


**BOARD OF SUPERVISORS
COUNTY OF DEL NORTE
STATE OF CALIFORNIA**

ORDINANCE NO. 97-005


**AN ORDINANCE AMENDING CHAPTER 7.36 OF THE DEL NORTE COUNTY
ORDINANCE CODE REGARDING SURFACE MINING AND QUARRIES**

The following ordinance, consisting of twenty-eight sections, was duly and regularly passed and adopted by the Board of Supervisors of the County of Del Norte, State of California, at a regular meeting of the Board of Supervisors held on the 25th day of March, 1997, by the following vote:

AYES: SUPERVISORS FINIGAN, REESE, ELLER, MCCLURE AND CLAUSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE



BARBARA P. CLAUSEN, Chairman
Del Norte County Board of
Supervisors

ATTEST:


KAREN L. WALSH, Clerk of the
Board of Supervisors, County
of Del Norte, State of
California

I hereby certify the foregoing
to be a true and correct copy
of the original on file in this
office.


Dated: March 31, 1997

ATTEST:


Clerk of the Board of Super
visors, County of Del Norte,
State of California.


Deputy

APPROVED AS TO FORM


KATHLEEN L. BURGESS, Del
Norte County Counsel

Chapter 7.36

SURFACE MINING AND QUARRIES

Sections:

7.36.010	Title of Provisions
7.36.020	Purpose of Provisions
7.36.030	Authority
7.36.040	Definitions
7.36.045	Incorporation by Reference
7.36.050	Compliance with Provisions Required - Exceptions
7.36.060	Permit - Required When
7.36.065	Vested Rights
7.36.070	Permit - Application
7.36.080	Permit - Issuance - Hearing
7.36.085	Appeals
7.36.100	Permit - Suspension or Revocation
7.36.110	Operation Regulations Generally
7.36.120	Excavation Regulations
7.36.130	Gravel Extractions - Drainage Within Stream Channels
7.36.140	Erosion Control and Screening
7.36.150	Maintenance and Operation
7.36.160	Site Reclamation and Standards
7.36.165	Statement of Responsibility
7.36.170	Findings for Approval
7.36.180	Financial Assurances
7.36.190	Interim Management Plans
7.36.200	Annual Report Requirements
7.36.210	Inspections
7.36.220	Violations and Penalties
7.36.230	Fees
7.36.240	Mineral Resource Protection
7.36.250	Severability

7.36.010 Title of Provisions

The ordinance codified in this chapter shall be known and cited as the surface mining and quarry ordinance of the County.

7.36.020 Purpose of Provisions

The purpose of this chapter is to provide for the orderly use and regulation of the surface mining and quarries within the unincorporated area of the county in keeping with the protection of the public health, safety, convenience and general welfare.

7.36.030 Authority

The ordinance codified in this chapter is adopted pursuant to Chapter 4, Article 2, Title 7, of the California Government Code, under the planning and health powers granted the county, and the Surface Mining and Reclamation Act of 1975.

7.16.040 Definitions (Updated to include new SMARA definitions)
For the purpose of this chapter, certain words and phrases are defined as set forth in this section, and certain provisions shall be construed as set forth unless it shall be apparent from the text that they have different meaning.

- A. "Area of regional significance" means an area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.
- B. "Area of statewide significance" means an area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the State and which, if prematurely developed for alternate land uses, could result in the premature loss of minerals that are of more than local or regional significance.
- C. "Average annual bed load" means the average amount of gravel that is carried downstream in a normal year and deposited during the high water season in the lower river bars.
- D. "Borrow pit" means excavation created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.
- E. "Compatible land use" means land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational agriculture, silviculture, grazing, and open space.
- F. "Excavation" means any excavation, removal, relocation or alteration of the existing contours and location of any soil, earth, fill, sand, rock, gravel, or waste material more than 10 cubic yards or as determined by the Planning Commission, or any combination thereof, and the conditions resulting therefrom.
- G. "Ground level" means and includes the natural or finished grade, surface, or contour of a site.
- H. "Haul road" means a road along which material is transported from the area of excavation to the processing plant or stockpile area of the surface mining operation.
- I. "Idle" means surface mining operations curtailed for a period of one year or more, 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.

- J. "Incompatible land use" means land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.
- K. "Mined lands" means the surface, subsurface, and ground water 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.
- L. "Minerals" means any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic process and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.
- M. "Operator" means any person who is engaged in surface mining operations, or who contracts with others to conduct operations on his/her behalf, except a person who is engaged in surface mining operations as an employee with wages as his/her compensation.
- N. "Overburden" means soil, rock, or other materials that lie above a natural mineral deposit or in between deposits, before or after their removal by surface mining operations.
- O. "Quarry" means premises from which any rock, sand, gravel, stone, earth, topsoil, or mineral is removed or excavated for the purpose of disposition away from the immediate premises, whether such disposition is immediate or in the future.
- P. "Reclamation" means 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 mines are reclaimed to a useable 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 means.
- Q. "Reclamation Plan" means an applicant's (Operator's) proposal to the lead agency for reclaiming the lands affected by his mining operation. Refer to Sec. 7.36.200.
- R. "Stream bed skimming" means excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.

- 5 "Surface mining operations" means all or any part of the process involved in the mining of minerals on mined lands by removing overburden and mining directly 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 include, but are not limited to, in-place distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, stream bed skimming, and segregation and stockpiling of mined materials (and recovery of same).

7.36.045 Incorporation by Reference (New from State Model Ord.)
The provisions of SMARA (PRC 2710 et seq.) PRC Section 2207, and State regulations CCR 3500 et seq., as those provisions and regulations 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 State provisions, this Chapter shall prevail.

7.36.050 Compliance with Provisions Required - Exceptions
(Revised and/or updated to meet minimum SMARA standards)

Except as provided in this Chapter, no person shall conduct surface mining operations unless a permit, reclamation plan, and financial assurances for the reclamation have first been approved by the County. Any applicable exemption from this requirement 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, the application of CEQA, the requirement of site approvals or other permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be permitted under the law. The provisions of this Chapter shall apply to all lands within the County, public and private.

This Chapter shall not apply to the following activities, subject to the above referenced exceptions:

- A. Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.
- B. On-site excavation and on-site earthmoving which are an integral and necessary part of a construction project and that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:
 1. All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with

- applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act (CEQA, Public Resources Code, Division 13, 21000 et seq.).
2. The County's approval of the construction project including consideration of the on-site excavation and on-site earthmoving activities pursuant to CEQA.
 3. The approved construction project is consistent with the General Plan or zoning of the site.
 4. Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.
- C. Operation of a plant used for mineral processing, including associated on-site structures, equipment, machines, tools, or other materials, including the on-site stockpiling and on-site recovery of mined materials, subject to all of the following conditions:
1. The plant site is located on lands designated for industrial or commercial uses in the County's General Plan.
 2. The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the County.
 3. None of the materials being processed are being extracted on-site,
 4. 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.
- D. 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.
- E. 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.
- F. 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 disturbance.
- G. The solar evaporation of sea water for the production of salt and related minerals.
- H. Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.
- I. Road construction and maintenance for timber forest operations if the land is owned by the same person or entity, and if the excavation is conducted adjacent to timber or forest operation roads. This exemption is only available if slope stability and erosion are controlled in accordance with Board regulations and, upon closure of

the site, the person closing the site implements, where necessary, revegetation measures and post-closure uses in consultation with the Department of Forestry and Fire Protection. This exemption does not apply to on-site excavation or grading that occurs within 100 feet of a class one watercourse or 75 feet of a class two watercourse, or excavations for materials that are, or have been, sold for commercial purposes.

7.36.060 Permit - Required When (No change)

Surface mining and quarry operations may be operated in any portion of the County where there are provisions for such uses in the intended zones. Surface mining and quarry operations, unless excluded by Section 7.36.050, are subject to the securing of a permit as specified in this chapter and subject to the regulations of this chapter. The issuance of such a use permit is a discretionary action of the Planning Commission.

7.36.065 Vested Rights (New - Updates 7.36.190 to new SMARA standard)

No person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit to mine, so long as the vested right continues and as long as no substantial changes have been made in the operation except in accordance with SMARA, State regulations, and this Chapter. Where a person with a vested right has continued surface mining in the same area subsequent to January 1, 1976, he/she shall obtain County approval of a reclamation plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in horizontal and/or vertical sense) between pre- and post-act mining, the Reclamation Plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act (January 1, 1976).

All other requirements of State law and this Chapter shall apply to vested mining operations.

7.36.070 Permit - Application (Updated to SMARA minimum standard)

- A. Applications for a Site Approval or Reclamation Plan for surface mining or land reclamation projects shall be made on forms provided by the Planning Division. Said application shall be filed in accord with this Chapter and procedures to be established by the Planning Director. The forms for Reclamation Plan applications shall require, at a minimum, each of the elements required by SMARA (2772-2773) and State regulations, and any other requirements deemed necessary at the discretion of the Planning Division. As many copies of the Site Approval application as may be required by the Planning Division shall be submitted.
- B. As many copies of a reclamation plan application as may be required shall be submitted in conjunction with all use permit applications for site approvals for surface

- mining operations. For surface mining operations that are exempt from a use permit for site approval pursuant to this chapter, the reclamation plan application shall include information concerning the mining operation that is required for processing the reclamation plan. All documentation for the reclamation plan shall be submitted to the County at one time.
- C. Applications shall include all required environmental review forms and information prescribed by the Planning Division.
 - D. Upon completion of the environmental review procedure and filing of all documents required by the Planning Director, consideration of the use permit and/or reclamation plan for the proposed or existing surface mining operation shall be completed pursuant to Section 20.56 of Del Norte County Code at a public hearing before the Planning Commission and pursuant to Section 2774 of the Public Resources Code.
 - E. Within thirty days of acceptance of an application for a use permit for site approval of surface mining operations and/or a reclamation plan as complete, the Planning Division shall notify the State Department of Conservation of the filing of the application. Whenever mining operations are proposed in the 100 year flood plain of any stream, as shown in zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within 1 mile upstream or downstream of any state highway bridge, the Planning Division shall also notify the State Department of Transportation that the application has been received.
 - F. The Planning Division shall process the application through environmental review pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the County's environmental review guidelines.
 - G. Subsequent to the appropriate environmental review, the Planning Division shall prepare a staff report with recommendations for consideration by the Planning Commission.
 - H. The Planning Commission shall hold at least one public hearing on the use permit for site approval and/or reclamation plan.
 - I. Prior to final approval of a reclamation plan, financial assurances (as provided in this Chapter), or any amendments to the reclamation plan or existing financial assurances, the Planning Commission shall certify to the State Department of Conservation (DOC) that the reclamation plan and/or financial assurance complies with the applicable requirements of State Law, and submit the plan, assurance, or amendments to the State Department of Conservation for review. The Planning Commission may conceptually approve the reclamation plan and financial assurance before submittal to the DOC. If a use permit for site approval is being processed concurrently with the reclamation plan, the Planning Commission may simultaneously also conceptually approve the use permit

for site approval. However, the Planning Commission may defer action on the use permit until taking final action on the reclamation plan and financial assurances. If necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve the use permit for site approval with the condition that the Planning Division shall not issue the use permit for the mining operations until cost estimates for financial assurances have been reviewed by the State Department of Conservation and final action has been taken on the reclamation plan and financial assurances.

Pursuant to PRC 2774(d), the State Department of Conservation shall be given 30 days to review and comment on the reclamation plan and 45 days to review and comment on the financial assurance. The Planning Commission shall evaluate written comments received, if any, from the DOC during the comment periods. Staff shall prepare a written response describing the disposition of the major issues raised by the DOC for the Planning Commission's approval. In particular, when the Planning Commission's position is at variance with the recommendations and objections raised in the State'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 Planning Commission shall be promptly forwarded to the operator/applicant.

- J. The Planning Commission shall then take action to approve, conditionally approve, or deny the use permit for site approval and/or reclamation plan, and to approve the financial assurances pursuant to PRC 2770(d).
- K. The Planning Division shall forward a copy of each approved use permit for site approval for surface mining operations and/or approved reclamation plan, and a copy of the approved financial assurances to the DOC. By July 1 of each year, the Planning Division shall submit to the DOC for each active or idle mining operation a copy of the use permit for site approval or reclamation plan amendments, as applicable, or a statement that there have been no changes during the previous year.

In addition to the above listed SMARA required information, an application for a permit to conduct surface mining shall include, but is not limited to, the following information:

1. An accurate plot plan showing exterior boundaries of the property on which the proposed surface mining or quarry will be located, and the location of existing and/or proposed structures, roads, rivers, streams, or other significant land uses;
2. A current Assessor's parcel map;
3. Contour map when required by the Planning Commission;
4. Aerial Photo(s) at a scale of no smaller than 1" = 600';
5. Statement of plan of operation, including time limits, method of removal, volume to be removed over the life of the project, equipment to be used, areas to be disturbed and final grading of site and clean-up;

6. Filing fees shall be paid to the Planning Division and shall be as prescribed in the current fee schedule resolution of the Board of Supervisors.

7.36.080 Permit - Issuance - Hearing (Slightly revised to meet existing policies and conditions).

- A. At the completion of the application procedure outlined in Section 7.36.070, the Planning Division will review the use permit application for the following:
1. A site inspection shall be conducted to determine whether the proposed surface mining or quarry operation conforms to the provisions of this Chapter;
 2. That the proposal is consistent with the terms of any other County ordinance or State law;
 3. As lead agency, the County Planning Commission may require an environmental impact report be prepared;
 4. A public hearing shall be scheduled to determine public attitudes towards the project and make findings as to whether the project may be a public nuisance;
- B. If, in the opinion of the Planning Commission, the proposed surface mining operation or quarry will not be deemed detrimental, a use permit for up to a 5 year period that may be seasonal shall be issued as provided in this Chapter. The Planning Commission, in issuing any such permit, shall specify such conditions as are deemed necessary for the protection of persons and property in the area and to ensure the operation will not significantly adversely affect the character of the area in which the surface mining operation or quarry is located. In order to ensure compliance with such conditions, the Planning Commission, as a condition of approval for the permit or reclamation plan, or both, shall impose a schedule for periodic inspections of the site to evaluate continuing compliance with the permit and the reclamation plan. Inspection may coincide with the issuance and subsequent review for renewal of the issued use permit and shall include an inspection upon completion of the project. The Planning Commission shall require financial assurances to ensure compliance with the regulations imposed under the terms of any permit.

7.36.085 Appeals (No change)

- A. Any person, including the applicant, aggrieved by an action of the Planning Commission may appeal that action to the Board of Supervisors following the procedure set forth in Section 20.58.010.
- B. An application for a permit to operate which is denied in an area of statewide significance or regional significance, as designated by the State Mining and Geology Board, may be appealed under Section 2775 of the Surface Mining and Reclamation Act of 1975 to the State Board.

7.36.100 Permit - Suspension or Revocation (Slightly revised wording for clarity)

Any permit granted under this chapter shall be subject to revocation or suspension by the Planning Commission where violation of this chapter, contingencies of the use permit, or a proven public nuisance have occurred. Revocation or suspension proceedings shall be the following:

- A. A notice shall be served on the permit holder specifying:
 1. He/she has failed to comply with the provisions of this chapter or with the terms specified in the permit;
 2. He/she must cease operation of any surface mining or quarry until the County Planning Commission may hold a public hearing;
 3. He/she shall be required to appear before the Planning Commission at a date and hour specified, not less than 30 days after the serving of the notice, to show cause for the permit to be reinstated.
- B. A public hearing shall be held by the County Planning Commission.
- C. The Planning Commission shall present to the permit holder during the public hearing any charges or complaints which have been filed in the Planning Division.
- D. The permit holder shall have the right to appear in person or by counsel and introduce such evidence as he/she may desire to show why his/her use permit should be reinstated.
- E. After the conclusion of the public hearing, the Planning Commission may, if it is their opinion the permit holder has violated the terms of his permit, revoke or reinstate the permit.
- F. The permit holder may appeal to the County Board of Supervisors regarding revocation.

7.36.110 Operation Regulations Generally (No change)
Surface mining may be conducted and maintained in any zone district where it is permitted subject to the general requirements of Sections 7.36.120 through 7.36.160.

7.36.120 Excavation Regulations (Updated to reflect current conditions/policies and for clarity)

- A. Gravel extractions shall not be excavated within the live waters of a river, except as specifically permitted by the Department of Fish and Game.
- B. Aggregate gravel extraction volume shall be discretionary to the Planning Commission; the average annual bed load for any extraction area on a county river or stream shall provide a guide to determine maximum extraction volumes.
- C. Quarries shall in no case allow cut slopes at a ratio steeper than two to one to be brought closer than twenty five feet of any exterior property line.

7 36.130 Gravel Extractions - Drainage Within Stream Channels
(Updated to reflect current conditions and policies)

- A. The finished excavation shall in all cases be graded in such a manner as to prevent accumulation of waters to natural seepage;
- B. Finished grades in the case of surface mining operations shall have slopes of not less than one and one half percent, sloping towards the channel, unless otherwise permitted by the Department of Fish and game.

7.36.140 Erosion Control and Screening (No change)

- A. All surface drainage existing or developed by or through the surface mining operation of a quarry shall be controlled by dikes, barriers, or drainage structures to any existing drainage course and permitted from encroaching on state or county roads or private property. All provisions to control natural drainage or floodwater shall meet with the approval of the county engineer.
- B. Existing trees and natural undergrowth should be retained to screen the proposed operation and maintain the stability of surrounding terrain.

7.36.150 Maintenance and Operation (No change)

- A. The surface mining operation shall be maintained at all times in a neat and orderly manner to the satisfaction of the Planning Division.
- B. The surface mining or quarry shall be conducted in such a manner as to obviate excessive dust and noise. The operator shall maintain haul roads in a dust free condition.
- C. The holder of the surface mining or quarry use permit shall be responsible for the spillage or dumping of materials related to the operation on county roads.

7.36.160 Site Reclamation and Standards (Updated to reflect changes to other referenced sections and to add new SMARA wording)

- A. No surface mining operation or quarry use permit shall be issued prior to the Planning Commission approval of a reclamation plan and financial assurances subject to the provisions of Section 7.36.070 (a) through (k).
- B. The holder of the surface mining or quarry operation use permit shall be responsible for adhering to the approval plan as set forth in subsection A of this section.
- C. 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.
- D. All reclamation plans shall comply with the provisions of SMARA (2772 and 2773) and State regulations (CCR

- 3500-3505). Reclamation Plans approved after January 15, 1993, reclamation plans for proposed new mining operations, and any substantial amendments for reclamation plans shall also comply with the requirements for reclamation performance standards (CCR 3700-3713).
- E. The County may impose additional performance standards as developed either in review of individual projects, as warranted, or through the formulation and adoption of Countywide performance standards.
 - F. Reclamation activities shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that may be disturbed again in future operations. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the County. Each phase of reclamation shall be specifically described in the reclamation plan and shall include: (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) criteria for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation.

7.36.165 Statement of Responsibility (New - reflects SMARA requirements)

The person submitting the reclamation plan shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the reclamation plan. Said statement shall be kept by the Planning Division in the mining operation's permanent record. Upon sale or transfer of the operation, the new operator shall submit a signed statement of responsibility to the Planning Division for placement in the permanent record.

7.36.170 Findings for Approval (New SMARA required findings)

- A. Site Approvals. In addition to any findings required by the County Surface Mining and Quarries Code, use permits for site approval for surface mining operations shall include a finding that the project complies with the provisions of SMARA and State regulations.
- B. Reclamation Plans. For reclamation plans, the following findings shall be required:
 1. That the reclamation plan complies with SMARA Sections 2772 and 2773, and any other applicable provisions;
 2. That the reclamation plan complies with applicable requirements of State regulations (CCR 3500-3505, and 3700-3713).
 3. That the reclamation plan and potential use of reclaimed land pursuant to the plan are consistent with this chapter and the County's General Plan;
 4. That the reclamation plan has been reviewed pursuant to CEQA and the County's environmental review guidelines, and all significant adverse impacts from

- reclamation of the surface mining operations are mitigated to the maximum extent feasible;
5. That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values;
 6. That the reclamation plan will restore the mined lands to a useable condition which is readily adaptable for alternative land uses consistent with the General Plan and applicable resource plan;
 7. That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by the DOC. Where the County's position is at a variance with the recommendations and objections raised by the DOC, said response shall address, in detail, why specific comments and suggestions were not accepted.

7.36.180 Financial Assurances (New - reflects new SMARA requirements)

- A. To ensure that reclamation will proceed in accordance with the approved reclamation plan, the County shall require as a condition of approval security which will be released upon satisfactory performance. The applicant may post security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to the County and the State Mining and Geology Board as specified in State regulations, and which the County reasonably determines is adequate to perform reclamation in accordance with the surface mining operation's approved reclamation plan. Financial assurances shall be made payable to the County of Del Norte and the State Department of Conservation.
- B. Financial assurances will be required to ensure compliance with elements of the reclamation plan, including but not limited to, revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if necessary.
- C. Cost estimates for the financial assurance shall be submitted to the Planning Division for review and approval prior to the operator securing financial assurances. The Planning Director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the DOC for review. If the DOC does not comment within 45 days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the County has reason to determine that additional costs may be incurred. The Planning Director shall have the

discretion to approve the financial assurance if it meets the requirements of this Chapter, SMARA, and State regulations.

- D. The amount of the financial assurance shall be based upon the estimated costs of reclamation for the years or phases stipulated in the approved reclamation plan, including any maintenance of reclaimed areas as may be required subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities since January 1, 1976, and new lands to be disturbed by surface mining activities in the upcoming year. Cost estimates should be prepared by a California Registered Professional Engineer and/or other similarly licensed and qualified professionals. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved reclamation plan, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs. Financial assurances to ensure compliance with revegetation, restoration, water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved reclamation plan shall be based upon cost estimates that include but may not be limited to labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator other than the permittee. A contingency factor of ten percent shall be added to the cost of financial assurances.
- E. 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 DOC may need to contract with a third party commercial company for reclamation of the site.
- F. The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required).
- G. 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. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the upcoming year.
- H. Revisions to financial assurances shall be submitted to the Planning Director each year prior to the anniversary date for approval of the financial assurances. The financial assurances shall cover the cost of existing disturbance and anticipated activities for the next calendar year, including any required interim

reclamation. If revisions to the financial assurances are not required, the operator shall explain, in writing, why any revisions are not required.

7.36.190 Interim Management Plans (New - reflects new SMARA requirements)

- A. Within 90 days of a surface mining operation becoming idle, the operator shall submit to the Planning Division a proposed interim management plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all use permit conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the Planning Division, and shall be processed as an amendment to the reclamation plan. IMP's shall not be considered a project for the purposes of environmental review.
- B. Financial assurances for idle operations shall be maintained as though the operation were active, or as otherwise approved through the idle mine's IMP.
- C. Upon receipt of a complete proposed IMP, the Planning Division shall forward the IMP to the DOC for review. The IMP shall be submitted to the DOC at least 30 days prior to approval by the Planning Commission.
- D. Within 60 days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Planning Director and the operator, the Planning Commission shall review and approve or deny the IMP in accordance with this Chapter. The operator shall have 30 days, or a longer period mutually agreed upon by the Planning Director and operator, to submit a revised IMP. The Planning Commission shall approve or deny the revised IMP within 60 days of receipt. If the Planning Commission denies the revised IMP, the operator may appeal that action to the County Board of Supervisors.
- E. The IMP may remain in effect for a period not to exceed five years, at which the Planning Commission may renew the IMP for another period not to exceed five years, or require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.

7.36.200 Annual Report Requirements (New - reflects new SMARA requirements)

Surface mining operators shall forward an annual surface mining report to the DOC and to the County Planning Division on a date established by the DOC, upon forms furnished by the State Mining and Geology Board. New Mining Operations shall file an initial surface mining report and any applicable filing fees with the DOC within 30 days of permit approval, or before commencement of operations, whichever is sooner. Any applicable fees, together with a copy of the annual inspection report, shall be

forwarded to the DOC at the time of filing of the annual surface mining report.

7.36.210 Inspections (New - reflects new SMARA requirements)

The Planning Division shall arrange for inspection of a surface mining operation within six months of receipt of the annual report required in Section 7.36.200, to determine whether the surface mining operation is in compliance with the approved use permit and/or reclamation plan, approved financial assurances, and State regulations. In no event shall less than one inspection be conducted in any calendar year, said inspections may be made by a state registered geologist, a state registered civil engineer, a state licensed landscape architect, or a state registered forester who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months, or other qualified specialists. All inspections shall be conducted using a form approved by the State Mining and Geology Board.

The Planning Division shall notify the DOC within 30 days of completion of the inspection that said inspection has been conducted, and shall forward a copy of said inspection notice and any supporting documentation to the mining operator. The operator shall be solely responsible for the reasonable cost of such inspection.

7.36.220 Violations and Penalties (New - reflects new SMARA requirements)

If the Planning Director, based on an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this Chapter, the applicable use permit, any required permit and/or the reclamation plan, the County shall follow the procedures set forth in Public Resources Code, Sections 2774.1 and 2774.2 concerning violations and penalties, as well as those provisions of Del Norte County Code???? for revocation and/or abandonment of a use permit which are not preempted by SMARA.

7.36.230 Fees (New - reflects SMARA standards)

The County shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing the Chapter and the State regulations, including but not limited to, processing of applications, annual reports, inspections, monitoring, enforcement and compliance. Such fees shall be paid by the operator, as required by the County, at such time of filing of the use permit for site approval application, reclamation plan application, 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 applicant and/or operator.

7.36.240 Mineral Resource Protection (New - reflects new SMARA standards)

Mine development is encouraged in compatible areas before encroachment of conflicting uses. Mineral resource areas that have been classified by the DOC Division of Mines and Geology or designated by the State Mining and Geology Board, as well as existing surface mining operations that remain in compliance with the provisions of this Chapter, shall be protected from intrusion of incompatible land uses that may impede or preclude mineral extraction or processing, to the extent possible for consistency with the County's General Plan.

In accordance with PRC 2762, the County's General Plan and resource maps will be updated to reflect mineral information (classification and/or designation reports) within 12 months of receipt from the State Mining and Geology Board of such information. Land use decisions within the County will be guided by information provided on the location of identified mineral resources of regional significance. Conservation and potential development of identified mineral resource areas will be considered and encouraged. Recordation on property titles of the presence of important mineral resources within the identified mineral resource areas may be encouraged as a condition of approval of any development project in the impacted area. Prior to approving a use that would otherwise be incompatible with mineral resource protection, conditions of approval may be applied to encroaching development projects to minimize potential conflicts.

7.36.250 Severability (New - reflects SMARA standards)

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Chapter.