geologist, State registered civil engineer, State licensed landscape architect, or State registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months, or other qualified specialists, as selected by the Planning Director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

The Planning and Building Division shall notify the State Department of Conservation within thirty (30) days of completion of the inspection that said inspection has been conducted, and shall forward a copy of said inspection notice and any supporting documentation to the mining operator. The operator shall be solely responsible for the reasonable cost of such inspection.

**SECTION 7703.8. VIOLATIONS AND PENALTIES.** If the Planning Director, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this Chapter, the applicable Site Approval, any required permit and/or the Reclamation Plan, the County shall follow the procedures set forth in Public Resources Code, Section 2774.1 and Section 2774.2 concerning violations and penalties, as well as those provisions of the County Development Code for revocation and/or abandonment of a Site Approval which are not preempted by SMARA.

**SECTION 7703.9. APPEALS.** Any person aggrieved by an act or determination of the Planning and Building Division, in the exercise of the authority granted herein, shall have the right to appeal to the Planning Commission or the Board of Supervisors, whichever is the next higher authority. An appeal shall be filed on forms provided, within ten (10) working days after the rendition, in writing, of the appealed decision.

**SECTION 7704.0. FEES.** The County shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this Chapter and the State Regulations, including but not limited to, processing of applications, annual reports, inspections, monitoring, enforcement and compliance. Such fees shall be paid by the operator, as required by the County, at the time of filing of the Site Approval application, Reclamation Plan application, and at such other times as are determined by the County to be appropriate in order to ensure that all reasonable costs of implementing this Chapter are borne by the mining operator.

**SECTION 7705.0. MINERAL RESOURCE PROTECTION.** Mine development is encouraged in compatible areas before encroachment of conflicting uses. Mineral resource areas that have been classified by the State Department of Conservation's Division of Mines and Geology or designated by the State Mining and Geology Board, as well as existing surface mining operations that remain in compliance with the provisions of this Chapter, shall be protected from intrusion by incompatible land uses that may impede or preclude mineral extraction or processing, to the extent possible for consistency with the County's General Plan.

In accordance with PRC Section 2762, the County's General Plan and resource maps will be prepared to reflect mineral information (classification and/or designation reports) within 12 months of receipt from the State Mining and Geology Board of such information. Land use decisions within the County will be guided by information provided on the location of identified mineral resources of regional significance. Conservation and potential development of identified mineral resource areas will be considered and encouraged. Recordation on property titles of the presence of important mineral resources within the identified mineral resource areas may be encouraged as a condition of approval of any development project in the impacted area. Prior to approving a use that would otherwise be incompatible with mineral resource protection, conditions of approval may be applied to encroaching development projects to minimize potential conflicts.

**SECTION 7706.0. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Chapter.

**SECTION 7707.0. EFFECTIVE DATE.** This Chapter shall take effect thirty (30) days following its adoption.


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(12/1/98)

County of San Mateo  
Department of Environmental Management  
Planning and Development Division

**SURFACE MINING AND RECLAMATION ORDINANCE**

This handout is an excerpt from the San Mateo County Ordinance Code. For further information, contact the Zoning Desk at 363-4161.

OAS FORM ZZ-190

EXHIBIT NO. 2
APPLICATION NO.
SMC-MAJ-3-00(B)
1 of 15  California Coastal Commission

### CHAPTER 3. SURFACE MINING AND RECLAMATION ORDINANCE

SECTION 7702.00. INTENT AND PURPOSE. This ordinance is adopted pursuant to the California Surface Mining and Reclamation Act of 1975, Division 2, Chapter 9, Public Resources Code, commencing with Section 2710.

It is the purpose of this chapter to protect the health, safety and public welfare of the County of San Mateo by the regulation of the extraction of minerals.

It is the intent of San Mateo County that this ordinance shall not replace any applicable regulations of other County ordinances.

The County recognizes that the extraction of minerals is necessary to the needs of society and that the reclamation of mined lands is generally necessary to prevent or minimize adverse effects on the environment including visual resources.

The County intends by this chapter to regulate the mining of minerals and provide for the protection of the environment, including but not limited to air pollution, impedance of groundwater movement and water quality degradation, damage to wildlife habitats, flooding, erosion, degradation of scenic quality, and noise pollution.

The County further finds that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that mining and reclamation operations and specifications may vary accordingly.

SECTION 7702.1. DEFINITIONS. For the purpose of this chapter certain words and phrases are defined as follows, and certain provisions shall be construed as herein set forth unless it shall be apparent from their context that they have different meanings:

- a. Exploration or Prospecting: The search for minerals by geological, geophysical, geochemical or other techniques, including but not limited to sampling, assaying, drilling, or any surface or underground method needed to determine the type, extent, or quantity of minerals present.
- b. Mined Lands: Includes the surface and subsurface of an area in which surface mining operations will be, are being, or have been conducted, including but not limited to all appurtenant structures, equipment, accesses and egresses pursuant to such operations.
- c. Minerals: Any naturally occurring chemical element or compound, or groups of elements and compounds formed from inorganic processes and organic substances, including but not limited to rock, gravel, and sand, but excluding geothermal resources, natural gas, and petroleum.
- d. Mining Waste: Includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations.



- e. Operator: Any person who is engaged in surface mining operations himself, or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface mining operations as an employee with wages as his sole compensation.
- f. Overburden: Soil, rock, or other materials that lie above or between natural mineral deposits before or after their removal by surface mining operations.
- g. Permit: Any formal authorization from or approval by the County of San Mateo, the absence of which precludes surface mining operations.
- h. Person: Any individual, firm, association, corporation, organization, or partnership, or any city, county, district, or the state or any department or agency thereof.
- i. Quarry: Land from which any rock, sand, gravel, stone, earth, or other materials is removed or excavated for the purpose of offsite disposition, whether such disposition is immediate or in the future, excluding topsoil.
- j. Reclamation: The process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse impacts from surface mining operations. This includes adverse surface impacts incidental to underground mines. This reclamation is for the purpose of restoring mined lands to a usable condition and minimizing the visual impacts of surface mining activities. The reclaimed lands are to be left readily adaptable to alternate land uses consistent with the current zoning and General Plan of San Mateo County so that such uses create no danger to public health and safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilizing or other measures.
- k. State Board: State Mining and Geology Board, Department of Conservation, State of California.
- l. State Geologist: Individual holding office as structured in Section 677 of Article 3, Chapter 2 of Division 1 of the Public Resources Code.
- m. Soil: The immediate surface area of land consisting of topsoil or subsoil.
- n. Surface Mining Operations: All or any part of the process involved in the surficial removal of overburden and/or mineral deposits. These processes include but are not limited to prospecting and exploratory activities, mining by the auger method, dredging and quarrying, and surface work incidental to an underground mining operation. Surface mining operations shall also include but not be limited to:
  - (1) Inplace distillation, retorting or leaching (only in the Heavy Industrial (M-2) Zoning District).
  - (2) The production and disposal of mining waste.

- o. Haul Route: Any private road, city highway, or county highway, or combination thereof, which provides access from the site of surface mining operations to the nearest state highway.

**SECTION 7702.2. SCOPE.**

- a. The provisions of this chapter shall apply to the unincorporated area of San Mateo County.
- b. Subject to receiving a conditional use permit from the Planning Commission, surface mining operations may be operated and maintained in the Heavy Industrial (M-2) District or in the following districts upon a finding that surface mining operations are compatible with neighboring land uses:
  - (1) Resource Management (RM) and RM/CZ subject to Coastal Zone criteria and policies.
  - (2) Timberland Preserve Zone (TPZ) and TPZ/CZ subject to Coastal Zone criteria and policies.
- c. The provisions of this chapter are not applicable to:
  - (1) Excavations or grading conducted for farming and the retention of water for agricultural activities, or for the purpose of restoring land following a flood or natural disaster.
  - (2) Surface mining operations that are required by federal law in order to protect a mining claim, if such operations are conducted solely for that purpose.
  - (3) Prospecting for, or the extraction of minerals for commercial purposes, and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.
  - (4) Such other surface mining operations that the County determines to be of an infrequent nature and which involve only minor surface disturbances and are categorically identified (no such identification made as of the effective date of these regulations) by the State Board pursuant to Sections 2714(d) and 2758(c) of the California Surface Mining and Reclamation Act of 1975.

**SECTION 7702.3. SURFACE MINING PERMIT - SUPPLEMENTAL USES.** When a surface mining permit has been granted according to these regulations and while operations are in conformity with the conditions of the permit, the property shall be used exclusively for surface mining operations and the following specific uses:

- a. The stockpiling of rock, sand, gravel, and other minerals, including the installation, maintenance or operation of rock crushing equipment.
- b. Batching plants or mixing plants for cement treated bases, Portland cement or asphaltic concrete, where permitted as a condition of the permit.

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- c. Resource management activities, when determined appropriate as a condition of the surface mining permit.
- d. Such structures and facilities which are necessary for the conducting of normal related business, including a caretaker's dwelling, provided the dwelling is only on premises during the duration of the permit, or that it is so sited on the property as to conform to the purpose and intent of a single family dwelling and is consistent with the appropriate zoning district regulations.
- e. Any use permitted in the zone, subject to the limitations and conditions set forth in the district, and provided that the Planning Commission specifically authorizes such use in the permit and makes a finding regarding compatibility.

**SECTION 7702.4. SURFACE MINING PERMIT - INTERMITTENT OPERATIONS.** Whenever surface mining operations are conducted on an intermittent basis with one or more years between operation periods, or closure entails one winter season, defined for the purpose of this chapter as the time period between November 15 and April 15, the following procedures shall be followed:

- a. Closing Down. The operator shall notify the Planning Division and the Department of Public Works of his intention to close down operations at least thirty (30) days prior to such action. The Department of Public Works shall inspect the site, notify the operator of what protective devices, structures and/or measures are or may be necessary for the protection of adjacent properties, environmental quality, and the general public, and take appropriate steps to see that such protective measures are implemented.
- b. Starting Up. At least thirty (30) days before starting up inoperative surface mining operations, the operator shall notify the Department of Public Works who shall inspect the site. Operations shall not commence until the Planning Director and Department of Public Works have determined that all requirements of the operator's surface mining permit and this section are met and have authorized such commencement.
- c. Nothing in this section shall relieve an operator from any requirement of the reclamation plan or any other requirement of this chapter.

**SECTION 7703.0. PERMIT AND RECLAMATION PLAN REQUIREMENT.**

- a. Any person, except as provided in Section 2776, California Surface Mining and Reclamation Act of 1975, who proposes to engage in surface mining operations as defined in this chapter shall, prior to the commencement of such operations, obtain a permit to mine and approval of a reclamation plan. In accordance with the provisions of this chapter, the information to be submitted as part of the reclamation plan shall include but not be limited to the following:
  - (1) The name and address of the operator and the names and addresses of any persons designated by him as his agents.

- (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 such 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 such operation, a map that includes the boundaries and topographic details of such 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 such lands, the location of all proposed access roads to be constructed in conducting such operation, and the names and addresses of the owners of all surface and mineral interests of such lands.
- (6) A description of reclamation activities and a phased plan consisting of five-year increments, with adequate cross sections 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 possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation. The said plan shall include an estimate of the cost of completion of reclamation activities, computed at current cost, at the time proposed in the time schedule.
- (7) The reclamation of lands affected by surface mining operations shall be completed within one year of the completion of mining operations on such lands. Failure to show a substantial effort to adhere to the reclamation schedule shall be grounds for suspension or revocation of the surface mining permit.
- (8) A description of the proposed use or potential uses of the land after reclamation, and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses.
- (9) A description of the manner in which reclamation adequate for the proposed use or potential uses will be accomplished, including: a description of the manner in which contaminants will be controlled, and mining waste will be disposed of, and a description of the manner in which rehabilitation of affected streambed channels and streambanks to a condition which minimizes erosion and sedimentation will be accomplished.
- (10) An assessment of the effect of implementation of the reclamation plan on future mining in the area.
- (11) A statement that the applicant accepts responsibility for reclaiming the mined lands in accordance with the reclamation plan.

- (12) A statement by the applicant that he accepts responsibility for all completed reclamation work for a period of two years, or such greater period as deemed necessary by the Planning Commission to assure the permanence of all features of the reclamation plan.
  - (13) Any other information which the Planning Director, Director of Public Works, and Planning Commission may require. Except for Items 1, 2, 11 and 12 of the Surface Mining Permit Application, the Director may waive the filing of one or more of the items where unnecessary to process the application.
- b. Such fees as established in the San Mateo County Fee Resolution shall be paid to the County of San Mateo, Planning Division, at the time of filing.
  - c. No person who has obtained a vested right to conduct a surface mining operation prior to January 1, 1976, shall be required to secure a permit pursuant to the provisions of this chapter as long as such vested right continues, provided that no substantial change is made in that operation except in accordance with the provisions of this chapter. A person shall be deemed to have such vested rights if prior to January 1, 1976, he has in good faith and in reliance upon a permit or authorization as required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefore.
  - d. Each application for a Surface Mining Permit shall be made to the San Mateo County Planning Commission in a form provided by the Planning Division. Such application shall be accompanied by the following information and such other information as the Director and/or Planning Commission may require. The Planning Director may waive the filing of one or more of the following items where unnecessary to process the application:
    - (1) A description of the environmental setting which shall include topography, geology (general area and site specific soil and rock characteristics), hydrology, climate, vegetation and landscape characteristics, wildlife, social and any other special features pertinent to the site.
    - (2) A statement of the proposed plan of operation, including the type of surface mining to be employed, proposed dates of initiation and termination, seasonal shutdown, areas to be removed and phasing plans, all of which shall be consistent with the description of environmental setting and the reclamation plan contained in Section 7703.0.
    - (3) A general physical description of the existing and/or proposed facilities accommodating such uses, including types of structures, landscape and circulation elements.
    - (4) The disposition of overburden or topsoils and cross sections through the existing and/or proposed facility sufficient to indicate subsurface structure and slope cut banks.
    - (5) An accurate topographic map of the existing and proposed development area of a scale capable of showing all pertinent grading and, in any case, not less than 1" = 400', with a contour interval no greater

than 10 feet. The following information shall be included on the map: exterior boundaries of the property; boundaries of the area proposed for excavation with planned finish grade; location of all streams, railroads, utility facilities, significant and heritage trees, and any existing or proposed structures, roads or other improvements; location of drainage structures, including a specification list showing the type of drainage structure, diameter and length and the contributing drainage area to the structure in acres, schematic plans for any structure other than a manufactured culvert, and calculations for a 10-year and 100-year storm for the drainage area. All drainage calculations shall also be submitted with the topographic map.

- e. A plan for eliminating or mitigating, as much as reasonably possible, the adverse impacts on significant habitat areas, scenic resources, archaeological resources, and neighboring residents. The plan shall include practices proposed to be used to minimize noise, dust, air contaminants and vibration, and methods to be used to minimize water use and prevent pollution of surface or underground water.
- f. A person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall submit to the County Planning Commission and receive, within a period of 12 months, approval of a reclamation plan for operations to be conducted after January 1, 1976, unless a reclamation plan was approved by the County of San Mateo prior to January 1, 1976, and the person submitting that plan has accepted responsibility for reclaiming the mined lands in accordance with that plan. Nothing in this ordinance shall be construed as requiring the filing of a reclamation plan for, or the reclamation of mined lands on which surface mining operations were terminated prior to, but not after, January 1, 1976. However, nothing in this ordinance relieves either present or past operators from any obligations made prior to the adoption of this ordinance.
- g. The reclamation plan shall be made on forms provided by the Planning Division of the Environmental Management Department of San Mateo County, as called for by Section 2772 of the California Surface Mining and Reclamation Act of 1975. The reclamation plan shall provide for soil stabilization, erosion prevention, water quality protection, revegetation of the site, feasible restoration of the scenic quality of the site, and other measures which may be appropriate or suitable for permitted alternate land uses. The reclamation plan shall establish a schedule of periodic reclamation activity so that mined lands are reclaimed as much as possible consistent with ongoing mining operations.
- h. The Planning Division shall notify the State Geologist, the County Public Works Department, adjacent cities, and such other agencies the Planning Division deems necessary, when surface mining permit applications or reclamation plans are filed. If any of these agencies so request, the Planning Division shall also furnish them with copies of the applicable and/or reclamation plan and other related documents for their review.
- i. Reclamation plans approved pursuant to this ordinance shall be binding on all successors, heirs and assigns of the applicant.

- j. Any other information which the Planning Director, Director of Public Works, and Planning Commission may require. Except for Items 1, 2, 11 and 12 of the Surface Mining Permit Application, the Director may waive the filing of one or more of the items where unnecessary to process the application.
- k. This ordinance shall be reviewed and revised periodically to ensure that it is in accordance with the minimum State standards for mined land reclamation.

**SECTION 7703.1. REVIEW PROCEDURE.**

- a. The Planning Division shall review the permit application and reclamation plan and shall schedule a public hearing. Such public hearing shall be held by the Planning Commission for the purpose of consideration of the issuance of a surface mining permit and approval of the reclamation plan for such operation.
- b. The Planning Commission shall make such investigations as are necessary to determine whether or not the surface mining operation will conform fully to the regulations of this ordinance and with the terms of other County ordinances pertaining to land use. At the conclusion of its investigation and hearings, the Planning Commission shall make findings as to whether or not the surface mining operation conforms to the requirements of this chapter, is consistent with the County General Plan and Zoning, is compatible with neighboring land uses, will be a public nuisance or detrimental to the public peace, health, safety or general welfare. On the basis of these findings, the Planning Commission may grant or deny a permit for a period ranging from one to five years, except that any new quarry may receive a one-time permit for a period of ten years.

The Planning Commission shall specify such conditions as are deemed necessary or appropriate for the protection of persons, property and environmental and scenic quality in the neighborhood in which the surface mining operation is located. Such conditions may include reasonable methods for the imposition of a binding physical limitation on the extent of surface mining operations, and/or the imposition of a binding termination date for surface mining operations. Permits exceeding one year in length may be reviewed annually by the Planning Commission for conformance to the permit conditions and approved plans.

- c. Upon granting or denial of any such permit by the Planning Commission, or the imposition of restrictions which the applicant or any interested person deems to be arbitrary or unreasonable, the applicant or any such interested person may appeal within ten calendar days to the Board of Supervisors by paying a fee and filing the appropriate forms with the Planning Division.
- d. In addition to the information required in the application, the applicant of a surface mining permit shall substantiate, to the satisfaction of the Planning Commission, the following facts:
  - (1) That the requested surface mining operation, conducted at the location and in the manner proposed, will not adversely affect the

peace, health, safety, or welfare of persons residing or working in the surrounding area;

- (2) That all substantial adverse ecological effects resulting from surface mining operations will be prevented or minimized;
- (3) That the proposed site is adequately served by essential public services and streets or highways of sufficient width, and improved to facilitate the kind and quantity of traffic which surface mining operations will or could generate; and
- (4) That the proposed site for surface mining operations is consistent with the General Plan for San Mateo County.

**SECTION 7703.2. SUSPENSION, REVOCATION, AND VIOLATION.**

- a. Any permit granted by the Planning Commission shall be subject to suspension or revocation in the following manner: A notice shall be served on the person holding said permit specifying wherein the person has failed to comply with this ordinance or with any conditions specified in the permit, and requiring said person to appear before the Planning Commission at a public hearing, at a date and hour specified, to show cause why the permit should not be revoked or suspended. At such time, the person holding the permit shall have the right to appear in person, by counsel, or by authorized representative, and introduce such evidence as desired, and the Planning Commission shall confront the permit holder with the alleged violations. After the hearing the Planning Commission may, if in its opinion the permit holder has violated the terms of his permit, suspend or revoke said permit or impose such additional conditions as the Commission deems reasonably necessary to prevent any further failure to comply. Any interested person may appeal to the Board of Supervisors, within ten days, any action of the Planning Commission regarding the revocation, suspension or imposition of additional conditions on such permit. Suspension action may be for a limited time to allow compliance to the satisfaction of the Planning Commission, Planning Director and/or Director of Public Works.
- b. Any surface mining operation set up, altered, constructed, enlarged, converted, operated or maintained contrary to the provisions of this ordinance or the adopted reclamation plan, is hereby declared to be a public nuisance, and the District Attorney shall commence proceedings for the abatement, removal, enjoinder and reclamation thereof in the manner provided by law to grant such relief as will abate, remove, and reclaim such surface mining operation and restrain and enjoin any person from using any property contrary to the provisions of this ordinance or adopted reclamation plan. If remedial work is necessary, the County shall so notify the operator. If the work is not completed or diligently performed by the operator within the time period set forth in the notice, the County may undertake or contract for the work with the cost to be paid by the operator. Any such cost shall become a lien on the property.
- c. Any person violating, or causing or permitting the violation of any provisions of this Surface Mining and Reclamation Ordinance, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the County Jail



for a term not exceeding six (6) months or by both such fine and imprisonment. Such person shall be deemed to be guilty of a separate offense for each and every day during which any violation of this Surface Mining and Reclamation Ordinance is committed, continued, or permitted by such person. Moreover, any person violating any of the provisions of this Surface Mining and Reclamation Ordinance may be prosecuted under the California Unfair Trade Practices Act, Business and Professions Code, Sections 17200-08, at the discretion of the District Attorney. The Act provides for both injunctive relief and civil damages up to two thousand five hundred dollars (\$2,500.00) for each violation.

**SECTION 7703.3. SURFACE MINING PERMIT - DEVELOPMENT STANDARDS FOR MINING OPERATIONS.** Unless the Commission deems otherwise, and so specifies in the permit, surface mining operations shall be conducted in accordance with the following requirements.

a. Slopes

- (1) Cut slopes steeper than one (1) foot horizontally to one (1) foot vertically shall in no case be brought closer than twenty-five (25) feet to any exterior property line. The Planning Director or Director of Public Works may require that excavations be made with a more gentle slope than the above slope requirements if it is deemed necessary for slope stability and public safety at any time. Limiting heights for 1:1 slopes may also be established depending upon the geologic structure and lithology. It shall be the responsibility of the applicant to provide geotechnical data supporting the feasibility of their proposed development plan.
- (2) When cut slopes steeper than one (1) foot horizontally to one (1) foot vertically exceed fifty (50) feet vertically, they shall be benched at intervals not to exceed fifty (50) feet vertically, and such steps shall be at least fifteen (15) feet wide. These standards may be adjusted to site conditions upon the recommendation of the geotechnical consultant with the authorization of the County Geologist.

b. Erosion and Sedimentation Control

- (1) Measures shall be taken to prevent erosion of adjacent lands from waters discharged from the site of mining operations. Such measures may include the revegetation of slopes and the construction of properly designed retarding basins, settling ponds and other erosion control and water treatment facilities. Such facilities shall be to the satisfaction of the Planning Director and Director of Public Works.
- (2) No discharge of sediment into offsite bodies of water in excess of natural levels shall be permitted.
- (3) The finished excavation shall, where it is determined to be in the public and/or private interest, be graded in such a manner as to

prevent the accumulation of storm waters or natural seepage; such grades shall have slopes not less than one and one-half (1 1/2) percent.

- (4) Stockpiles of overburden and minerals shall be managed to minimize water and wind erosion.
- (5) The removal of vegetation and overburden in advance of surface mining shall be kept to a minimum.
- (6) Final cut slopes shall be treated as required to prevent erosion and topsoil shall be replaced on areas suitable to receive it when necessary to support vegetation. Suitable seeding or planting shall take place within twelve (12) months of the time a cut slope is excavated to its final position. Such plantings shall be maintained for a period no less than two growing seasons and sufficient to provide vegetation of adequate cover to prevent erosion.
- (7) Plant material of type and quantity specified by the Planning Commission shall be placed as required to screen cut slopes from public view.
- (8) Benches shall be cleared of rocks to prevent rock fall.

c. Water Quality Control

Mining operations shall be conducted in accordance with applicable standards of the Regional Water Quality Control Board or any other agency with jurisdiction over water quality.

d. Protection of Fish and Wildlife Habitat Including Rare, Endangered and Threatened Flora and Fauna

All reasonable and practicable measures shall be taken to protect the habitats of fish and wildlife during surface mining operations in conjunction with appropriate State and Federal agencies. Rare, endangered or threatened plants or animals shall be protected, to the maximum extent feasible, and comply with existing Federal and State statutes.

e. Runoff and Flood Control

Surface mining operations shall be conducted in such a manner as to prevent or minimize flooding and/or alteration of the natural drainage system.

f. Fencing

All surface mining areas shall be fenced in a neat manner. The design of such fence shall be to the satisfaction of the Planning Director. Any sedimentation ponds which can be considered attractive hazards shall be fenced.

g. Setbacks

- (1) No surface mining operation or structure shall be located within fifty (50) feet of any public street or highway or any lot or parcel of land which is not a part of the area covered by the permit, except where the contiguous property is currently or intermittently being mined in the same manner.
- (2) No surface mining operation or structure shall be located within one hundred (100) feet of any streambed, flood control channel or reservoir, without first obtaining the approval of the Planning Director and Director of Public Works. Where approval is requested, a flood hazard analysis evaluating the effect surface mining operations will have on drainage and erosion on adjacent properties along the stream course shall also be submitted.

h. Maintenance and Operation

- (1) The quarry premises shall be maintained at all times in a safe, neat and orderly manner.

i. Restriction on Nighttime Hours for Shipping or Hauling

- (1) Between the hours of 7:00 p.m. and 6:00 a.m., on those days for which surface mining operations are authorized under a permit granted pursuant to this chapter, no vehicles involved in the shipping or hauling of any quarry materials, or any other materials or products processed on site, shall be authorized to use a haul route if both of the following conditions exist:
  - a) The haul route passes through or adjacent to any incorporated or unincorporated area zoned primarily for residential use; and
  - b) At the time the haul route was first approved, under a surface mining permit issued by the County, the haul route either passed within 500 feet of an occupied residential structure or would have resulted in external noise levels exceeding 70 dba when measured within 50 feet of any occupied residential structure.

For purposes of this subsection only, the restriction on nighttime hauling shall not apply to Bayshore Boulevard, within the limits of the cities of Brisbane and South San Francisco.

- (2) Exceptions to the restriction on nighttime hauling contained in Subsection (i)(1) above may be granted by the Director of Environmental Management in the event of an emergency. For purposes of this subsection, "emergency" means a sudden, unexpected occurrence involving a clear and imminent danger demanding immediate action to prevent or mitigate the loss of or damage to life, health, property or essential public services. "Emergency" includes such occurrences as fire, flood, earthquake, or other soil or geological movements, as well as such occurrences as riot, accident, or sabotage.

**SECTION 7703.4. PERFORMANCE SURETY.** Upon a finding by the Planning Division that a supplemental guarantee for the reclamation and maintenance of the mined land is appropriate, and upon the determination by the Planning Division of the cost of the reclamation and maintenance of the mined land according to the reclamation plan, a surety bond or other security guarantee conditioned upon the faithful performance of the reclamation plan shall be filed with the Planning Division and with the Board of Supervisors in an amount set by the Planning Commission during public hearing. Such surety shall be executed in favor of the County of San Mateo and reviewed and revised as necessary, annually, by the Planning Director. Such surety shall be maintained in an amount equal to the current cost estimate of completing the remaining reclamation of the site as prescribed in the approved or amended reclamation plan and shall include a separate maintenance bond for the term of the use permit. Said maintenance bond shall be for the purpose of maintaining the vegetation planted during reclamation, any equipment or facilities appurtenant to reclamation, erosion control devices, and any other maintenance regulation deemed appropriate by the Planning Director. The County shall be notified in advance of the cancellation of such surety. Any such cancellation constitutes automatic cancellation of any permit for surface mining and gives the County the right to reclaim the land pursuant to the reclamation plan with the cost to be paid by the operator. Any such cost may be a lien on the property.

**SECTION 7703.5. PUBLIC RECORDS.** Reclamation plans, reports, applications, and other documents submitted pursuant to this ordinance are public records, unless it can be demonstrated to the satisfaction of the County that the release of such information or part thereof would reveal production reserves, or rates of depletion entitled to protection as proprietary information. The County shall identify such proprietary information as a separate part of each application. A copy of all permits, reclamation plans, reports, applications, and other documents submitted pursuant to this ordinance, including proprietary information, shall be furnished to the District Geologist of the State Division of Mines and Geology by the County of San Mateo. Proprietary information shall be made available to other persons only when authorized by the permit holder and operator in accordance with Section 2778, California Surface Mining and Reclamation Act of 1975.

**SECTION 7704.0. INSPECTIONS.**

- a. As a condition of approval for the permit or the reclamation plan or both, a schedule for periodic inspections of the site shall be established to evaluate continuing compliance with the permit and the reclamation plan.
- b. Inspection fees shall be imposed in accordance with the Board of Supervisor's resolution establishing fees.
- c. Normally, no more than four regular inspections annually will be required. In the event that conditions of operations warrant additional inspections, each inspection shall be charged to the holder of the surface mining permit based upon the cost of services (time and materials), and only upon authorization of the Planning Commission, Planning Director, or Director of Public Works.

**SECTION 7705.0. AMENDMENTS.** Amendments to an approved reclamation plan, detailing proposed changes from the original plan, may be submitted to the County Planning Division at any time. Any substantial deviations from the original plan, as determined by the Planning Director, shall not be undertaken until such amendment has been filed and approved by the Planning Commission in the same manner as is prescribed for approval of a reclamation plan.

**SECTION 7705.5. VARIANCE.** Variances from the provisions of this chapter may be granted by the Planning Commission in accordance with Chapter 25, Sections 6530-6532, governing variances from zoning regulations.

**SECTION 7706.0. SEPARABILITY.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this ordinance.

**NOTE: PLANNED AGRICULTURAL DISTRICT.** At the present time, there is a major amendment to the Local Coastal Program (LCP) before the Coastal Commission which would allow quarrying in the Planned Agricultural District (PAD). Until such time as action is taken on that proposal, no new surface mining activity will be allowed in the PAD.

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