

15.780 - Surface Mining and Reclamation

When allowed by Sections 5.030 *et. seq.* (Allowable Land Uses and Permit Requirements) in the zone applicable to a site, surface mining operations and the reclamation of mined lands are subject to the requirements of this section. This section supplements and should be reviewed in conjunction with the California Surface Mining and Reclamation Act of 1975 (§2710 *et. seq.* of the California Public Resources Code), which contains additional information and requirements applicable to surface mining operations and reclamation.

A. Findings. The Board of Supervisors hereby finds and declares that:

1. The extraction of minerals is essential to the continued economic well-being of the County and to the needs of the 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.
2. The reclamation of mined lands as provided for in this subchapter will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.
3. Surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that the reclamation operations and specifications therefore may vary accordingly.

B. Purpose and intent. It is the intent of the Board of Supervisors to create and maintain effective and comprehensive surface mining and reclamation policies and regulations to properly carry out the requirements of the California Surface Mining and Reclamation Act of 1975 (§2710 *et. seq.* of the California Public Resources Code) hereinafter referred to as "SMARA," California Public Resources Code §2207, and the California Code of Regulations adopted pursuant thereto (14 Cal. Code of Regs., §3500 *et. seq.*) to ensure that:

1. Adverse environmental and other effects of surface mining operations will be prevented or minimized and that the reclamation of mined lands will provide for the beneficial, sustainable, long-term productive use of the mined and reclaimed lands; and
2. The production and conservation of minerals will be encouraged, while eliminating hazards to public health and safety and avoiding or minimizing adverse effects on the environment, including but not limited to geologic subsidence, air pollution, water quality degradation, damage to biological resources, flooding, erosion, degradation of scenic quality, and noise pollution.

C. Incorporation of SMARA and state regulations. The provisions of the California Surface Mining and Reclamation Act of 1975 (§2710 *et. seq.* of the California Public Resources Code), California Public Resources Code §2207, and the California Code of Regulations implementing the Act (14 Cal. Code of Regs., §3500 *et. seq.*), and 14 Cal. Code of Regulations, Article 9, Chapter 8, §3700 *et. seq.* ("Reclamation Standards"), hereinafter also referred to as "State Regulations," as those provisions may be amended from time to time, are made a part of this subchapter by reference with the same force and effect as if the provisions therein were fully set forth here, excepting that when the provisions of this subchapter are more restrictive than conflicting State provisions, this subchapter shall prevail.

- D. Permit and reclamation plan required.** No person shall conduct surface mining operations or permit another person to conduct surface mining operations on his/her property unless a conditional use permit and reclamation plan have first been approved pursuant to this section and Section 20.130 (Conditional Use Permits), except as otherwise provided in subsections (E) (Exceptions) and (J) (Vested Rights) of this section. Conditional use permit and reclamation plan approval are required for all surface mining operations in all zones where surface mining is allowed; and shall be required for the expansion or substantial change of operation of any surface mine for which such expansion or changes have not been previously approved. Reclamation plan approval is also required for those portions of existing surface mining operations which claim to have vested rights pursuant to California Public Resources Code §2776, unless otherwise exempted from SMARA by its provisions, or subject to an exception as provided by subsection (E), following.
- E. Exceptions.** The provisions of this section shall not apply to any of the following activities:
1. Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.
 2. Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 250 cubic yards in any one location of one acre or less, with the written consent of the surface right owner and consistent with applicable law. *more strict 250yds*
 3. 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.
 4. Such other surface mining operations which the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.
 5. 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.
- An exception under this section does not necessarily exempt a project or activity from other regulations or permit requirements of this zoning ordinance or the Placer County Code.
- F. Application contents:** As required for conditional use permits by Section 20.020, and as required by subsection (G), following.
- G. Reclamation plan requirements:**
1. **State standards.** All reclamation plans shall conform to minimum statewide performance standards required pursuant to the California Public Resources Code §2772(c) (14 Cal. Code of Regulations, Article 9, Chapter 8, §3700 *et. seq.*), as adopted by the State Surface Mining and Geology Board, including but not limited to wildlife habitat, backfilling, revegetation, drainage, agricultural land reclamation, equipment removal, stream protection, topsoil salvage, and waste management.

2. **Information on site and surroundings.** The reclamation plan shall also address specific characteristics of the site and surface mine to be reclaimed, such as type of overburden, soil stability, topography, geology, climate, stream characteristics, and principal mineral commodities, and the character of the surrounding area.
 3. **General application information.** The reclamation plan shall include the information specified by Section 20.020 (Required Application Contents), and all additional information and materials specified by the list of "Required Application Contents for Surface Mining Permits and Reclamation Plans" furnished by the Planning Department.
 4. **Information on reclamation phasing.** 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 as provided by subsection (J) below.
- H. **Application processing.** Conditional use permit applications and proposed reclamation plans for surface mines shall be processed as required by Sections 20.130 *et. seq.* (Conditional Use Permits), and as follows:
1. **Referral of application:** Within 30 days of the acceptance of a conditional use permit and/or reclamation plan application for a surface mining operation, the Planning Department shall refer the applications and plans to the following:
 - a. The Director of the State of California Department of Conservation shall be notified of the filing of all surface mining permit applications, reclamation plans and the associated CEQA document. The Department of Conservation shall have 30 days to prepare written comments on the reclamation plan and financial assurance, if the director of the Department of Conservation so chooses.
 - b. Whenever mining operations are proposed in a 100-year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA), and within one mile, upstream of downstream, of any state highway bridge, the Planning Department shall also notify the California Department of Transportation that the application has been received.
 2. **Authority for action on reclamation plans.** The Zoning Administrator shall be the granting authority for review and approval of a reclamation plan, except that where a conditional use permit application is also filed, the Planning Commission shall be the granting authority for both the conditional use permit and the reclamation plan.

3. **Public hearing.** Each application for a conditional use permit and/or reclamation plan for a surface mine shall be subject to at least one public hearing as specified by Section 20.130 (Conditional Use Permits). If applications for a conditional use permit and a reclamation plan are submitted by the same applicant for the same site, the granting authority may consider and decide upon both applications in one public hearing.
4. **Hearing notice.** Notice of a public hearing on a permit or reclamation plan for a surface mine shall be given as specified in Section 25.300 (Public Hearings), and notice shall also be provided to all owners of property located within any existing or proposed contiguous Special Purpose (-SP) combining district.
5. **Procedure for approval.** Conditional use permits for surface mining operations shall be processed and approved as provided by Sections 10.130 *et. seq.*, which may occur at the same time as reclamation plan. The approval of a reclamation plan, amendment to a reclamation plan, or financial assurances (as provided by subsection (J)), shall also occur as follows:
 - a. **Certification to State.** Prior to the final approval of a reclamation plan, financial assurances or any amendments to a reclamation plan or existing financial assurances, the granting authority shall:
 - (1) Certify to the director of the California Department of Conservation that the reclamation plan and/or financial assurance complies with the applicable requirements of the State regulations; and
 - (2) Submit the plan, assurances, or amendments to the director of the California Department of Conservation for review.
 - b. **Conceptual approval.** The granting authority may conceptually approve a reclamation plan and financial assurance before submittal to the director of the California Department of Conservation.
 - c. **Deferral of action.** The granting authority may defer action on a surface mining conditional use permit until taking final action on a reclamation plan and financial assurance. If necessary to comply with the permit processing deadlines set forth in Section 20.160 (Permit Time Limits), the granting authority may approve the conditional use permit for surface mining with the condition that surface mining operations shall not commence until financial assurances have been reviewed by the director of the California Department of Conservation, and final action has been taken on the reclamation plan and financial assurances.

- d. **Response to State comments.** The granting authority shall evaluate the written comments provided by the California Department of Conservation during the 45-day comment period. The Planning Department shall prepare a written response describing the disposition of the major issues raised by the State for approval by the granting authority. In particular, when the granting authority's position is different than the recommendations and objections raised by the Department of Conservation, (or any other "responsible" or trustee agency) where comments have been based upon those agencies' statutory or regulatory authority, 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 granting authority shall be promptly forwarded to the operator/applicant.
- e. **Final approval.** The granting authority shall then approve, conditionally approve, or deny the conditional use permit and/or reclamation plan as provided by Section 20.130 *et. seq.* (Conditional Use Permits), and pursuant to §2774 of the California Public Resources Code, and to approve the financial assurances as provided by §2770(d) of the California Public Resources Code.
- f. **Findings for approval.** In approving a conditional use permit for a surface mining operation, the granting authority shall make all findings required for conditional use permits by Section 20.140(A) (Findings Required for Approval), and a finding that the project complies with the provisions of applicable State regulations. In approving a reclamation plan, the granting authority shall first find that:
- (1) The reclamation plan complies with §2772, §2773, and §2773.1 of the California Public Resources Code and any other applicable provisions;
 - (2) The reclamation plan complies with applicable requirements of the State regulations (14 Cal. Code of Regulations, §3500 *et. seq.*, and 14 Cal. Code of Regulations, §3700 *et. seq.*);
 - (3) The reclamation plan and potential use of reclaimed land pursuant to the reclamation plan are consistent with this zoning ordinance, the Placer County General Plan, and any applicable resource plan;
 - (4) The reclamation plans has been reviewed pursuant to the California Environmental Quality Act ("CEQA," California Public Resources Code §21000 *et. seq.*) and the Placer County Environmental Review Guidelines, and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible;
 - (5) The land and/or resources such as water bodies to be reclaimed will be restored to a condition that is as compatible with and blends in with the surrounding natural environmental, topography, and other resources, or that suitable off-site development will compensate for related disturbances 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 any applicable resource plan; and
 - (7) A written response to the director of the California Department of Conservation has been prepared as provided by subsection (H)5.d. above.
- g. Referral to State.** The Planning Department shall forward a copy of each approved conditional use permit for surface mining operations and/or approved reclamation plan, and a copy of the financial assurances to the California Department of Conservation.
- I. Phasing of reclamation.** Reclamation activities shall be phased with respect to the mining operation and 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 occur on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, or as approved by the County.
- J. Financial assurances for reclamation plans.** In order to ensure that reclamation will proceed in accordance with the approved reclamation plan, appropriate security for performance shall be required by the granting authority as a condition of reclamation plan approval. The applicant shall post security as provided by Section 20.190 (Security for Performance), and as provided by statewide regulations adopted by the California Surface Mining and Geology Board. Financial assurances shall be made payable to the County and the California Department of Conservation.
- 1. Scope of assurances.** 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 mitigation measures. Financial assurances for such elements of the plan shall be monitored by the Planning Department.
 - 2. Amount of assurances:**
 - a.** The amount of financial assurances shall be based on 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 since January 1, 1976, and new lands to be disturbed by surface mining activities in the upcoming year, as provided by subsection (J)3 below.
 - b.** Cost estimates shall be prepared by a licensed engineer and/or other qualified professionals retained by the operator and approved by the Planning Director. The estimated amount of financial assurance shall be based on an analysis of physical activities necessary to carry out the approved reclamation plan, the unit costs for each activity, the number of units of each activity, and the actual administrative costs.

- c. 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.
 - d. 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 may need to contract with a third party commercial company for reclamation of the site.
- 3. **Adjustments to assurances.** 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 completed in accordance with the approved reclamation plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the next calendar year, provided that the permittee may not claim credit for reclamation scheduled for completion during the coming year. Proposed adjustments to financial assurances shall be submitted to the Planning Director each year prior to the anniversary date for approval of the financial assurances. If adjustments to the financial assurances are not required, the operator shall explain, in writing, why adjustments are not required.
- 4. **Term and release of assurances.** 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). The financial assurances shall be released upon satisfactory performance.
- K. **Periodic review and inspection required.** Whenever the granting authority approves or conditionally approves a permit or reclamation plan for a surface mine, it shall adopt a condition of approval requiring periodic inspection of the site and surface mining operation by the Departments of Public Works, Health, and Planning.
 - 1. **Timing of inspection.** The Planning Department shall arrange for inspection within six months of receipt of the annual report required by subsection (L) following. In no event shall less than one inspection be conducted in any calendar year.
 - 2. **Purpose of inspection.** The periodic inspection shall be required to determine whether the surface mining operation is in compliance with the approved conditional use permit and/or reclamation plan, financial assurances, and the State Regulations.
 - 3. **Inspection personnel.** Required inspections may be made by a California 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 selected by the Planning Director and retained by the County.

4. **Inspection forms.** All inspections shall be conducted using forms provided by the California State Mining and Geology Board.
 5. **State notification of inspection.** The Planning Department shall notify the California Department of Conservation within 30 days of completion of the inspection that the inspection has been conducted, and shall forward a copy of the inspection notice and any supporting documentation to the mine operator. The mine operator shall be solely responsible for the reasonable cost of the inspection.
 6. **Refusal of inspection.** Failure by the permittee to allow a required inspection shall constitute grounds for revocation of the permit pursuant to Section 35.260 (Permit Revocation).
- L. **Annual reports.** The following annual reports are required:
1. **County report to state.** By July 1, of each year, the Planning Department shall submit to the California Department of Conservation a copy of any conditional use permit or reclamation plan amendments, as applicable, for each active or idle mining operation, or a statement that there have been no changes during the previous year.
 2. **Report by surface mine operators.** Surface mining operators shall forward an annual status report to the California Department of Conservation and the Planning Department on a date established by the California Department of Conservation, on forms furnished by the State Mining and Geology Board.
- M. **Interim management plans (IMPs) for idle operations.** Within 90 days of a surface mining operation becoming idle (as defined by Subchapter 40), the operator shall submit, and the Planning Department shall process, a proposed interim management plan (IMP) as provided by this subsection.
1. **Content of IMP.** The proposed IMP shall comply with the requirements of California Public Resources Code §2770(h), and shall describe measures the operator will implement to maintain the site in compliance with SMARA, including but not limited to all conditions of the conditional use permit for surface mining and/or the reclamation plan.
 2. **Processing of IMP.** A proposed IMP shall be processed as an amendment to the approved reclamation plan, and shall not be considered a "project" for purposes of environmental review, pursuant to California Public Resources Code §2770(h).
 - a. **Referral to State.** Upon receipt of a complete proposed IMP, and at least 45 days prior to action on the IMP by the granting authority pursuant to subsection (M)2.b. following, the Planning Department shall forward the IMP to the California Department of Conservation for review.

Surface Mining

15.780

- b. **Approval or denial of IMP.** Within 60 days of receipt of a proposed IMP, or longer period mutually agreed upon by the Planning Director and the operator, the granting authority shall review and approve or deny the IMP in accordance with this section. In the event of a denial, the operator shall have 30 days (or longer period mutually agreed upon by the Planning Director and the operator) to submit a revised IMP. The granting authority shall approve or deny the revised IMP within 60 days of receipt. The denial of a revised IMP by the granting authority may be appealed as provided by Section 25.140 (Appeals).
4. **Continuation of financial assurances.** Financial assurances for idle operations shall be continued as provided by the reclamation plan or as otherwise approved through the IMP for the idle mine.
5. **Duration of IMP.** An IMP may remain in effect for a maximum of five years, at which time the granting authority may renew the IMP for a maximum of another five years, or require the surface mining operator to commence reclamation in accordance with the approved reclamation plan.
- N. **Site development and operational requirements.** Surface mining operations shall satisfy the following requirements:
1. **Surface mining practices.** The state guidelines for surface mining and reclamation practices contained in the California Code of Regulations are hereby incorporated into this section as though they were fully set forth here. The state guidelines shall be the minimum acceptable practices to be followed in surface mining operations.
 2. **Setbacks.** Unless other setbacks are required through conditions of approval, all surface mining operations shall be set back from property lines, public streets and sewage disposal systems a minimum of 25 feet, or such other greater minimum distances as are specified in a given zone district for primary uses and buildings. The required setback area shall be maintained in its pre-mining state, with no disturbance of existing terrain or vegetation, unless otherwise required by conditional use permit conditions of approval.
 3. **Buffer and screening required.** A noise and/or visual buffer or screen shall be provided along any road rights-of-way and along any property lines as required by conditions of approval, where the granting authority determines that adjacent incompatible uses exist (e.g., schools, parks, or other public or private incompatible uses).
- O. **Amendments and transfers of ownership:**
1. **Amendments to an approved reclamation plan** may be submitted to the Planning Director, detailing proposed changes from the original plan. Deviations from the original plan that are determined by the Planning Director to be substantial shall not be undertaken until such amendments have been reviewed and approved by the granting authority for the original reclamation plan, through the same procedure used for the initial approval.

Surface Mining

2. Whenever one operator succeeds to the interest of another in any uncompleted surface mining operation by sale, assignment, transfer, conveyance, exchange or other means, the successor shall be bound by the provisions of the approved reclamation plan and the provisions of this section.

P. Vested rights:

1. No person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976 shall be required to secure a permit or submit a reclamation plan pursuant to this section unless the continued operation of the mining activity falls into any one of the categories listed in subsection (D) of this section, in which case conditional use permits and reclamation plans are required.
2. A person shall be deemed to have vested rights as described in subsection (P)1 above if, before January 1, 1976, he or she had in good faith and in reliance upon a permit or other authorization (if such permit or other authorization was required) diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefore. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials.
3. The public is hereby advised that Placer County Ordinance No. 3459-B required a person who had obtained a vested right to conduct surface mining operations before January 1, 1976 to submit a complete reclamation plan to the Planning Department by October 11, 1985, for operations conducted after January 1, 1976 unless a reclamation plan was approved by the County before January 1, 1976 and the person submitting the plan had accepted responsibility for reclaiming the mined lands in accordance with the reclamation plan.
4. Nothing in this section shall be construed as requiring the filing of a reclamation plan for, or the reclamation of mined lands on which surface mining operations were commenced and terminated before January 1, 1976. However, it is recommended that mining operators prepare and propose reclamation plans to address unreclaimed portions of ongoing mining operations even where such areas were disturbed before January 1, 1976.
5. The failure to submit a reclamation plan for county review and approval by October 11, 1985 (within one year from the date of adoption of Placer County Ordinance No. 3459-B) shall be cause for revocation of the use permit. The public is hereby advised that Ordinance No. 3459-B allowed an extension of six months to file such a plan upon an applicant's written request, where the failure to meet the deadline was shown to be due to circumstances beyond an operator's control. Such extension is no longer allowed.

Q. Public records:

1. Reclamation plans, reports, applications, and other documents submitted pursuant to this section are public records, unless it can be demonstrated to the satisfaction of the Planning Director that the release of such information, or part thereof, would reveal production, reserves, or rate of depletion, and is entitled to protection as proprietary information.
2. The granting authority shall identify such proprietary information as a separate part of the application. Proprietary information shall be made available only to the State Geologist and to persons authorized in writing by the operator and by the owner. A copy of all reclamation Plans, reports, applications, and other documents submitted pursuant to this subchapter shall be furnished to the State Geologist by the granting authority upon request.

R. Violations and penalties. If the Planning Director determines, based upon an annual or other inspection that a surface mining operation is not in compliance with this section, the approved conditional use permit, any other required permit, and/or the reclamation plan, the County shall follow the procedures set forth in California Public Resources Code §2774.1 and §2774.2 concerning violations and penalties, as well as the provisions of Subchapter 35 of this zoning ordinance (Enforcement) that are not preempted by SMARA.