

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SISKIYOU TO REPEAL SISKIYOU COUNTY CODE CHAPTER 5 IN ITS ENTIRETY AS ADOPTED BY ORDINANCE 181, REPEALED BY SECTION 1, ORDINANCE 902, AND ADOPTION OF ORDINANCE NUMBER 99-07, A REVISED SISKIYOU COUNTY CODE CHAPTER 5

The Board of Supervisors of the County of Siskiyou ordains as follows:

SECTION I. The existing Siskiyou County Code Chapter 5, as originally adopted under Siskiyou County Code Sections Number 10-5.101 through 10-5.801, by Ordinance Number 902, effective July 26, 1979, is repealed in its entirety and recodified as Sections 10-5.101 through 10-5.118 by Ordinance Number 99-07, effective 3-23 1999.

SECTION II. A revised Siskiyou County Code Chapter 5 is adopted to read as follows:

Chapter 5

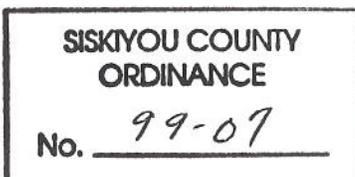
SURFACE MINING AND RECLAMATION

Sections:

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10-5.101 Purpose and Intent

- A. The purpose of this chapter is to implement and supplement the Surface Mining And Reclamation Act (SMARA) (Public Resources Code Section 2710 et seq.) and to that end the Board of Supervisors 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 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 in this chapter 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 reclamation operations and the specifications therefore may vary accordingly (PRC § 2774 (a)).
- B. It is the intent of the Board of Supervisors to create and maintain an effective and comprehensive surface mining and reclamation policy to assure that:
1. Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.
 2. The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.



3. Residual hazards to the public health and safety are eliminated (PRC § 2711 and 2712).
4. Surface mining operations that comply with applicable ordinances and policies are recognized and protected.

10-5.102 Applicability and Exemptions

- A. This chapter shall apply to all surface mining operations in Siskiyou County, except as exempted in Section B.
- B. This chapter does 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 as declared by the Board of Supervisors or State of California.
 2. On-site excavation and earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, provided all required permits for the improvements have been approved by the County in accordance with applicable provisions of state law and County plans and ordinances, including, but not limited to, the California Environmental Quality Act (CEQA).
 3. Operation of a mineral processing site, including associated on-site structures, equipment, machines, tools, or other materials, including the on-site stockpiling, crushing, screening, batching, and on-site recovery of mined materials, subject to all of the following conditions:
 - a. The plant site is located on lands appropriately zoned for mineral processing.
 - b. None of the minerals being processed are extracted on-site.
 - c. All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred on-site after January 1, 1976.
 4. Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less (14 CCR § 3505 (a)).
 5. Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.
 6. Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.
 7. Surface mining operations and emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board as specified in PRC Sections 2714.
 8. An exemption under this ordinance does not automatically exempt a project or activity from the application of other regulations, ordinances or policies of the County, including, but not limited to, CEQA (Public Resources Code Sections 21000 et seq.), the requirement of use permits or other permits, or the payment of development impact fees or the imposition of other deductions and exactions as may be permitted under the law.

10-5.103 Definitions

- A. Borrow pit - an excavation created by the surface mining of rock, unconsolidated geologic deposits, or soil to provide material (borrow) for fill elsewhere.
- B. CEQA - the California Environmental Quality Act, Public Resources Code Section 21000 et seq.
- C. CCR - the California Code of Regulations.
- D. County - the County of Siskiyou, State of California.
- E. Farming - agriculture as defined in Section 10-6.3601(e) of the Siskiyou County Code.
- F. Idle - to curtail for a period of one year or more surface mining operations by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date (PRC § 2727.1).
- G. Interim Management Plan - an amendment to an approved reclamation plan designed to prevent or minimize environmental effects from an idle mine and to protect the public health and safety from the residual hazards associated with idle mines.
- H. Lead Agency - the County of Siskiyou is defined as the lead agency for the purposes of this chapter, and has the primary responsibility for enforcing SMARA (PRC 2774.1(f)).
- I. Mined lands - includes the surface, subsurface, and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located (PRC § 2729).
- J. Mineral - any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum (14 CCR § 3501). For the purpose of this Chapter, minerals shall also include, but not be limited to, sand, gravel, aggregate, cinders, diatomaceous earth, shale, limestone, flagstone, decorative stone, precious metals, and rip-rap.
- K. Mining waste - includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations (PRC § 2730).
- L. Minor modification - a minor revision of a reclamation plan that is either not a "project," or if a project, is one that is ministerial, presents no possible significant environmental effects, or is statutorily or categorically exempt, pursuant to CEQA.
- M. On-site construction - a construction activity authorized by a County building or grading permit, located on the same parcel as the excavation or grading.
- N. Operator - any person who is engaged in surface mining operations, or who contracts with others to conduct operations on their behalf, except a person who is engaged in surface mining operations as an employee with wages as their sole compensation (PRC § 2731). Operator also means any person who permits others to conduct surface mining operations on their property and who receives a financial benefit therefrom.
- O. Overburden - soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations (PRC § 2732).

- P. Permit - any authorization from, or approval by, the County, the absence of which would preclude surface mining operations (PRC § 2732.5).
- Q. Person - any individual, firm, association, corporation, organization, or partnership, or any city, county, district, of the state or any department or agency thereof (14 CCR § 3501).
- R. PRC - the State of California Public Resources Code.
- S. Reclamation - the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and creates no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, re-soiling, revegetation, soil compaction, stabilization, or other measures (PRC § 2733).
- T. SMARA - the Surface Mining and Reclamation Act of 1975 and subsequent amendments, Public Resources Code Section 2710 et seq.
- U. Streambed skimming - excavation of sand and gravel from streambed deposits above the mean summer water level or stream bottom, whichever is higher.
- V. Surface mining operations - all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incidental to an underground mine. Surface mining operations shall include, but are not limited to: in-place distillation or retorting or leaching, the production[®] and disposal of mining waste, prospecting and exploratory activities (PRC § 2735).
- Surface mining operations shall also include the creation of borrow pits, streambed skimming, segregation and stockpiling of mined materials (and recovery of same) (14 CCR § 3501).
- W. Vested rights - a person shall be deemed to have vested rights if, prior to January 1, 1976, he or she has, in good faith and in reliance upon a permit or other authorization, if the 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.

10-5.104 Incorporation of SMARA and other State Regulations

The provisions of the California Surface Mining and Reclamation Act of 1975 (Public Resources Code, Division 2, Chapter 9, Section 2710 et seq.), Public Resources Code, Division 2, Chapter 9, Section 2207, and the California Code of Regulations implementing the act (CCR Title 14, Division 2, Chapter 8, Subchapter 1, Article 1, Article 6, Sections 3675 and 3676, Article 9 and Article 11) as those provisions may be amended from time to time, are made a part of this Chapter by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this Chapter are more restrictive than correlative state provisions, this Chapter shall prevail.

10-5.105 Mineral Resource Management Policies

Public Resources Code Sections 2762, 2763 and 2764 and Chapter 14 California Code of Regulations Section 3676, and subsequent amendments regarding mineral classification studies and General Plan resource management policies are incorporated into this Division.

10-5.106 Vested Mining Operations

- A. No person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a Use Permit pursuant to this chapter as long as the vested right continues and as long as no substantial changes are made in the operation except in accordance with this chapter.

The reclamation plan required to be filed under subdivision (b) of PRC Section 2770, shall apply to operations conducted after January 1, 1976, or to be conducted.

Nothing in this chapter shall be construed as requiring the filing of a reclamation plan for, or the reclamation of, mined lands on which surface mining operations were conducted prior to January 1, 1976, and which lands have not since been disturbed (PRC § 2776).

- B. Any area where surface mining operations have taken place subsequent to January 1, 1976, shall be subject to the requirements for reclamation, even if that area was originally disturbed prior to January 1, 1976.
- C. Where an operator with vested rights continues surface mining in the same area subsequent to January 1, 1976, they shall obtain an approval of a reclamation plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-SMARA mining, the reclamation plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the SMARA (14 CCR § 3505 (b)).
- D. The horizontal boundaries of the vested rights shall be determined by the Planning Director based on information presented by the operator to substantiate the vested right. The Planning Director shall evaluate the information presented by the operator. Additional information may be requested by the Planning Director if it is determined to be needed to evaluate the possible vested rights. The Planning Director shall inform the operator in writing of said determination, including the factual findings supporting the decision. The decision of the Planning Director shall include an approved map or plan showing the extent of vested rights. No public notice is required for this determination, which is not subject to CEQA.
- E. Prior to acknowledging a vested right, the Planning Director shall make the finding that the subject surface mining operation conforms to the standard for vested rights in PRC Section 2776.
- F. The decision of the Planning Director may be appealed in accordance with Section 10-5.112.

10-5.107 Use Permits

Pursuant to County Code, a use permit shall be required for a surface mining operation which is not determined to be vested. A use permit shall also be required for the expansion of a surface mining operation beyond the boundaries of the vested area.

10-5.108 Reclamation Plans

- A. Except as provided in this chapter, no person shall conduct surface mining operations unless a use permit is obtained from, a reclamation plan has been submitted to and approved by, and financial assurances for reclamation have been approved by, the County for the operation pursuant to this chapter (PRC § 2770 (a)).
- B. The County's review of reclamation plans is limited to whether the plan substantially meets the applicable requirements of PRC Sections 2772 and 2773, and the County Surface Mining Ordinance adopted pursuant to subdivision (a) of PRC Section 2774. Reclamation plans determined to substantially meet these requirements shall be approved by the County for purposes of this chapter.

- C. The following standards shall apply to all reclamation plans:
1. The reclamation plan shall be applicable to a specific piece of property or properties, shall be based upon the character of the surrounding area and such characteristics of the property as type of overburden, soil stability, topography, geology, climate, stream characteristics, and principal mineral commodities, and shall establish site-specific criteria for evaluating compliance with the approved reclamation plan, including topography, revegetation, and sediment and erosion control (PRC § 2773 (a)).
 2. All reclamation plans shall be subject to the reclamation performance standards in 14 CCR § 3700 through 3713. These standards shall apply to each mining operation, but only to the extent that they are consistent with the planned or actual subsequent use or uses of the mining site (PRC § 2773 (b)).
 3. The County shall employ standards in compliance with state policy. The County may impose additional performance standards (conditions) developed either in review of individual projects, as warranted, or through the adoption of County-wide performance standards.
- D. The reclamation plan shall be filed with the County 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 thereon. The reclamation plan shall include the information and documents required under PRC § 2772 and 14 CCR § 3502. The application shall also include environmental review information required under CEQA as prescribed by the Planning Director.
- E. Reclamation plans shall be approved, conditionally approved, or denied in accordance with County Code, including a public hearing, except where preempted by the Public Resources Code.
1. Reclamation plans determined not to substantially meet the requirements of PRC Sections 2772 and 2773, and the County Surface Mining Ordinance adopted pursuant to subdivision (a) of PRC Section 2774, shall be returned to the operator within 60 days. The operator has 60 days to revise the plan to address identified deficiencies, at which time the revised plan shall be returned to the County for review and approval (PRC § 2770 (d)).
 2. Prior to County approval, reclamation plans shall be forwarded to the Department of Conservation and other state agencies (PRC § 2774 (c) through (e)) The County shall certify to the Department of Conservation that the reclamation plan complies with the applicable requirements of Article 1 (commencing with Section 3500) of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, as in effect at the time the reclamation plan is submitted to the Department of Conservation for review (PRC § 2774 (c)).
- F. The decision on a reclamation plan may be appealed in accordance with Section 10-5.112.
- G. Prior to approving a reclamation plan, the approving body shall make the following findings:
1. The project has been reviewed pursuant to CEQA, all adverse impacts related to the reclamation plan have been mitigated by the plan and/or the recommended condition of approval, and the appropriate environmental determination has been adopted.

2. The reclamation plan complies with the requirements of the state Surface Mining and Reclamation Act of 1975 (SMARA), specifically PRC Code Sections 2772 and 2773, and the Reclamation Standards specified in California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 9, Sections 3700 through 3713.
 3. The reclamation plan has been forwarded to the Department of Conservation as prescribed by this Chapter.
 4. The reclamation plan complies with the purpose, intent, and requirements of this Chapter.
 5. The proposed goal of reclamation is consistent with the General Plan policies and Zoning for the area.
- H. If the surface mining operation for which a reclamation plan has been approved is not commenced within 2 years of the approval date of the reclamation plan, the reclamation plan shall be null and void. An extension of time for an additional year may be granted by the original approving body provided the operator submits a request prior to the expiration of the reclamation plan. Extension of time shall not be granted to extend the date of completion of the reclamation plan.

10-5.109 Minor Modifications to Reclamation Plans

- A. Minor modifications to reclamation plans which do not change the end use of the mined lands may be approved by the Planning Director without public notice or consultation with the Department of Conservation, only for the following reasons:
1. To allow the minor recontouring of final topography effecting no more than ten percent of the site, provided that slope stability is maintained and substantiated.
 2. To allow minor modification or addition of site access, including new on-site roads and encroachments directly from the site to a public road, but not including new off-site roads.
 3. To allow a minor substitution in the reclamation plan, such as a substitution in the type and/or number of plant species, minor change in topsoil treatment, etc., provided it does not substantially alter the intended end-use described in the approved reclamation plan.
 4. To allow minor technological and/or administrative changes in methods used to achieve reclamation.
 5. To allow measures to be taken which will ensure and/or maintain public safety (e.g., fences, gates, signs, or hazard removal) provided it does not substantially alter the intended end-use described in the approved reclamation plan.
 6. To allow minor modifications to a previously approved phasing plan.
 7. To allow compliance with the requirements of other public agencies, provided the requirements are not inconsistent with the approved reclamation plan.
- B. Applications for minor modifications shall be filed with the Planning Department.
- C. Prior to approval of a minor modification, the Planning Director shall make the following findings:
1. The minor modification is consistent with the approved reclamation plan and does not represent a significant change to the approved reclamation plan for the subject surface mining operation.

2. The minor modification is either not a "project," or if a project, is one that is ministerial, presents no possible significant environmental effects, or is statutorily or categorically exempt, pursuant to CEQA.
 3. The minor modification meets the requirements of Section 10-5.109(A).
- D. The Planning Director shall approve, conditionally approve, or disapprove an application for a minor modification within 45 days of accepting the application as complete, and give notice by mail of the decision, including any conditions of approval, to the applicant.
- E. The decision of the Planning Director regarding a minor modification may be appealed in accordance with Section 10-5.112.
- F. Within 30 days of final action, the Planning Director shall send a copy of an approved minor modification to the Department of Conservation.

10-5.110 Interim Management Plans

- A. Within 90 days of a surface mining operation becoming idle, the operator shall submit to the Planning Department for review and approval, an interim management plan. The review and approval of an interim management plan shall not be considered a project for purposes of CEQA. The approved interim management plan shall be considered an amendment to the surface mining operation's approved reclamation plan. 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 (PRC § 2770 (h)(1)).
- B. Prior to County approval, interim management plans shall be submitted for review by the Department of Conservation pursuant to Section 10-5.112 (PRC § 2774 (c) through (e)).
- C. The Planning Director may approve an interim management plan without public notice or a public hearing if the Planning Director determines that the interim management plan does not require significant changes to the reclamation plan. The decision of the Planning Director may be appealed in accordance with Section 10-5.112.
- D. The interim management plan may remain in effect for a period not to exceed 5 years, at which time the County shall do one of the following:
1. Renew the interim management plan for another period not to exceed 5 years, if the County finds that the surface mining operator has complied fully with the interim management plan.
 2. Require the operator to commence reclamation in accordance with the approved reclamation plan (PRC § 2770 (h)(2)).
- F. The financial assurances shall remain in effect during the period that the surface mining operation is idle. If the operation remains idle after the expiration of its interim management plan, reclamation shall commence in accordance with the approved reclamation plan (PRC § 2770 (h)(3)).
- G. Within 60 days of the receipt of the interim management plan, or a longer period mutually agreed upon by the County and the operator, the County shall review and approve the plan, so long as the plan satisfies the requirements of this subdivision, and so notify the operator in writing. Otherwise, the County 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 County, to submit a revised plan (PRC § 2770 (h)(4)).
- H. The County shall approve or deny the revised interim management plan within 60 days of receipt. If the County denies the revised interim management plan, the operator may appeal that action to the Planning Commission, which shall schedule a public hearing within 45 days of the filing of the appeal, or any longer period mutually agreed upon by the operator and the Planning Commission (PRC § 2770 (h)(5)). The action

of the Planning Commission may be appealed in accordance with Section 10-5.112.

- I. Unless review of an interim management plan is pending before the County, or an appeal is pending before the Planning Commission or the Board of Supervisors, a surface mining operation which remains idle for over one year after becoming idle as defined in Section 2727.1 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 (PRC § 2770 (h)(6)).
- J. Any enforcement action which may be brought against a person for operating without an approved reclamation plan, financial assurance, or interim management plan, shall be held in abeyance pending review pursuant to PRC Section 2770 subdivision (h) or the resolution of an appeal filed with the State Mining and Geology Board pursuant to subdivision (e), or with the Planning Commission pursuant to subdivision (h) (PRC § 2770 (h)(1) through (6)). The action of the Planning Commission may be appealed to the Board of Supervisors within 10 days of said action.

10-5.111 Financial Assurances

- A. The County's review of financial assurances is limited to whether the financial assurances substantially meet the applicable requirements of PRC Section 2773.1 and this chapter. Financial assurances for reclamation shall be sufficient to perform reclamation of lands remaining disturbed. Financial assurances determined to substantially meet these requirements shall be approved by the County for purposes of this chapter. Except as specified in PRC Section 2770 (e), an appeal pursuant to PRC Section (e) with regard to non-approval of financial assurances, and that appeal is pending before the State Mining and Geology Board, the continuation of the surface mining operation is prohibited until financial assurances for reclamation are approved by the County.
- B. The County shall require financial assurances of each surface mining operation to ensure 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 State Mining and Geology Board pursuant to PRC Section 2773.1 (e), which the County reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved reclamation plan.
 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 and the Department of Conservation. Financial assurances that were approved by the County prior to January 1, 1993, and were made payable to the State Geologist shall be considered payable to the Department of Conservation for purposes of this chapter. However, if a surface mining operation has received approval of its financial assurances from a public agency other than the County, the County 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, and the Department of Conservation and otherwise meet the requirements

of this section. In any event, if the County and one or more public agencies exercise jurisdiction over a surface mining operation, the total amount of financial assurances required by the County and the 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 (PRC § 2773.1 (a)).

5. Estimates for financial assurances shall include descriptions of the tasks to be performed, identification of equipment, labor and materials requirements, definition of units costs, total cost per task, total direct cost of reclamation, and administrative costs including costs of supervision, profit and overhead, contingencies and mobilization. Additional required information may include a site plan showing the present limits of the disturbed area to be reclaimed, and other information necessary to verify the estimate.

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 for reclamation of the site.

- C. Financial assurances determined not to substantially meet the requirements of PRC Section 2773.1 shall be returned to the operator within 60 days. The operator has 60 days to revise the financial assurances to address identified deficiencies, at which time the revised financial assurances shall be returned to the County for review and approval (PRC § 2770 d).
- D. Prior to County approval, financial assurances shall be forwarded to the Department of Conservation pursuant to Section 10-5.112 (PRC § 2774 (c) through (e)).
- E. The decision to approve financial assurances, both with respect to the form and amount thereof, shall be made by the Planning Director. The financial assurance estimates shall be based on an approved reclamation plan. The Planning Director's decision may be appealed in accordance with Section 10-5.112.
- F. Financial assurances are not required of a surface mining operation, and shall be released, upon written notification by the County, which shall be forwarded to the operator and the Department of Conservation, when reclamation has been completed in accordance with the approved reclamation plan. If a mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in force and shall not be released by the County until new financial assurances are secured from the new owner and have been approved by the County in accordance with Section 2770 (PRC § 2773.1 (c)).
- G. If the County, following a public hearing, determines that the operator is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has abandoned its surface mining operation without completing reclamation, the Planning Director shall do all of the following:
 1. Notify the operator by personal service or certified mail that the County intends to take appropriate action to forfeit the financial assurances and specify the reasons for so doing.
 2. Allow the operator 60 days to commence or cause the commencement of reclamation in accordance with its approved reclamation plan and require that reclamation be completed within the time limits specified in the approved reclamation plan or some other time period mutually agreed upon by the County and the operator.
 3. Proceed to take appropriate action to require forfeiture of the financial assurances if the operator does not substantially comply with paragraph (2).

4. Use the proceeds from the forfeited financial assurances to conduct and complete reclamation in accordance with the approved reclamation plan. In no event shall the financial assurances be used for any other purpose. The operator is responsible for the costs of conducting and completing reclamation in accordance with the approved reclamation plan which are in excess of the proceeds from the forfeited financial assurances (PRC § 2773.1 (b) (1) through (4)).

10-5.112 Appeals

The decision of the Planning Director may be appealed to the Planning Commission within 10 calendar days of the decision. The decision of the Planning Commission may be appealed to the Board of Supervisors within 10 calendar days of the decision.

10-5.113 State Review of Reclamation Plans, Interim Management Plans, Financial Assurances and Amendments.

- A. Prior to approving a surface mining operation's reclamation plan, financial assurances, including existing financial assurances reviewed by the County pursuant to subdivision (c) of Section 2770, or any amendments, the County shall submit the plan, assurances, or amendments to the Department of Conservation for review (PRC § 2774 (c)).
- B. The Department of Conservation shall have 30 days to review and provide written comments on reclamation plans; 45 days for financial assurances. The County shall evaluate written comments received from the Department of Conservation during the comment period. The County shall prepare a written response describing the disposition of the major issues raised. In particular, when the County's position differs from the recommendations and objections raised in the Department of Conservation's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the County shall be forwarded to the operator (PRC § 2774 (d)).
- C. The County shall notify the Department of Conservation of the filing of an application for a permit to conduct surface mining operations within 30 days of such an application being filed (and determined complete) with the County. By July 1 of each year, the County shall submit to the Department of Conservation for each active or idle mining operation a copy of any permit or reclamation plan amendments, as applicable, or a statement that there have been no changes during the previous year.
- D. Whenever surface mining operations are proposed in the 100-year flood plain for any stream, as shown in Zone A of Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the County receiving the application for the issuance or renewal of a permit to conduct the surface mining operations shall notify the Department of Transportation that the application has been received. The Department of Transportation shall have a period of not more than 45 days to review and comment on the proposed surface mining operations with respect to any potential damage to the state highway bridge from the proposed surface mining operations. The County shall not issue or renew the permit until the Department of Transportation has submitted its comments or until 45 days from the date the application for the permit was submitted, whichever occurs first (PRC § 2770.5).

10-5.114 Transferability

- A. 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 chapter (PRC § 2779).

- B. Financial assurances provided by the operator's successor to the County and the Department of Conservation shall have been approved, and the financial assurance mechanism shall be in place prior to the continuation of surface mining operations.

10-5.115 Annual Inspections and Reports

- A. Surface mining operators shall forward an annual status report to the Department of Conservation and to the County on a date established by the Department of Conservation upon forms furnished by the State Mining and Geology Board (PRC § 2207 (a) through (g)).
- B. The County shall conduct an inspection of a surface mining operation within six months of receipt by the County of the surface mining operation's report, solely to determine whether the surface mining operation is in compliance with this chapter. In no event shall the County inspect a surface mining operation less than once in any calendar year. The County may cause such an inspection to be conducted by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester, experienced in land reclamation and not previously employed by the mining operation in any capacity during the previous 12 months. All inspections shall be conducted using a form developed by the Department of Conservation and approved by the State Mining and Geology Board. The operator shall be solely responsible for the reasonable cost of the inspection. The County shall notify the Director of the Department of Conservation within 30 days of completion of the inspection that the inspection has been conducted. The notice shall contain a statement regarding the surface mine's compliance with this chapter, shall include a copy of the completed inspection form, and shall specify which aspects of the surface mining operations, if any, are inconsistent with this chapter. If the surface mining operation has a review of its reclamation plan, financial assurances, or an interim management plan pending, or an appeal pending before the State Mining and Geology Board or the County Board of Supervisors, the notice shall so indicate. The County shall forward to the operator a copy of the notice, a copy of the completed inspection form, and any supporting documentation, including, without limitation, any inspection report prepared by the geologist, civil engineer, landscape architect, or forester (PRC § 2774 (b)).

10-5.116 Record Keeping

- A. The County shall establish and maintain in-house measures and procedures to ensure organized record-keeping and monitoring of surface mining reclamation under its jurisdiction. The County shall forward a copy of each permit and approved reclamation plan to the Department of Conservation (14 CCR § 3504).
- B. Reclamation plans, reports, applications, and other documents submitted pursuant to this chapter are public records, unless it can be demonstrated to the satisfaction of the County that the release of that information, or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The County shall identify such proprietary information as a separate part of the application. Proprietary information shall be made available only to the Department of Conservation and to persons authorized in writing by the operator and by the owner (PRC § 2778 (a)).
- C. A copy of all reclamation plans, reports, applications, and other documents submitted pursuant to this chapter shall be furnished to the Department of Conservation by the County on request (PRC § 2778 (b)).

10-5.117 Enforcement

- A. If, after conducting the annual inspection or otherwise confirmed by an inspection of the mining operation, the Planning Director finds that the surface mining operation is not in compliance with the approved reclamation plan, the provisions of this ordinance, or SMARA, the Planning Director may notify the operator and the owner of the subject property of that violation by personal service or certified mail. If the

violation continues beyond 30 days after the date of issuance of the notice of violation, the Planning Director may issue an order by personal service or certified mail requiring compliance or, if the operator does not have an approved reclamation plan, to cease all further mining activities. Said order shall specify which aspects of the surface mine's activities or operations are inconsistent with the approved reclamation plan, the provisions of this ordinance, or SMARA; shall specify a time for compliance which the Planning Director determines is reasonable, given the seriousness of the violation and any good faith efforts to comply with applicable requirements; shall set a date for a public hearing before the Planning Commission no sooner than 30 days after the date of issuance of the order; and shall not take effect until the operator has been provided a public hearing concerning the violation, unless it is determined by the Planning Director that the violation presents an immediate threat to public health or safety requiring immediate corrective action pending a Planning Commission hearing, and the operator has been given adequate notice and an opportunity to be heard by the Planning Director prior to the effective date of his or her order (PRC § 2774.1 (a) and (b)).

- B. At the hearing, the Planning Commission shall determine whether or not the operator is complying with the approved reclamation plan or the provisions of this ordinance and may affirm, modify or set aside the order issued by the Planning Director. The decision of the Planning Commission may be appealed within 10 calendar days to the Board of Supervisors.
- C. Any operator who fails to comply with an order issued by the Planning Director after the order's effective date, unless set aside by the Planning Commission or Board of Supervisors, shall be subject to an order by the Planning Director imposing an administrative penalty of not more than five thousand dollars (\$5,000) per day, assessed from the original date of the Planning Director's notice of violation or noncompliance with PRC Section 2207. In determining the amount of the administrative penalty, the Planning Director shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any resulting from the violation, and any other matters justice may require. An order imposing an administrative penalty shall become effective upon issuance and payment shall be made to the County within 30 days, unless the operator petitions the Board of Supervisors for review of the order prior to the date on which the penalty payment is due. Said order shall be served by personal service or by certified mail upon the operator.
- D. If, within 10 days from the date of issuance, the operator petitions the Board of Supervisors for review of the order imposing an administrative penalty, the operator shall be notified by personal service or certified mail as to whether the Board of Supervisors will review the order and if so when the matter has been set for public hearing, or consider the order final as previously issued. If it determines to consider the petition on its merits, the Board of Supervisors may affirm, modify, or set aside, in whole or in part, by its own order, any order of the Planning Director imposing an administrative penalty. Any order of the Board of Supervisors shall become effective upon issuance thereof and shall be served by personal service or by certified mail upon the operator. Payment of an administrative penalty specified in the Board of Supervisor's order shall be made to the County within 30 days of service of the order.
- E. If a new mining operation commences without an approved reclamation plan, the County may initiate legal action and proceedings pursuant to the General Enforcement provision of County Code, which may include abatement, injunctive actions and civil penalties.

10-5.118 Fees

The County shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this chapter and the applicable state laws, including processing of applications, appeals, annual reports, inspections, monitoring, enforcement and compliance. Such fees shall be paid by the operator of the surface mining operation as required by the County at the time of filing of the reclamation plan application, appeal, or time extension request, and at such other times as are determined by the County to be appropriate in order to ensure that all reasonable costs of implementing this chapter are borne by the mine operator.

SECTION III: CONSTITUTIONALITY: If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase of this ordinance irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

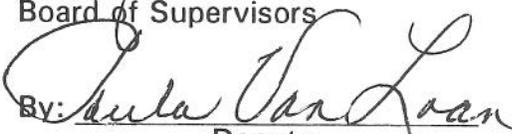
SECTION IV: This ordinance shall become effective thirty (30) days after its passage and shall, within 15 days after its adoption, be published once in a newspaper of general circulation, printed and published in the County of Siskiyou.

PASSED AND ADOPTED this 23 day of March 1999, at a regular meeting of the Board of Supervisors of the County of Siskiyou, by the following vote:

- AYES:** Supervisors Erickson, Hoy, Smith and Bryan
- NOES:** none
- ABSENT:** Supervisor Giardino
- ABSTAIN:** none


Chairman
Board of Supervisors

ATTEST:
COLLEEN BAKER, Clerk
Board of Supervisors

By: 
Deputy