

NS 1200.249

AN ORDINANCE OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CLARA  
AMENDING ARTICLE 36 OF APPENDIX I OF THE  
SANTA CLARA COUNTY ORDINANCE CODE RELATING TO  
SURFACE MINING AND LAND RECLAMATION

Summary

This ordinance revises portions of the County's zoning regulations relating to surface mining and land reclamation, incorporating changes to bring the County regulations into compliance with state law for such ordinances.

THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ORDAINS AS FOLLOWS:

**SECTION 1:** Section 36-4 of Article 36 of the Zoning Ordinance of the County of Santa Clara, Appendix I of the Santa Clara County Code is amended to read as follows (new language is underlined, deletions are ~~over struck~~):

**Section 36-4. Surface Mining and Land Reclamation.**

Section 36-4.0.1. Intent.

- (a) The intent of this section is to establish requirements for surface mining and reclamation, ensure the reclamation of surface mined lands, and provide for the subsequent beneficial use of the mined and reclaimed lands.
- (b) This section constitutes the local implementing ordinance pursuant to the Surface Mining and Reclamation Act, California Public Resources Code Section 2710 et seq.

- (c) This section is supplemented by the Surface Mining and Reclamation Standards as approved by the Board of Supervisors on March 30, 1993, and as amended by the Board of Supervisors from time to time.

*Section 36-4.1. Definitions.*

- (a) **Idle Mine:** A surface mining operation which is curtailed for one or more year(s) by more than 90% of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.
- (b) **Person:** Any individual, firm, association, corporation, organization or partnership, or any city, county, district, or the state or any department or agency thereof.
- (c) **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 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.
- (d) **Reclamation plan:** A plan providing for reclamation of lands upon which surface mining operations either have been or will be conducted.
- (e) **Surface mining operations:** All, or any part of the process involved in the mining of minerals on mined lands by removing over-burden 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 shall include but are not limited to:
- (1) In-place distillation, retorting or leaching;
  - (2) Production and disposal of mining waste;
  - (3) Prospecting and exploratory activities.

*Section 36-4.2. Surface mining subject to use permit.*

Surface mining operations may be conducted in any zoning district subject to issuance of a use permit pursuant to ~~article 47~~ Article 5, Chapter 5.60 of the revised Zoning Ordinance. No use permit shall be issued for surface mining operations until a reclamation plan for the property has been approved by the planning commission.

*Section 36-4.3. Approved reclamation plan required.*

- (a) **Reclamation Plan:** Any person conducting a surface mining operation or who has completed a surface mining operation subsequent to January 1, 1976, shall obtain planning commission approval of a reclamation plan for the property which fulfills the requirements of the current adopted standards of the planning commission. Reclamation plans shall be reviewed by the planning commission to assure compatibility with the California Surface Mining and Reclamation Act of 1975, as amended, and with the adopted standards of the planning commission. Public notice and opportunity for public comment on the proposed reclamation plan will be provided in accordance with the Planning Commission's normal notice and hearing procedures.
- (b) **Financial Assurance Required:** Any person conducting a surface mining operation, or who has conducted a surface mining operation subsequent to January 1, 1976, shall provide to the ~~Current~~ County Planning Office financial assurances complying with the requirements of the California State Public Resources Code Sections 2773.1 and 2773.15 to ensure that reclamation is performed in accordance with the surface mining operation's approved reclamation plan, as follows:
- (1) Financial assurances may take the form of surety bonds, irrevocable letters of credit, trust funds or other forms of financial assurances specified by the SMGB pursuant to subdivision (e) of Section 2773.1 of the California Public Resources Code, which the County may reasonably determine to be adequate to financially assure reclamation in accordance with the surface mining operation's approved reclamation plan. The financial assurances shall be one of the following, subject to the approval of the Planning Commission.
- (a) Bond or bonds by one or more duly authorized corporate sureties.
- (b) A deposit, either with the County or a responsible escrow agent or trust company, at the option of the County of money or negotiable bonds of the kind approved for securing deposits of public monies.

- (c) An instrument of credit from one or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary to carry out the approved reclamation plan are on deposit and guaranteed for payment, or an irrevocable letter of credit issued by a financial institution.
- (d) ~~A written and recorded security interest in real property having priority in an amount necessary to complete the approved reclamation plan plus costs and reasonable expenses and fees, including reasonable attorney's fees, of satisfying such lien. Any such security document or contract shall be recorded with the county recorder of the county in which the subject property is located and shall be indexed in the Grantor Index to the names of all record owners of the real property and in the Grantee Index to the County of Santa Clara.~~
- (2) The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed.
- (3) 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.
- (4) The financial assurances shall be made payable to the County of Santa Clara and to ~~the State Geologist~~ the State Department of Conservation. However, if a surface mining operation has received approval of its financial assurances from a public agency other than the County of Santa Clara, the County of Santa Clara shall deem those financial assurances adequate for purposes of this section, or shall credit them toward fulfillment of the financial assurances required by this section, if they are made payable to the public agency, the County of Santa Clara, and ~~the State Geologist~~ the State Department of Conservation and otherwise meet the requirements of this section. In any event, if ~~a lead agency~~ the County and one or more public agencies exercise jurisdiction over surface mining operation, the total amount of financial assurances required by the County of Santa Clara and the other public agencies for any one year shall not exceed that amount which is necessary to perform reclamation of lands remaining disturbed. For purposes of this paragraph a "public agency"

may include a federal agency.

*Section 36-4.3.1: Idle Mines and Interim Management Plans.*

Within 90 days of the surface mining operation becoming an idle mine, as defined in section 36-4.1(a), the operator shall submit to the planning commission for review and approval an interim management plan. The approved interim management plan will be considered an amendment to the surface mining operations approved reclamation plan, for purposes of this ordinance. The interim management plan shall provide measures the operator will implement to maintain the site in compliance with this chapter, including, but not limited to, all permit conditions.

The interim management plan may remain in effect for a period not to exceed 5 years, at which time the planning commission shall do one of the following:

- (1) Renew the interim management plan for another period not to exceed 5 years, if ~~lead agency~~ the County finds the operator has complied fully with the interim management plan.
- (2) Require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.

In any event, financial assurances required by section 36-4.3(b) shall remain in effect during the period the surface mining operation is an idle mine. If the surface mining operation is an idle mine after expiration of its interim management plan, the surface mining operation shall commence reclamation in accordance with its approved reclamation plan.

- (a) Within 60 days of the receipt of the interim management plan, or a longer period mutually agreed upon by the planning commission and the operator, the planning commission shall review and approve the plan in accordance with this ordinance, so long as the plan satisfies the above requirements, and shall so notify the operator in writing. Otherwise, the planning commission shall notify the operator in writing of any deficiencies in the plan. The operator shall have 30 days, or a longer period mutually agreed upon by the operator and the planning commission, to submit a revised plan.
- (b) The planning commission shall approve or deny approval of the revised interim management plan within 60 days of its being deemed complete by

the ~~Central Permit~~ County Planning Office. If the planning commission denies approval of the revised interim management plan, the operator may appeal that action to the Board of Supervisors, which shall schedule a public hearing within 45 days of the filing of the appeal, or any longer a period mutually agreed upon by the operator and the Board of Supervisors.

- (c) Unless review of an interim management plan is pending before the planning commission, or an appeal is pending before the Board of Supervisors, a surface mining operation which is an idle mine for over one year, as defined in section 36-4.1(a), without obtaining approval of an interim management plan shall be considered abandoned, and the operator shall commence and complete reclamation in accordance with the approved reclamation plan.

*Section 36-4.4. Periodic review.*

As a condition of approval for a use permit, or reclamation plan, or both, the planning commission shall establish a schedule for periodic inspection of the site to evaluate continuing compliance with the permit and plan. In establishing such a condition, the planning commission may require the owner or permittee to submit periodic reports prepared by an appropriate qualified professional which describes and analyzes compliance with the permit and plan. This schedule of review shall be on an annual basis at a minimum, pursuant to Section 36-4.8 below, or more frequently at the discretion of the County Planning Commission.

*Section 36-4.5. Exceptions to permit and plan requirements.*

No use permit or reclamation plan shall be required for any of the following activities:

- (1) Surface mining operations completed prior to January 1, 1976.
- (2) Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.
- (3) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than one thousand (1,000) cubic yards in any one (1) location of one (1) acre or less.

- (4) 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.
- (5) Such other surface mining operations which the state mining and geology board determines to be of an infrequent nature and which involves only minor surface disturbances.

The foregoing, however, shall not be deemed to excuse such activities from the requirements of the Santa Clara County Grading Ordinance (chapter III of division C12 of title C of the Santa Clara County Ordinance Code, commencing at section C12-400).

*Section 36-4.6 Applications.*

Reclamation plans, modifications of such plans, and applications for use permits shall be filed with the ~~central permit office~~ County Planning Office and shall be accompanied by a fee in an amount prescribed by resolution of the board of supervisors.

*Section 36-4.7. Modification of approved reclamation plan.*

- (a) Initiated by owner-operator. Any person having an approved reclamation plan may file for modification of such a plan. Requests for modification shall be reviewed and acted upon by the planning commission.
- (b) Initiated by county. The planning commission, upon its own motion or upon the recommendation of staff, may review and modify any approved reclamation plan when it reasonably appears that implementation of such plan according to its original provisions will not achieve the reclamation goals originally intended or when it reasonably appears that completion of the plan is no longer technologically, economically or environmentally feasible.

*Section 36-4.8: Inspection and Enforcement.*

Pursuant to the requirements of state law, the Director of Planning ~~of the Department of Planning and Development~~ shall cause each surface mining operation to be inspected not less than once in any calendar year, and/or within 6 months of the receipt of a surface mining operations report submitted pursuant to Public Resources Code section 2207. The Director shall cause

such an inspection to be conducted by a state-registered geologist, state-registered civil engineer, state-licensed 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 twelve months. The operator shall be solely responsible for the reasonable costs of the inspection, which shall be established by resolution of the Board of Supervisors.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Santa Clara, State of California on AUG 29 2000 by the following vote:

**AYES:** ALVARADO, SEALL, GAGE, MCHUGH, SMITH

**NOES:** NONE

**ABSENT:** NONE

**ABSTAIN:** NONE



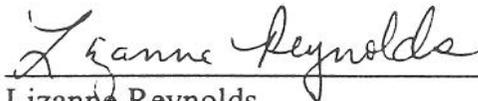
Donald F. Gage, Chairperson  
Board of Supervisors

**ATTEST:**



Phyllis A. Perez, Clerk of the Board

**APPROVED AS TO FORM AND LEGALITY:**



Lizanne Reynolds  
Deputy County Counsel