The County of Santa Clara
California

Ordinance
69490

Adopted
Nov 26, 2013 9:00 AM

Adopt Zoning Ordinance No. NS-1200.340 amending sections 2.10.040 and 4.10.370 of Appendix 1, Zoning, of the County of Santa Clara Ordinance Code to relating to surface mining regulations. (Roll Call Vote)

Information

Department:	Department of Planning and Development	**Sponsors:**	
Category:	Ordinances		

Links

Link 69431 : Public Hearing to consider recommendations relating to Zoning Ordinance Amendments to Section 2.10.040, Non-Residential Use Classifications for Surface Mining (Resource Extraction), and Section 4.10.370, Surface Mining, revising the regulations relating to surface mining operations and reclamation plans.

Attachments

Printout
Attachment A: Ordinance NS-1200.340
Attachment B: Existing Ordinance

Meeting History

Nov 26, 2013 9:00 AM Video **Board of Supervisors** **Regular Meeting** **Draft**

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	S. Joseph Simitian, Supervisor
SECONDER:	Dave Cortese, Supervisor
AYES:	Mike Wasserman, Cindy Chavez, Dave Cortese, Ken Yeager, S. Joseph Simitian

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ORDINANCE NO. NS-1200.340

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA AMENDING APPENDIX 1, ZONING, OF THE COUNTY OF SANTA CLARA ORDINANCE CODE TO REVISE REGULATIONS RELATING TO SURFACE MINING

SUMMARY

This ordinance revises sections 2.10.040 and 4.10.370 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code applicable to surface mining operations and reclamation plans.

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

SECTION 1: Section 2.10.040 of Chapter 2.10, Article 2 of Appendix I, Zoning of the County of Santa Clara Ordinance Code, is amended as follows:

§ 2.10.040 Non-Residential Use Classifications

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Surface Mining. (Resource Extraction) As defined in California Public Resources Code Section 2735 as "surface mining operations," the process of obtaining minerals, such as sand, gravel, rock, aggregate, or similar materials by removing overburden and mining directly from mineral deposits, by open pit mining of naturally exposed minerals, by use of the auger method, by dredging, and by quarrying. Also includes surface work incident to an underground mine. [Criteria/Findings § 4.10.370]

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SECTION 2: Section 4.10.370 of Chapter 4.10, Article 4 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended to read as follows:

§ 4.10.370 Surface Mining

Part I: State Regulations

A. **Reference.** This section applies to uses classified as *Surface Mining* as described in Section 2.10.040.

B. **Purpose.** The purpose of Section 4.10.370 is 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 §§ 2710 *et seq.*, as amended, hereinafter referred to as "SMARA"), Public Resources Code § 2207 (relating to annual reporting

requirements) , and State Mining and Geology Board regulations for surface mining and reclamation practice (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, §§ 3500 *et seq.*, hereinafter referred to as "State regulations") to ensure that the legislative intent of SMARA, as stated in SMARA Section 2712, is met.

C. **Scope.** The provisions of this ordinance shall apply to surface mining operations and reclamation of mined lands within the unincorporated areas of Santa Clara County.

D. **Incorporation by Reference.** The provisions of SMARA and State regulations as those provisions and regulations may be amended from time to time, are made a part of this ordinance 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 ordinance are more restrictive than correlative State provisions, this ordinance shall prevail.

E. **Surface mining subject to use permit.** Subject to SMARA Section 2770 and Part II, Section B of this ordinance, no person shall conduct a surface mining operation unless a use permit is approved by the Planning Commission pursuant to Chapters 5.20 and 5.65 of the Zoning Ordinance.

F. **Reclamation plan required and reclamation plan requirements.** 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 that fulfills the requirements of section 4.10.370, Part I, subsection J (Reclamation Standards) of this ordinance. Prior to such approval, reclamation plans shall be reviewed by the Planning Commission to assure substantial compliance with SMARA, State regulation and applicable County ordinances. (See Section 4.10.370, Part I, subsection (I)(5) regarding State review.)

1. The reclamation plan shall be filed with the County Department of Planning and Development, on a form provided by the County, by any person who owns, leases, or otherwise controls or operates on all, or any portion of any, mined lands, and who plans to conduct surface mining operations on the lands.

2. All documentation for the reclamation plan shall be submitted to the County at one time as a comprehensive package.

3. The reclamation plan shall substantially comply with the provisions of SMARA Section 2772 and State regulations Sections 3500 through 3505. Reclamation plans approved after January 15, 1993, reclamation plans for proposed new mining operations, and any amendments to previously approved reclamation plans, shall also substantially comply with the

reclamation performance standards in State regulations, Sections 3700 through 3713.

4. An item of information or a document required pursuant to subsection (3) that has already been prepared as part of a permit application for the surface mining operation, or as part of an environmental document prepared for the project pursuant to Public Resources Code, Division 13 (commencing with section 21000), may be included in the reclamation plan by reference, if that item of information or that document is attached to the reclamation plan when the County submits the reclamation plan to the director of the Department of Conservation for review. To the extent that the information or document referenced in the reclamation plan is used to meet the requirements of subdivision (3), the information or document shall become part of the reclamation plan and shall be subject to all other requirements of this article.

G. **Exemptions.** No permit or reclamation plan shall be required by this ordinance for activities identified in SMARA Section 2714, provided that nothing shall exempt such activities from the requirements of the Santa Clara County Grading Ordinance, where applicable.

H. **Definitions.** The definitions contained in SMARA and the State regulations are incorporated by reference. In addition, as used in this ordinance the following words shall have the following definitions.

1. **CEQA.** The California Environmental Quality Act, State of California, as contained in the Public Resources Code Section 21000 *et seq.*.

2. **County.** The County of Santa Clara, State of California. For purposes of SMARA, the County is the lead agency as defined in SMARA Section 2728, having the principal responsibility for approving reclamation plans, so long as the County retains jurisdiction over surface mining operations within Santa Clara County.

3. **Director.** The Director of the Santa Clara County Department of Planning and Development.

4. **Financial Assurance.** "Financial Assurance" means a monetary assurance that a surface mining operation will be reclaimed in accordance with an approved reclamation plan. The financial assurance may take the form of a surety bond, trust fund, irrevocable letter of credit, or other acceptable financial assurance mechanism as determined by both the County and the California Department of Conservation.

5. **OMR.** The California Office of Mine Reclamation, a division of the Department of Conservation, State of California.

6. **On-Site Construction.** "On-Site Construction" means the activities described in SMARA Section 2714(b), including construction of buildings, roads, or other improvements including landscaping, excavations and grading required to prepare a site for construction of structures, landscaping or other land improvements, and which is beneficially modified by such construction, is not deemed to be a surface mining operation. Additionally, all required permits for the construction, landscaping, or related land improvements that do not qualify as surface mining operations must be obtained from the County in accordance with applicable provisions of state law and locally adopted plans and ordinances.

7. **SMARA**. The Surface Mine and Reclamation Act, as set forth in the California Public Resources Code Section 2710 *et seq.*, as amended.

8. **State regulations.** The SMARA Regulations as set forth in the California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, as amended.

9. **Vested Right.** A "vested right" is the right to conduct a legal use of real property if that right existed lawfully before a zoning or other land use restriction became effective and the use is not in conformity with that restriction when it continues thereafter.

I. **Reclamation plan approval.** Except as otherwise provided in this ordinance, no person shall conduct surface mining operations unless a reclamation plan has been reviewed by the State Department of Conservation and reviewed and approved by the Planning Commission, which approval can occur concurrently with the use permit.

1. Applications. Reclamation plans and modifications of such plans shall be submitted and processed in accordance with the procedures in County Zoning Ordinance, Chapter 5.20, Common Procedures.

2. The Planning Commission must make the following findings before approving a reclamation plan or reclamation plan amendment:

   a. That reclamation plan, or reclamation plan amendment, substantially complies with SMARA Sections 2772 and 2773, and any other applicable provisions;

   b. That the reclamation plan, or reclamation plan amendment, substantially complies with applicable requirements of State regulations (Sections 3500-3505, and Sections 3700-3713);

   c. That the reclamation plan, or reclamation plan amendment, and potential use of reclaimed land pursuant to the plan are consistent with this ordinance and the County's General Plan and any applicable resource plan

or elements.

d. That the reclamation plan, or reclamation plan amendment, has been reviewed pursuant to CEQA and all significant adverse impacts from reclamation of the surface mining operations are mitigated to a level of insignificance, or a Statement of Overriding Considerations has been adopted pursuant to CEQA; and

e. That the reclamation plan, or reclamation plan amendment, will restore the mined lands to a usable condition which is readily adaptable for alternative land uses.

3. **Amendment of approved reclamation plan.** Any person having an approved reclamation plan may file for an amendment of that reclamation plan.

a. *Minor reclamation plan amendments.* The Architecture and Site Approval Committee is the decision-making authority for minor reclamation plan amendments. The Architecture and Site Approval Committee's decision may be appealed to the Planning Commission, the Planning Commission's decision may be appealed to the Board of Supervisors, and the Board of Supervisors' decision may be appealed to the State Mining and Geology Board if the issue is made appealable to the State by SMARA. Minor reclamation plan amendments include any of the following, provided that there is no expansion of the area from which mineral deposits are to be harvested:

i. Modifications that involve minor changes, such as those that improve drainage, improve slope designs within the reclamation plan boundaries or improve re-vegetation success;

ii. Modifications that adjust the reclamation plan boundaries to incorporate areas disturbed prior to January 1, 1976 or existing components of the mining operation that were established in accordance with all other County requirements.

iii. Approval of interim management plans for idle mines pursuant to subsection "L" of this section; or

iv. Other modifications that the Planning Director determines do not constitute a substantial deviation from the approved reclamation plan.

b. *Major Reclamation Plan amendments.* A major reclamation plan amendment is any reclamation plan amendment that does not meet the criteria for a minor reclamation plan amendment or consitutes a substantial deviation of the reclamation plan under SMARA. The Planning Commission is the decision-making body for major reclamation plan amendments. The Planning Commission's decision may be appealed to the Board of Supervisors, and thereafter to the State Mining and Geology

Board if the issue is made appealable to the State by SMARA. A reclamation plan amendment shall not be approved unless it has been reviewed by the Department of Conservation and it complies with all applicable requirements of SMARA, the State regulations, and this ordinance.

4. **Review and approval.** A reclamation plan or amendment shall not be approved unless the plan or amendment substantially complies with SMARA and this ordinance. Reclamation plans or amendments determined not to meet these requirements shall be returned to the operator within 60 days, after which the operator has 60 days to revise the plan or amendment to address the identified deficiencies and return the revised plan or amendment to the County Department of Planning and Development for review by the County and the Department of Conservation and approval by the County.

5. **State review.** A new or amended reclamation plan shall not be approved until the County provides the State Department of Conservation with the information required by Public Resources Code Section 2774, subdivisions (c) and (d) as follows.

   a. Prior to approving a reclamation plan or amendment thereof, the County Planning Office shall submit the plan or amendment to the State Department of Conservation for review, along with all required documentation, and shall certify that the plan or amendment complies with the applicable requirements of SMARA, State regulations, and this ordinance. If the Department prepares written comments, the County Planning Office shall prepare a written response at least 30 days prior to approval of the plan or amendment describing the County's proposed response to any major issues raised by the Department. Where the County's proposed response is at variance with any comments raised by the Department, said written response shall address, in detail, why the County proposes not to adopt the Department's comments. Copies of any written comments received and responses prepared shall be forwarded to the operator. The County Planning Office shall send the Department its final response to the Department's comments within 30 days following its approval of the plan or amendment.

   b. Pursuant to Public Resources Code Section 2774, subdivision (d)(2), the County Planning Office shall give the State Department of Conservation at least 30 days' notice of the time, place, and date of any hearing at which a reclamation plan or amendment is scheduled to be approved. If no hearing is required, the County Planning Office shall provide 30 days' notice to the Department that it intends to approve the plan or amendment.

6. **Recorded Notification of Reclamation Plan.** Upon approval of the reclamation plan or reclamation plan amendment, the mine operator shall prepare and record a "Notice of Reclamation Plan Approval." The notice

shall read: "Mining operations conducted on the hereinafter described real property are subject to a reclamation plan approved by the County of Santa Clara, a copy of which is on file with the County Department of Planning and Development."

J. **Reclamation Standards.** Compliance with State standards is required. Each new or substantially amended Reclamation Plan shall substantially comply with the minimum statewide performance standards, as amended, required by SMARA Section 2773(b), and identified in section 3700 *et seq.* of the State regulations, as applicable.

K. **Financial Assurances Required.**

1. **Purpose.** This Section is intended to ensure that reclamation will proceed in compliance with an the approved Reclamation Plan, as it may be amended, through the maintenance of funds available to the County and the State that are adequate to reclaim the site in the event of a default by the operator.

2. **Requirements, forms, and amount.**

   a. The operator shall post a financial assurance instrument or mechanism in a form authorized State Regulations section 3800 *et seq.* and the Financial Assurance Guidelines adopted by the State Mining and Geology Board.

   b. Financial assurances shall be made payable to the County and to the Department of Conservation. (SMARA, section 2773.1(a)(4).)

   c. The amount of the financial assurance to be posted with the County shall be equivalent to the estimated cost of reclamation of the site from its current condition in a manner consistent with the approved Reclamation Plan, plus an amount to ensure reclamation of the additional ground disturbance anticipated to occur in the following year. The financial assurance shall be based on a cost estimate prepared using the Financial Assurance Guidelines adopted by the State Mining and Geology Board. All financial assurances shall be approved by the Director, or his or her designee, and provided to the State Department of Conservation for review and comment pursuant to Public Resources Code section 2774, subdivisions (c) and (d).

   d. The financial assurance amount shall be based on an estimate of "third-party" costs to reclaim the mined lands. These costs shall include direct costs for onsite reclamation activities, such as revegetation, grading, and equipment removal, and indirect costs, such as supervision, mobilization, profit and overhead, contingencies, and lead agency monitoring. The operator shall submit to the County for review and approval a reclamation cost estimate using the State Financial Assurance Guidelines or similar instrument.

L. **Idle mines and interim management plans.**

1. **Timing, content, processing.** Within 90 days of a surface mining operation becoming idle as defined in SMARA Section 2727.1, the operator shall submit for review and approval an interim management plan.

    a. The interim management plan shall comply with all applicable requirements of SMARA, Section 2770(h), and shall provide measures the operator will implement to maintain the site in compliance with SMARA, including all conditions of the Use Permit and/or Reclamation Plan.

    b. The interim management plan shall be processed as an amendment to the Reclamation Plan, in accordance with section 4.10.370, Part II, subsection (I)(3), and shall not be considered a project for the purposes of environmental review in compliance with the California Environmental Quality Act.

    c. The idle mine shall comply with the financial assurance requirements for reclamation specified in SMARA, Section 2773.1.

2. **Review and decision.**

    a. The Architecture and Site Approval Committee shall be the review authority for an interim management plan associated with mining operation.

    b. An action of the Architecture and Site Approval Committee on an interim management plan may be appealed pursuant to Section I, above.

3. **Time limit, extensions.** The interim management plan shall remain in effect for a maximum of five years, at which time the County may renew the plan for additional five-year periods at the expiration of each five-year period, require the surface mine operator to commence reclamation in compliance with the approved Reclamation Plan, or allow the surface mine operator to return to active mining operations.

M. **Inspections.**

1. **Inspection Schedule.** As a condition of approval for a use permit or reclamation plan, or both, the decision-making body may establish a schedule for periodic inspection of the site to evaluate continuing compliance with the permit and/or plan, consistent with Subdivision M.2. below. In establishing such a schedule, the decision-making body may require the owner or permittee to submit periodic reports prepared by an appropriate qualified professional that describe and analyze compliance with the permit and/or plan.

2. **Inspection.** Pursuant to the requirements of state law (SMARA, § 2774), the Department shall cause each surface mining operation to be inspected not less than once in any calendar year, and within six months of the receipt of a surface

mining operations report submitted pursuant to Public Resources Code Section 2207. The Department 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 12 months. The operator shall be solely responsible for the reasonable costs of the inspection.

Part II: **County Regulations**

A. **County Standards for Surface Mining Operations.** The County has local land use authority regarding surface mining operations with the power to establish and enforce local regulations distinct from but consistent with SMARA and the State regulations. As to non-vested sites, the following standard conditions shall apply to all sites obtaining a use permit, unless the Planning Commission approves a deviation from one or more of these standards, and subject to any requirements or limitations imposed by other regulatory agencies:

1. **Hours and Days of Operation**

   a. The daily hours for the excavation, processing, and sales shall be between 6:00 A.M. and 8:00 P.M. No commercial excavation shall be operated on Sundays or the following holidays: New Years Day, Independence Day, Labor Day, Thanksgiving, and Christmas Day; however, the Planning Commission may permit or restrict operations to a different number of hours and days, where conditions warrant such permission or restriction.

   b. In cases of public emergency, these restrictions may be released by the Planning Director. In cases of a private emergency, reasonable and necessary repairs to the equipment and limited operations required to restore normal operation may be permitted by obtaining a temporary permit for periods up to and including 56 hours from the Planning Director. Such temporary permits for private emergency operations may be renewed by the Director for similar periods but not to exceed one week in total.

2. **Appearance.** Surface mines shall be operated in a neat and orderly manner, free from junk, trash, or unnecessary debris. Buildings shall be maintained in a sound condition, in good repair and appearance. Weeds shall be cut as frequently as necessary to eliminate fire hazards. Salvageable equipment stored in a non-operating condition shall be suitably screened or garaged where normally visible from public view.

3. **Noise and Vibration**

   a. Noise and ground vibration shall be mitigated to a level of insignificance in the absence of an approved Statement of Overriding Considerations

pursuant to CEQA. To achieve this, loading points shall not be located closer than 30' to any property line, unless otherwise permitted by the Planning Commission.

b. Noise attenuation measures shall be installed where necessary to reduce noise levels in order to comply with noise standards of the County General Plan and noise ordinance.

c. Use of explosives (blasting) in operations shall be noted on the permit application and subject to Planning Commission conditioning, and shall comply with the noise and vibration standards of the County noise ordinance.

4. **Traffic Safety**

a. The site shall provide adequate space for the parking, queuing and loading of trucks, as well as parking of employee vehicles to minimize the traffic problem to residents on neighboring streets.

b. Internal haul roads shall be located away from property lines where reasonably practicable.

c. Haul routes on public roads shall be specified in the use permit conditions.

d. Number and location of access points shall be specified. Such entrance shall be subject to approval by the agency having jurisdiction. If required, acceleration and deceleration lanes shall be provided which meet County Department of Roads and Airports Standards.

e. A paved surface, or equivalent alternative, may be required where reasonably practicable for a distance of not less than 100 feet from right of way line into the area of operation in order to minimize the deposit of dirt and gravel from trucks onto the public highway. During hauling operations, any spillage or materials on public roads shall be promptly and completely removed by quarry operators.

5. **Control of Dust.** Surface mines shall be operated so as to limit dust and in compliance with all necessary permits from the Bay Area Air Quality Management District, San Francisco, California.

6. **Setbacks from Property Lines**

a. Cut Slope Setbacks. Cut slopes shall be no closer than 25 feet distant from any adjoining property line, except where adjoining property is being mined; nor 50 feet to any right-of-way of any public street, or official plan line or future width line of a public road.

b. Ridgeline Setbacks. When surface mining occurs in a canyon area which abuts an urban area or the ridgeline is visible from the valley floor, the top of the uppermost cut area shall be as shown in an approved reclamation plan, or in the absence of an approved plan, not less than 50 feet from the top of the ridge existing prior to excavation.

7. **Fencing and Posting**

a. It is the intent of this subsection that fencing will be required only for those portions of an excavation needing fencing for purposes of public safety; other portions may need posting only.

Where excavation is authorized to proceed in stages, only the area excavated plus the area of the stage currently being excavated need be fenced. Adequate fencing shall be provided to exclude unauthorized dumping.

b. The Planning Commission may require the enclosure of all or a portion of an excavation by an approved fence either along the property line or the periphery of the excavation where deemed necessary for public safety by the Planning Commission. Such fence shall not be closer than ten feet to the top edge of any cut slope. All fences shall have suitable gates at accessways. Gates to be securely locked during hours and days of non-operation.

c. Fencing type shall be determined by the Planning Commission.

d. Signs shall be conspicuously posted along the periphery of the property. The signs shall be posted in such a manner and at such intervals as will give reasonable notice to passersby of the matter contained in such notice by stating in letters not less than four inches in height.

WARNING: COMMERCIAL QUARRY ON THESE LANDS;
Santa Clara County Use Permit No.:_____.

In addition, the signs shall be pictorial in the nature of information being disclosed for non-English readers.

8. **Screening**

a. Screening shall be required for excavations in urbanized and scenic corridors or locations at the time of excavation so that the screening will provide a reasonable means of securing use and enjoyment of nearby properties.

b. The screening by means of installation of berms, fences, plantings of suitable shrubs and trees. They shall be placed and maintained in order to

minimize visibility from public view of cut slopes or mining operations and equipment.

c. Such screening when required by the Planning Commission may be along the streets and exterior property lines or the perimeter of the visible portions of the site being operated.

9. **Protection of Streams and Water-Bearing Aquifers**

a. Surface mining operations shall be conducted in a manner so as to keep adjacent streams, percolation ponds, or water bearing strata reasonably free from undesirable obstruction, silting, contamination, or pollution of any kind. The objective is to prevent discharges, which would result in higher concentrations of silt than existed in off-site water prior to mining operations.

b. The removal of vegetation and overburden in advance of surface mining shall be kept to the minimum practicable.

c. Stockpiles shall be managed to limit water and wind erosion.

d. Permits: Applicants shall comply with those applicable requirements of federal, state, and local law, including any permit requirements administered by the U. S. Environmental Protection Agency, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Regional Water Quality Control Boards, State Department of Fish and Game, and local flood control and water distribution agencies regarding all matters which are within the jurisdiction of those agencies, including but not limited to:

i. Excavation in the natural or artificially enlarged channel of any river, creek, stream or natural or artificial drainage channel when such excavation may result in the deposit of silt therein;

ii. Maximum depth of excavation shall not be below existing streambed or groundwater table except in such cases where the reclamation plan indicates that a lake or lakes will be part of the final use of the land or where such plan indicates that adequate fill to be used to refill such excavation to conform to the approved reclamation plan; and

iii. Erosion control facilities, such as detention basins, settling ponds, de-silting or energy dissipater ditches, stream bank stabilization, and diking necessary to control erosion.

e. Excavations, which may penetrate near or into usable water-bearing strata, will not reduce the transmissivity or area through which water may flow unless approved equivalent transmissivity or area has been provided

elsewhere, nor subject such groundwater basin or sub-basin to pollution or contamination.

10. **Approved Plans Must Be Maintained by the Operator.** One copy of the approved plans and conditions of operations approved by the Planning Commission as a condition for granting the Use Permit must be maintained at the principal Santa Clara County office of the mine operator at all times.

B. **Vested Rights:** No person who has obtained a vested right to conduct surface mining operations shall be required to secure a use permit as long as such vested right continues.

1. Any proposed expansion of any existing surface mining operation that constitutes a substantial change in such operation by exceeding the terms and conditions of a previously granted use permit for the operation, or by exceeding the extent of a vested right to such use, shall be subject to the provisions of Chapter 5.65 and a use permit and reclamation plan shall be required for such activity.

2. These standards do not apply to commercial excavations that terminated prior to January 1, 1976, and where no further mining has taken place since that date.

Part III: **Common Provisions**

A. **Successors in Interest:** Whenever one operator succeeds to the interest of another in any incompleted surface mining operation by sale, assignment, transfer, conveyance, exchange, or other means, the successor shall be bound by the provisions of the approved use permit, if applicable, the approved reclamation plan, the provisions of the zoning ordinance, and the provisions of SMARA (SMARA Section 2779).

B. **Fees.** Fees for any of the review, reports, inspections, hearings or other procedures required or authorized pursuant to this Section 4.10.370 shall be established by resolution of the Board of Supervisors which may be amended from time to time and shall reflect the reasonable costs incurred by the County.

C. **Violations and Penalties.** The Director, the Director's designee, or such other person(s) as may hereafter be designated by the Board of Supervisors shall enforce the provisions of this chapter.

1. **Failure to comply with approved Reclamation Plan.** If the County, based upon an annual inspection or otherwise confirmed by an inspection of the mining site, determines that a surface mining operation is not in compliance with its approved Reclamation Plan, the County shall follow the procedures in SMARA Sections 2774.1 and 2774.2 concerning violations and levying penalties of not more than $5,000.00 per day, assessed from the original date of noncompliance.

2. **Failure to comply with Use Permit.** If the County, based upon an annual inspection or otherwise confirmed by an inspection of the mining site, determines that a surface mining operation is not in compliance with its Use Permit the County may revoke, modify, or reaffirm the Use Permit and shall follow the procedures set forth in County regulations.

SECTION 3: Severability. This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by a court to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof, other than the section so declared to be unconstitutional or invalid.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California on _____ by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Ken Yeager, President
Board of Supervisors

Signed and certified that a copy of this
document has been delivered by electronic
or other means to the President, Board of Supervisors.

ATTEST:

_____
Lynn Regadanz
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

11/18/2013
Elizabeth G. Pianca
Deputy County Counsel