ORDINANCE NO. 3675

AN ORDINANCE OF THE COUNTY OF SAN JOAQUIN APPROVING THE DEVELOPMENT TITLE AS TITLE 9 OF THE ORDINANCE CODE OF SAN JOAQUIN COUNTY.

The Board of Supervisors of the County of San Joaquin, State of California, ordains as follows:

SECTION 1. Title 9 of the Ordinance Code of San Joaquin County is hereby amended by repealing the existing provisions and adopting the attached provisions.

SECTION 2. This ordinance shall take effect and be in force thirty (30) days after its adoption and, prior to the expiration of fifteen (15) days from the passage thereof, shall be published once (1) in the Stockton Record, a newspaper of general circulation published in the County of San Joaquin, State of California, with the names of the members of the Board of Supervisors voting for and against the same.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of San Joaquin, State of California, on this 29th day of July, 1992, by the following vote of the Board of Supervisors, to wit:

AYES: BARBER, WILHOIT, COSTA, SIMAS

NOES: SOUSA

ABSENT: NONE

EDWARD A. SIMAS, Chairman
Board of Supervisors
County of San Joaquin
State of California

ATTEST: JORETTA J. HAYDE
Clerk of the Board of
Supervisors of the County of
San Joaquin, State of California

By: Cindy DuPontz
Deputy Clerk

SAN JOAQUIN COUNTY CALIFORNIA

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PLANNING DIVISION

## DIVISION 14: GRADING AND EXCAVATION PROVISIONS

## CHAPTER 9-1400

## GRADING AND EXCAVATION PROVISIONS: INTENT AND ORGANIZATION

**Sections:**


| | |
|---|---|
| **9-1400.1** | **Title and Intent** |
| **9-1400.2** | **Organization** |


**Section 9-1400.1. Title and Intent.** Division 14 constitutes the Grading and Excavation Provisions. The intent of this Division is to provide standards for grading and excavations on private property for agricultural leveling, quarry mining, and grading related to development within the unincorporated area of San Joaquin County.

**Section 9-1400.2 Organization.** Division 14 consists of the following Chapters:

| | | |
|---|---|---|
| (a) | 9-1400 | Grading and Excavation Provisions: Intent and Organization |
| (b) | 9-1405 | Grading and Excavation Requirements |
| (c) | 9-1410 | Agricultural Excavation Standards |
| (d) | 9-1415 | Quarry Excavation Standards |

HISTORIC SOURCES

# CHAPTER 9-1400

# GRADING AND EXCAVATION PROVISIONS: INTENT AND ORGANIZATION

**Sections:**

**9-1400.1 Title and Intent**
Ordinance No. 3675

**9-1400.2 Organization**
Ordinance No. 3675

## CHAPTER 9-1405

## GRADING AND EXCAVATION REQUIREMENTS

**Sections:**


| | |
|---|---|
| **9-1405.1** | **Intent** |
| **9-1405.2** | **Grading or Excavation Permit Required** |
| **9-1405.3** | **Exemptions** |
| **9-1405.4** | **General Requirements** |
| **9-1405.5** | **Removal from Site** |
| **9-1405.6** | **Water Obstruction** |
| **9-1405.7** | **Levee Work** |
| **9-1405.8** | **Administration** |


**Section 9-1405.1 Intent.** The intent of this Chapter is to regulate grading and excavations related to development projects.

**Section 9-1405.2 Grading Permit Required.** Except for the specific exemptions listed hereinafter, no person shall do, or permit to be done, any grading or excavation without a valid grading permit obtained from the Building Inspection Division.

**Section 9-1405.3 Exemptions.** The following grading may be done without obtaining a grading permit as required by this Title. Exemption from the requirement of a grading permit shall not be deemed to be permission to violate any provision of this Title.

(a) Minor projects which have cuts or fills, and which meet all of the following:

(1) Involve the removal, plowing under, or burial of less than ten thousand (10,000) square feet of vegetation on slopes eight percent (8%) or greater, or any amount of vegetation on slopes less than eight percent (8%).

(2) Do not create unstable or erodible slopes.

(3) Do not encroach onto sewage disposal systems or areas.

(4) The cut is either

(i) less than two (2) feet in depth, or

(ii) the cut does not create a slope greater than five (5) feet in height and steeper than one and one-half (1 1/2) horizontal to one vertical.

(5) The fill is either

(i) less than one (1) foot in depth and placed on natural terrain with a slope flatter than five (5) horizontal to one (1) vertical, or

(ii) less than three (3) feet in depth, not intended to support structures, which does not exceed fifty (50) cubic yards on any one (1) lot and does not obstruct a drainage course.

(b) Grading done by or under the supervision or construction control of a public agency that assumes full responsibility for ensuring that the work is done in compliance with this Title and Surface Mining And Reclamation Act.

(c) Excavations in connection with a swimming pool or structural foundation authorized by a valid building permit.

(d) Trenching and grading incidental to the construction or installation of permitted underground pipe lines, underground storage tanks, septic tank disposal fields, conduits, electrical or communication facilities, and drilling or excavation for permitted wells or post holes.

(e) Excavations less than one hundred fifty (150) cubic yards for soil or geological investigations by a Geotechnical Engineer or Engineering Geologist.

(f) Grading in accordance with the plan incorporated in an approved Quarry Excavation Permit per Section 9-854 Quarry Excavation Permits, an approved Agricultural Excavation Permit per Section 9-851, or an approved Use Permit for a sanitary landfill per Section 9-821, Use Permits.

(g) Excavations for drainage or sedimentation ponds that are included as portions of other ministerial or discretionary development projects under the provisions of this Title.

(h) Grading or excavations within County rights-of-way or easements for which an encroachment permit has been issued under provisions of Section 9-1145.2.

(i) Maintenance of existing firebreaks and roads to keep the firebreak or road substantially in its original condition.

(j) Routine cemetery excavations and fills.

(k) Performance of emergency work necessary to protect life or property when an urgent necessity arises. The person performing such emergency work shall notify the Building Official promptly of the problem and work required and shall apply for a permit within ten (10) calendar days after commencing said work.

(l) Other exceptions as provided in appendix Chapter 70 of the Uniform Building Code.

**Section 9-1405.4 General Requirements.** Except as modified by this Chapter, Chapter 70 of the Uniform Building Code as adopted by reference by the Board shall govern grading and excavation operations.

**Section 9-1405.5 Removal From Site.** Except as specifically provided for by one of the following, no person shall do, or permit to be done, any grading in such a manner that any quantities of dirt, soil, rock, gravel, or sand is removed from the site.

(a) Removal when done with an approved surface mining Quarry Excavation Permit per Section 9-854, Quarry Excavation Permits.

(b) Removal when done with an approved Agricultural Excavation Permit per Section 9-851, Agricultural Permits.

(c) Removal when done with an approved Use Permit for a sanitary landfill per Section 9-821, Use Permits.

(d) Removal of material related to situations listed under Section 9-1405.3, Exemptions.

(e) Removal from a development project of incidental excess material during site grading that is done with an approved grading or building permit.

(f) Removal, by governmental agency, of material donated to the governmental agency for use in governmental projects; material must have been previously stockpiled for a minimum period of eighteen months. Removal shall be subject to Site Approval.

**Section 9-1405.6 Water Obstruction.** No person shall do or permit to be done any grading which may obstruct, impede, or interfere with the natural flow of storm waters, whether such waters are unconfined upon the surface of the land or confined within land depressions or natural drainage ways, unimproved channels or watercourses, or improved ditches, channels, or conduits, in such manner as to cause flooding where it would not otherwise occur, aggravate any existing flooding condition, or cause accelerated erosion except where said grading is in accordance with all applicable laws, including but not limited to these permit requirements.

**Section 9-1405.7 Levee Work.** No person shall excavate or remove any material from or otherwise alter any levee required for any waterway, water body, or local drainage control without prior approval of the agency responsible for the maintenance of the levee.

**Section 9-1405.8 Administration.** This Chapter shall be administered by the Director. In subdivisions, the grading plans shall be approved by the Building Inspection Division of the Community Development Department. The rough and finish grading of the lots will be inspected by the Building Inspection Division. For development projects that require a discretionary permit, the grading permit will not be issued until the discretionary permit is approved.

HISTORIC SOURCES

CHAPTER 9-1405

# GRADING AND EXCAVATION REQUIREMENTS

**Sections:**


**9-1405.1 Intent**
Ordinance No. 3675

**9-1405.2 Grading or Excavation Permit Required**
Ordinance No. 3675, 3715

**9-1405.3 Exemptions**
Ordinance No. 3675, 3715

**9-1405.4 Compliance with Title 8**
Ordinance No. 3675, 3703 repealed

**9-1405.4 General Requirements**
Ordinance No. 3675, 3703 (renumbered from 9-1405.5), 3715

**9-1405.5 Removal from Site**
Ordinance No. 3675, 3703 (renumbered from 9-1405.6), 3715

**9-1405.6 Water Obstruction**
Ordinance No. 3675, 3703 (renumbered from 9-1405.7)

**9-1405.7 Levee Work**
Ordinance No. 3675, 3703 (renumbered from 9-1405.8)

**9-1405.8 Administration**
Ordinance No. 3675, 3703 (renumbered from 9-1405.9), 3715

# CHAPTER 9-1410

## AGRICULTURAL EXCAVATION STANDARDS

**Sections:**


| | |
|---|---|
| **9-1410.1** | **Intent** |
| **9-1410.2** | **Applicability** |
| **9-1410.3** | **Development Standards** |


**Section 9-1410.1 Intent.** The intent of this Chapter is to provide standards for removing excess material from agricultural property for agricultural purposes.

**9-1410.2 Applicability.** The provisions of this Chapter shall apply only if the amount of material being removed is limited to that which is required to increase the agricultural viability of the property.

**Section 9-1410.3 Development Standards.** The following development standards shall apply to any agricultural excavation permit approved under the provisions of this Title:

(a) Private Roads. All private roads involved in an excavation shall be maintained so as to control the creation of dust;

(b) Final Grade. The final grade shall:

(1) Not result in disruption of the flow of drainage water from the property or adjoining properties;

(2) Not adversely affect the irrigability of the property or surrounding properties. If the property is within an irrigation district, the final grade shall be limited to that elevation, certified by the district, which is necessary to provide gravity irrigation to the property;

(3) Not adversely affect the relation of the water table to the surface of the land;

(4) Have an average elevation no less than the average elevation of the natural grade of the surrounding land. The average elevation of the natural or existing grade shall be the average elevation of all land one hundred (100) feet from the perimeter of the proposed excavation, excluding any portion of the perimeter

adjacent to a river, riverbank, levee, public road, railroad, canal, pipeline, or other similar uses or rights-of-way;

(c) Waterways. A berm or other improvements may be required adjacent to any waterway, including underground facilities, which adjoins the excavation. The heights, setback, and slope of the berm shall be based on recommendation of the agency responsible for the maintenance of the waterway or the Department of Public Works;

(d) Hours of Operation. Excavation operations shall not be carried on during the hours from nine (9) p.m. through five (5) a.m., except during periods of declared national, state, or local emergency. Said hours shall be based on either Pacific Standard Time or Pacific Daylight Saving Time, whichever is legally in effect. The hours of operation may be modified by the Review Authority based upon the excavation's potential effect on surrounding land uses;

(e) Lighting. Any night lighting established on the property shall be arranged and controlled so as not to illuminate public rights-of-way or adjacent properties;

(f) Emissions. All emissions shall be subject to the rules and regulations of the San Joaquin County Air Pollution Control District;

(g) Replacement of Topsoil. During the excavation, the topsoil shall be set aside. Upon completion of an excavation, the topsoil shall be replaced and the site leveled in conformance with the approved Grading Plan, approved by the Review Authority. Replacement of topsoil may be waived by the Review Authority if the soils report indicates the replacement of the topsoil will not enhance the agricultural suitability of the property;

(h) Weed Control. If noxious weeds are on the site, operations shall be in accordance with instructions from the Agricultural Commissioner of San Joaquin County;

(i) Health Considerations. Excavations shall not cause health or sanitary hazards and shall not create conditions which will cause the breeding or increase of mosquitos, rodents, or other pests;

(j) Commencement of Work. A written notification of work schedules shall be provided to the County by the applicant prior to initiating any grading or excavation;

(k) Certification of Compliance. At the completion of the grading, the applicant shall have a registered civil engineer or licensed land surveyor compare the excavation's final elevations with the approved permit. The engineer or surveyor shall submit a certified, written finding to the Building Official which states and documents the compliance or non-compliance of the excavation with the approved permit. If the project conforms with

the approved permit, the Review Authority shall accept the certification and either notify the applicant that the stockpiled material may be removed or release the required performance guarantee, as specified in Subsection (m) (2).

(l) Time Limitation. The time limit shall be based upon the characteristics of the proposal, including, but not limited to, the quantity of material to be removed and the applicant's time schedule and phasing plan. Specific time limitation may be required for individual phases of the excavation.

(m) Performance Guarantee. To ensure that the excavation is completed in conformance with the approved permit, the operator shall either:

(1) Stockpile, on the property, all material to be removed from the site pending acceptance of the certification of compliance by the Director. Stockpiled material shall be set back at least twenty five (25) feet from any property or road right-of-way line; or

(2) Secure a performance bond or other financial security sufficient to cover the cost of rehabilitation of the site for agricultural use. The form of the bond or other financial security shall be found acceptable by County Counsel. The amount of the security shall be approved by the Director.

# CHAPTER 9-1410

# AGRICULTURAL EXCAVATION STANDARDS

**Sections:**

**9-1410.1 Intent**
Ordinance No. 3675

**9-1410.2 Applicability**
Ordinance No. 3715

**9-1410.3 Development Standards**
Ordinance No. 3675, 3715 (renumbered from 9-1410.2)

## CHAPTER 9-1415

## QUARRY EXCAVATION STANDARDS

**Sections:**


| | |
|---|---|
| **9-1415.1** | **Intent** |
| **9-1415.2** | **Surface Mining And Reclamation Act** |
| **9-1415.3** | **Development Standards** |


**Section 1415.1 Intent**. The intent of this Chapter is to provide standards for the extraction of mineral resources.

**Section 9-1415.2 Surface Mining And Reclamation Act**. Approved Quarry Excavation Permits shall be subject to the regulations adopted by the State Mining and Geology Board as authorized by the California Surface Mining and Reclamation Act (SMARA) of 1975 (Public Resource Code Section 2710 et seq.), as amended; Public Resource Code Section 2207; and the California Code of Regulations adopted pursuant thereto (14 California Administration, Public Resource Code Section 3500 et seq.).

**Section 9-1415.3 Development Standards**. Any Quarry Excavation Permit approved under the provisions of this Title shall be subject to the following standards:

(a) Permitted Accessory Uses. Quarry excavations may include the use of equipment, structures, and facilities necessary or convenient for the extraction, processing, storage, and transport of materials, including, but not limited to:

(1) Separation plants;

(2) Rock crushers;

(3) Concrete batching plants;

(4) Asphalt batching plants; and

(5) Recycling facilities that recycle material into asphalt concrete, Portland cement concrete, aggregate base, sand, gravel, fill dirt, or other products that are determined by the Director to be common to the aggregate industry.

Permitted Accessory Uses shall not be initiated unless approved by the Review Authority as a part of a new Quarry Excavation Permit or separately approved by the Director as an addition to a previously approved Quarry Excavation Permit. The Director shall require the applicant to submit an Improvement Plan, as provided in Chapter 9-884, with fees as specified by resolution of the Board of Supervisors, in order to secure approval for the permitted accessory use.

(b) Stockpiling. No stockpiled soil or material shall be placed closer than twenty-five (25) feet to a property boundary except as provided for in Subsection (m);

(c) Private Roads. All private roads involved in an excavation shall be maintained so as to control the creation of dust. The first one hundred (100) feet of any private road on the property which intersects with a publicly maintained road shall be surfaced in a manner approved by the Director. Traffic-control and warning signs shall be installed, if required, at such intersection. The placement and size of these signs shall be approved by the Director of Public Works;

(d) Erosion Control. Protective vegetative planting, silt screen dams, or other approved methods shall be required where necessary for the control of erosion. An erosion and sediment control plan approved by Development Services Division shall be part of the reclamation plan;

(e) Performance Standards. Standards contained in Chapter 9-1025 shall be met unless otherwise modified by conditions of the Quarry Excavation Permit;

(f) Hours of Operation.

(1) Normal Hours. Plant operations shall normally be carried on during the hours from 5:00 a.m. and 9:00 p.m.

(2) Time Zone. Said hours shall be based on either Pacific Standard Time or Pacific Daylight Savings Time, whichever is legally in effect.

(3) Exceptions. Exceptions may be made:

(A) For periods of declared national, state, or County emergency, or

(B) If a finding can be made by the Review Authority that the longer hours of operation will not cause a nuisance in the case of a specific quarry excavation.

(4) Extension of Hours. Normal operating hours may be extended if the Director of the Community Development Department determines that the extended hours of operation are necessary to meet the operational need of a specific project, provided:

(A) Any request for extension in the hours of operations shall be made in writing to the Director of the Community Development Department and include:

(i) The reason for the extended hours of operation,

(ii) The hours of extended operation and the day the extended operations are to commence and terminate, and

(iii) A copy of the bid specifications, contract terms, or other similar applicable documents, if applicable.

(B) The request shall be approved or disapproved by the Director of the Community Development Department within three (3) business days following the day on which the request is filed.

(i) If approved, the Director may impose conditions on the extended hours which are appropriate to reduce disturbance to the public or residents in the area of the quarry.

(ii) Notice of the approval and conditions shall be sent to all property owners in the area.

(C) The applicant shall reimburse the Community Development Department for all costs associated with the request.

(g) Replacement of Topsoil. In agricultural areas, the topsoil shall be set aside, and upon completion of an excavation, the topsoil shall be replaced and the site leveled in conformance with the excavation permit. This requirement may be waived if the property is to be rehabilitated for a use other than agriculture which is consistent with the General Plan, or if a soils report indicates the replacement of the topsoil will not enhance the agricultural suitability of the property. In such cases, the topsoil may be removed from the site;

(h) Weed Control. If noxious weeds are on the site, operations shall be in accordance with instructions from the Agricultural Commissioner of San Joaquin County;

(i) Health Considerations. Quarry excavations shall:

(1) Not cause health or sanitary hazards and shall not crate conditions which will cause the breeding or increase of mosquitos, rodents, or other pests.

(2) Provide an approved potable water supply for all employees.

(3) Provide approved toilets for all employees (chemical toilets are acceptable).

(4) Provide handwashing facilities on or near the approved toilets;

(j) Setbacks. No excavation shall take place within twenty-five (25) feet of any property line or right-of-way (nor within the allowed slopes adjacent to said twenty-five (25) foot setback), unless the elevation prior to excavation is more than that of the abutting property, in which case the elevation within said twenty-five (25) foot setback shall at no time be less than that of the abutting property, at the property line;

(k) Slopes. The following provisions do not apply to temporary interior cut slopes (i.e., working slopes that do not fall within any of the criteria listed below). Temporary interior cut slopes shall comply with the Cal OSHA Code of Regulations and/or the Federal MSHA Code of Regulations as applicable.

(1) Terracing Required. All slopes over fifty (50) feet in height shall be terraced with a maximum vertical distance between terraces of fifty (50) feet. Each terrace or bench shall be a minimum of twelve (12) feet wide.

(2) Terrace Drainage. Drainage plans with calculations shall be submitted for approval to Development Services Division for all terraces as part of the Reclamation Plan.

Terraces for reclaimed final slopes shall be sloped back towards the fill and be designed such that runoff is directed to collection points where it can enter catch basins and be conveyed via pipes or other acceptable conveyance to the toe of slope. The spacing of collection points shall be no greater than 1,500 feet, with each reclaimed final slope face that has terracing shall have a minimum of one (1) down drain. The method of transporting the water along the flow line of the terrace to the down drain, so as to prevent erosion and possible slope failure, shall be approved by the Development Services Division.

The method of drainage of terraces for temporary slopes at setback lines shall be submitted to Development Services division for approval.

(3) Slope Modification Requirement. The Review Authority may require slopes flatter than those specified below for safety or aesthetic purposes if the proximity of residential and other urban uses, waterways or roads, the instability of materials, or the surrounding terrain so warrants.

If after one (1) year or more of extraction the approved slope does not remain stable, the Review Authority shall have the authority to reduce the slope or require other appropriate measures in the immediate area and other areas as deemed necessary in order to correct the condition as well as require the operator to correct the deteriorated slope.

(4) Slope Stability Factors of Safety. When required in this Title to provide site-specific geologic and engineering slope stability analysis, the following minimum slope stability factors of safety shall apply:

(A) A minimum factor of safety of 1.5 against static deep seated failure.

(B) A minimum factor of safety of 1.5 against static surficial failure.

(C) A minimum factor of safety of 1.1 against seismic failure;

(5) Temporary Cut Slopes at Setback Lines. Temporary cut slopes (i.e., for limited periods of time, slopes that are in the process of extraction prior to being backfilled) at setback lines shall not exceed one (1) foot horizontal to one (1) foot vertical, except that temporary cut slopes at setback lines to a maximum of one half (1/2) of a foot horizontal to one (1) foot vertical may be maintained if site-specific geologic and engineering analysis demonstrate through a slope stability analysis that the proposed temporary cut slopes will have a minimum slope stability factor of safety as required in Section 9-1415.3(k)(4). However, in the event that there are existing structures on the adjacent property (or the immediate potential for structures on the adjacent property), the excavation shall at not time be closer to the property line than a line projected on a slope of one (1) to one (1) from the property line to the toe of slope.

(6) Final Slopes. Final cut and/or fill slopes shall not exceed two (2) feet horizontal to one (1) foot vertical, except as specified below:

(A) Final slopes to a maximum of one and one-half (1 1/2) feet horizontal to one (1) foot vertical may be maintained when site-specific geologic and engineering analysis demonstrate through a slope stability analysis that the proposed final slopes will have a minimum slope stability factor of safety as required in Section 9-1415.2(k)(4), while demonstrating

suitability for the proposed end use and protecting against erosion (by means of revegetation or other methods approved by Development Services Division).

(B) Final slopes to a maximum of one (1) horizontal foot to one (1) foot vertical may be maintained under water (beginning five {5} feet below the lowest water table on the property experienced in the preceding three {3} years) when site-specific geologic and engineering analysis demonstrate through a slope stability analysis that the proposed saturated slopes will have a minimum slope stability factor of safety as required in Section 9-1415.2(k)(4);

(7) Fill Slopes. Fill slopes shall be constructed consistent with recommendations from a qualified civil/geotechnical engineer based upon site-specific geologic conditions;

(l) Fencing. Fencing four (4) feet in height consisting of not less than three (3) strands of barbed wire, or an approved equivalent, shall be placed around the excavation area where slopes steeper than two (2) feet horizontal to one (1) foot vertical are maintained. Six (6) foot high security fencing or an approved equivalent shall be required where slopes steeper than two (2) feet horizontal to one (1) foot vertical are created, if the proximity of such slopes to residential uses or other uses involving a concentration of people so warrants;

(m) Screening and Landscaping. Where an open pit operation is visible from a public road right-of-way or property zoned or shown on the General Plan for residential development, screening consistent with Chapter 9-1020 is required;

The Review Authority may approve the use of a landscaped berm to screen the pit provided that an adequate setback for maintenance is provided and sight distance at road intersections is not impaired;

(n) Ponding. All water utilized in the plant operation shall be disposed of behind a closed dike unless an alternative method is approved by the Review Authority;

(o) Excavation/Reclamation Schedule. The reclamation plan (as required in Section 9-854) shall show the phases of excavation. Reclamation on one phase of an excavation shall be initiated prior to the start of the next excavation phase. The final reclamation of any phase of excavation shall be completed within two years of the commencement of the reclamation process. Excavation shall be limited so that at any point of time a maximum of one phase is being reclaimed while one phase is being excavated;

(p) Time Limitation. The Review Authority may place a time limit on the Quarry Excavation Permit or any phase of the Permit. Absent any specific time limitation, the Quarry Excavation Permit shall remain in effect as long as the excavation continues in compliance with the approved Permit.

(q) Annual Inspection Reports. The applicant shall pay a fee to the County of San Joaquin to cover the cost of annual inspections of the excavation to ensure compliance with the conditions of the permit and the reclamation plan. The County may use professional services as provided for in Section 9-240.11. The consultant shall be selected by San Joaquin County. Upon completion of the annual inspection, the person in charge of the mining operation shall submit to the State Geologist and the County a report which shall contain all the information as required by Section 2207 of the Public Resources Code. Additional inspections may be conducted, but the cost of additional inspections shall be paid for by the applicant only if non-compliance with the conditions of the Quarry Excavation Permit or the reclamation plan is found;

(r) Performance Guarantee. In order to ensure reclamation of the site, compliance with conditions of approval, and compliance with County and state mining regulations, the applicant shall provide performance guarantees as a condition of the issuance of the Quarry Excavation Permit. The amount and form of the guarantee shall be subject to annual review and approval by the County and the state, and the amount shall be adequate to ensure reclamation of disturbed land and/or land to be disturbed during a given phase. The annual review of the financial guarantee shall be coordinated with the annual inspection and approval of successive reclamation security so that the guarantee includes the amount of disturbed land plus the amount of land estimated to be disturbed during the next 12 months, less the amount of land previously determined by Development Services Division annual inspection to have been reclaimed. The performance guarantee shall be in the form of either: 1) a surety bond, 2) a trust fund with the lead agency, or 3) an irrevocable letter of credit. Any interest accrued in a trust fund shall stay with the trust fund account. The financial guarantee shall be payable to "San Joaquin County or the Department of Conservation" under the applicable provisions of the County and the state mining regulations. The financial guarantee shall be callable by the County or the state under the following circumstances:

(1) The applicant causes the excavation to become idle (as defined in Section 9-110) without an approved interim management plan;

(2) The applicant files for bankruptcy;

(3) The County or state determines on the basis of annual inspections and reports that the applicant has not maintained substantial compliance with the approved Permit;

(4) There arises an occurrence or circumstance which, in the opinion of the County or state, jeopardizes the site reclamation; or

(5) The State makes one or more of the findings specified in Section 2774.4(a) of the State Public Resources Code.

In any instance that the County or state makes the demand for partial or full tender of the financial guarantee of performance, the County and/or state may use all or any portion of the financial guarantee to reclaim the site and to recover its administrative costs associated therewith;

(s) Exception to Operating Conditions. The Review Authority may grant an exception to any operating condition contained herein, except the requirement of a reclamation plan. A written report will be required to show that such exception will not result in a hazardous condition, the cost of strict compliance would be unreasonable in view of all the circumstances, and such exceptions will not adversely affect the environment, property, or persons in the area. Such request shall be filed with the original or a subsequent application and shall include a complete statement of justification;

(t) Enforcement. Except as otherwise provided in State Mining Regulations, the County shall have authority to enforce provisions of the Surface Mining and Reclamation Act. The County may exercise all enforcement regulations available under the County Development Title and the State Public Resources Code. Such enforcement measures include charging the applicant the costs of administering an enforcement action. The basis for charging fees for an enforcement action shall be a time and materials compensation; and

(u) Groundwater Conditions. An evaluation of the impact of resource extraction on groundwater conditions shall be required for all quarry excavations which extend to depths below the groundwater level of the uppermost aquifer.

# CHAPTER 9-1415

# QUARRY EXCAVATION STANDARDS

**Sections:**

**9-1415.1 Intent**
Ordinance No. 3675

**9-1415.2 Surface Mining And Reclamation Act**
Ordinance 3715

**9-1415.3 Development Standards**
Ordinance No. 3675, 3715 (renumbered from 9-1415.2), 3739