

ORDINANCE OF THE COUNTY OF ALPINE, )  
STATE OF CALIFORNIA, AMENDING ORDINANCE )  
NO. 360-76 AND REVISING CHAPTER 16.16 OF THE )  
ALPINE COUNTY CODE, SURFACE MINING AND )  
RECLAMATION REGULATIONS )  
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ORDINANCE NO. 613-98

WHEREAS, the Surface Mining and Reclamation Act of 1975 authorizes and directs local governments to adopt ordinances establishing procedures for the review and approval of reclamation plans and the issuance of permits to conduct surface mining operations; and,

WHEREAS, Chapter 16.16 of the Alpine County Code which sets forth requirements for reclamation plans and surface mining permits was first adopted in 1976, and amended in 1982; and,

WHEREAS, further amendments to Chapter 16.16 of the Alpine County Code are necessary in order to insure that Alpine County continues to comply with amendments to the Surface Mining and Reclamation Act that have been enacted since 1982; and,

WHEREAS, the Alpine County Planning Commission has recommended adoption of the proposed revisions to Chapter 16.16 of the Alpine County Code, and the Board of Supervisors has held a public hearing to consider the amendments; and,

WHEREAS, it has been determined that the proposed revisions to Chapter 16.16 of the Alpine County Code are categorically exempt from the requirements of the California Environmental Quality Act pursuant to Government Code 15307.

NOW THEREFORE, the Board of Supervisors of the County of Alpine, State of California does hereby ordain that Chapter 16.16 of the Alpine County Code is hereby amended in its entirety.

**Sections:**

- 16.16.010 Purpose and Intent**
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**16.16.010 Purpose and Intent**

- A. Alpine County recognizes that the extraction of minerals is important to the continued economic well being of Alpine 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. Alpine County also recognizes that 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.
- B. The purpose and intent of this Chapter is to ensure the continued availability of important mineral resources, while regulating surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710 et seq.), as amended, hereinafter referred to as "SMARA", Public Resources Code (PRC) Section 2207 (relating to annual reporting requirements), and State Mining and Geology Board regulations (hereinafter referred to as "State regulations") for surface mining and reclamation practice (California Code of Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.), to ensure 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.

**16.16.020 Definitions**

The definitions set forth in this section shall govern the construction of this chapter.

- A. Area of Regional Significance. 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. An area designated by the 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 incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.



- C. Borrow Pits. Excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.
- D. Compatible Land Uses. 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, agricultural, silvicultural, grazing, and open space.
- E. Haul Road. A road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation.
- F. Idle. 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.
- G. Incompatible Land Uses. 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.
- H. Mined Lands. 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.
- I. Minerals. 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.
- J. Operator. 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 sole compensation.
- K. 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 create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

- L. Stream Bed Skimming. Excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.
- M. 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 incident to an underground mine. Surface mining operations include, but are not limited to, inplace distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, streambed skimming, and segregation and stockpiling of mined materials (and recovery of same).

#### **16.16.030 Incorporation by Reference**

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 correlative State provisions, this Chapter shall prevail.

#### **16.16.040 Scope and Exemptions**

- A. Scope. Except as provided in this Chapter, no person shall conduct surface mining operations unless a Surface Mining Permit, a Reclamation Plan, and financial assurances for reclamation have first been approved by Alpine 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 Alpine County, including but not limited to, the application of CEQA, the requirement to obtain 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 Alpine County, public and private.
- B. Exemptions. This Chapter shall not apply to the following activities, subject to the above-referenced exceptions:
  - 1. Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.
  - 2. Onsite excavation and onsite earthmoving activities which are an integral and necessary part of a construction project 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:

- (a) 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.).
  - (b) Alpine County's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to CEQA.
  - (c) The approved construction project is consistent with the general plan or zoning of the site.
  - (d) 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.
3. Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:
    - (a) The plant site is located on lands designated for industrial use in the Alpine County General Plan.
    - (b) The plant site is located on lands zoned industrial or is located within a zoning designation that is intended exclusively for industrial activities and is approved for a mineral processing plant in accordance with the Alpine County Zoning Regulations.
    - (c) None of the minerals being processed are being extracted onsite.
    - (d) All reclamation work has been completed pursuant to the approved Reclamation Plan for any mineral extraction activities that occurred onsite 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.
  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. The solar evaporation of sea water or bay water for the production of salt and related minerals.
  8. 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.
  9. Road construction and maintenance for timber or 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 State Mining and Geology Board regulations and, upon



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

**16.16.050 Vested Rights**

No person who 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 vested rights has continued surface mining in the same area subsequent to January 1, 1976, he shall obtain Alpine County's 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-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.

**16.16.060 Process**

A. Applications for a Surface Mining Permit and Reclamation Plan for surface mining and/or land reclamation projects shall be made in accordance with this section. The application shall conform to the requirements of SMARA (§ 2772-2773) State Mining and Geology Board Regulations (§3502), and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed surface mining operation and reclamation plan as determined by the Planning Director. As many copies of the application as may be required by the Planning Director shall be submitted to the Planning Department. At a minimum, the application shall include the following information and materials:

1. A completed application form
2. Statement of interest in the property or, if not the property owner, written permission from the owner allowing the application to be filed
3. Names and addresses of the land owner, operator, and any persons acting as agents for the owner, operator or applicant
4. The names and current mailing addresses of all persons with surface and/or mineral interests in the site
5. The anticipated quantity and type of minerals for which the surface mining operation will be conducted, including an estimate of the material that will be mined annually
6. The proposed dates for the initiation and termination of the surface mining operation
7. The maximum anticipated depth of the surface mining operation

8. The location, legal description and size of the lands that will be included in the surface mining operation
9. A description of the general geologic conditions and characteristics in and surrounding the area to be mined.
10. A detailed description of the geologic conditions and characteristics within the area to be mined.
11. A map or maps depicting the following:
  - (a) Location and boundaries of all lands included in the application
  - (b) Topographic details of the land at a scale and contour interval sufficient to understand the topographic characteristics of the site
  - (c) Existing conditions including the location of all streams, water bodies, wetlands, roads, railroads, utility facilities, existing land uses and other existing improvements within and immediately adjacent to the site
  - (d) The location of all access roads, haul roads, stockpile areas, processing areas and other improvements and facilities associated with the mining operation
12. A mining plan describing the following:
  - (a) the type of surface mining to be employed
  - (b) phasing, if any, of the surface mining operation including a time schedule that will provide for the completion of surface mining on each phase or segment of the mined lands so that reclamation can be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation
  - (c) anticipated hours of operation, including any seasonal operations
  - (d) a description of the manner in which explosives and hazardous materials (if any) used in the surface mining operation will be handled and disposed
  - (e) an estimate of the amount of traffic that will be generated by the mining operation including estimates of peak traffic generated by the mining operation on a seasonal basis
  - (f) a description of how the mining operation may affect adjoining lands including, but not limited to generation of noise, light and glare, dust and other impacts that may be likely to occur as a result of the mining operation and reclamation plan
13. A reclamation plan for all lands disturbed as part of the surface mining operation which describes the following:
  - (a) The proposed uses or potential uses of the mined land after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed and/or potential uses
  - (b) A description of the manner in which reclamation, adequate for the proposed use or potential uses will be accomplished, including both of the following:
    - (1) A description of the manner in which affected streambed channels and streambanks will be rehabilitated to a condition minimizing erosion and sedimentation
    - (2) A description of the manner in which contaminants will be controlled, and mining waste will be disposed
  - (c) An assessment of the effect of implementation of the reclamation plan on future mining in the area



- (d) A statement that the person submitting the reclamation plan accepts responsibility for reclaiming the mined lands in accordance with the reclamation plan
  - (e) The environmental setting of the site of operations and the effect that possible alternate reclaimed site conditions may have upon the existing and future uses of surrounding lands
  - (f) A statement of the effects of the reclaimed lands on public health and safety, giving consideration to the degree and type of present and probable future exposure of the public to the site
  - (g) The designed steepness and proposed treatment of the final reclaimed slopes
  - (h) Any areas mined to produce additional materials for backfilling and grading, as well as settlement of filled areas. Where ultimate uses include roads, building sites or other improvements sensitive to settlement, the reclamation plan shall include compaction of fill material in conformance with good engineering practice
  - (i) Disposition of old equipment
  - (j) Temporary stream or watershed diversions, if any
  - (k) An estimate of the costs of fully implementing the reclamation plan, including itemization of the major components of the reclamation plan, and the estimated cost attributed to each phase or segment of reclamation.
  - (l) A list of the selected species and quantities to be used in revegetation of the site. Where trees and/or shrubs will be used, the list shall also include average caliper, height and container size for each species.
14. Any other information relevant to the proposal deemed necessary by the Planning Director to enable a thorough review of the proposal to be conducted in accordance with this Chapter.
- B. Within thirty (30) days of acceptance of an application for a Surface Mining Permit for surface mining operations and/or a Reclamation Plan as complete, the Planning Department shall notify the State Department of Conservation of the filing of the application(s). 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 one mile, upstream or downstream, of any state highway bridge, the Planning Department shall also notify the State Department of Transportation that the application has been received.
- C. The Planning Department shall process the application(s) through environmental review pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and any environmental review guidelines pursuant to CEQA as may be adopted by Alpine County.
- D. Within thirty (30) days of acceptance of an application for a Surface Mining Permit for surface mining operations and/or a Reclamation Plan as complete, the Planning Department shall schedule review of the application(s) by the Alpine County Technical Advisory Committee. The recommendations of the Technical Advisory Committee shall be forwarded to the Alpine



County Planning Commission along with any additional staff recommendations or comments on the proposal.

- E. Prior to scheduling the public hearing as required in Subsection F, the Planning Director shall certify to the State Department of Conservation 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. 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.
- F. The Planning Commission shall hold a public hearing prior to taking action on the Surface Mining Permit and/or Reclamation Plan. This hearing shall be set for the next regular or special meeting of the Planning Commission which occurs after close of the 30 day review period pursuant to Subsection E above. Notice of the hearing shall be given as required by Section 18.76.030 of the Alpine County Code.
- G. Staff shall prepare a written response describing the disposition of the major issues raised by the State Department of Conservation for the Planning Commission's consideration during the public hearing. In particular, when the Planning Commission's position is at variance with the recommendations and objections raised in the State Department of Conservation's comments, the Planning Commission shall state, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received from the State Department of Conservation and the Planning Commission's response to those comments shall be provided to the owner/applicant.
- H. Within 45 days following conclusion of the public hearing the Planning Commission shall take action to approve, conditionally approve, or deny the Surface Mining Permit and/or Reclamation Plan, and to approve the financial assurances pursuant to PRC §2770(d). The Planning Commission shall make specific findings on the record in accordance with Section 9 herein. If necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve the Surface Mining Permit and Reclamation Plan with the condition that surface mining operations shall not commence until the cost estimates for financial assurances has been reviewed by the State Department of Conservation and final action has been taken on the financial assurances.
- I. The Planning Department shall forward a copy of each approved Surface Mining Permit for mining operations and/or approved Reclamation Plan, and a copy of the approved financial assurances to the State Department of Conservation. By July 1 of each year, the Planning Department shall submit to the State Department of Conservation for each active or idle mining operation a copy of the Surface Mining Permit or Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year.



**16.16.070 Standards for Reclamation**

- A. 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 to previously approved Reclamation Plans, shall also comply with the requirements for reclamation performance standards (CCR §3700-3713).
- B. Alpine County may impose additional performance standards as developed either in review of individual projects, as warranted, or through the formulation and adoption of performance standards as may be provided in the Alpine County Code.
- C. 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 Alpine County. Each phase of reclamation shall be specifically described in the Reclamation Plan and shall include the following:
1. the beginning and expected ending dates for each phase
  2. all reclamation activities required
  3. criteria for measuring completion of specific reclamation activities; and
  4. estimated costs for completion of each phase of reclamation.

**16.16.080 Statement of Responsibility**

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 Department 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 Department for placement in the permanent record.

**16.16.090 Findings for Approval**

In order to approve or approve with conditions, the Planning Commission must affirmatively find that the proposed surface mining operation and reclamation plan complies with the findings as stated herein. In order to deny an application, the Planning Commission must specifically state how the proposal does not satisfy one or more of the required findings as stated herein.

- A. Surface Mining Permits. For Surface Mining Permit, the following findings shall be required:

1. The project satisfies all of the findings for a use permit as stated in Section 18.76.015 of the Alpine County Code.
  2. The project complies with the provisions of SMARA and subsequent State regulations adopted pursuant to SMARA.
- 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 Alpine County General Plan and any applicable resource plan or element.
  4. That the Reclamation Plan has been reviewed pursuant to CEQA and any environmental review guidelines pursuant to CEQA as may be adopted by Alpine County, 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 usable condition which is readily adaptable for alternative land uses consistent with the General Plan and any 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 that Department. Where Alpine County's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

**16.16.100 Financial Assurances**

- A. To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, Alpine County shall require as a condition of approval security which will be released upon satisfactory performance. The applicant may pose security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to Alpine County and the State Mining and Geology Board as specified in State regulations, and which Alpine County reasonably determines are 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 Alpine 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 Department 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 State Department of Conservation for review. If the State Department of Conservation does not comment within 45 days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless Alpine 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 retained by the operator and approved by the Planning Director. 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 of 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 (10%) 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, Alpine County or State Department of Conservation 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 coming 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 assurance 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 revisions are not required.

**16.16.110 Interim Management Plans**

- A. Within 90 days of a surface mining operation becoming idle, the operator shall submit to the Planning Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all Surface Mining 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 Department, and shall be processed as an amendment to the Reclamation Plan. IMPs 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 Department shall forward the IMP to the State Department of Conservation for review. The IMP shall be submitted to the State Department of Conservation 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 thirty (30) days, or a longer period mutually agreed upon by the operator and the Planning Director, to submit a revised IMP. The Planning Commission shall approve or deny the revised IMP within sixty (60) days of receipt. If the Planning Commission denies the revised IMP, the operator may appeal that action to the Alpine County Board of



Supervisors in accordance with the appeal provisions in Section 18.88 of the Alpine County Code.

- E. The IMP may remain in effect for a period not to exceed five years, at which time 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.

**16.16.120 Annual Report Requirements**

Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to Alpine County Planning Department on a date established by the State Department of Conservation, 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 State Department of Conservation 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 State Department of Conservation at the time of filing the annual surface mining report.

**16.16.130 Inspections**

- A. The Planning Department shall arrange for inspection of a surface mining operation within six months of receipt of the Annual Report required in Section 12, to determine whether the surface mining operation is in compliance with the approved Surface Mining 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, state-registered civil engineer, state-licensed landscape architect, or state-registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months, or other qualified specialists, as selected by the Planning Director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.
- B. The Planning Department shall notify the State Department of Conservation within thirty (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.

**16.16.140 Violations and Penalties**

If the Planning Director, based upon 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 Surface Mining Permit, any required permit and/or the Reclamation Plan, Alpine 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 Alpine County Code for revocation and/or abandonment of a Surface Mining Permit which are not preempted by SMARA.

**16.16.150 Appeals**

Any person aggrieved by an act or determination of the Planning Department in the exercise of the authority granted herein shall have the right to appeal to the Planning Commission. Any person not satisfied with the action of the Planning Commission may appeal in writing to the Board of Supervisors. Such written appeal must be received within 10 days of final action by the Planning Commission. The appeal shall be processed as provided in Section 18.88 of the Alpine County Code.

**16.16.160 Fees**

Alpine County shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this 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 Alpine County, at the time of filing of the Surface Mining Permit application, Reclamation Plan application, and at such other times as are determined by Alpine County to be appropriate in order to ensure that all reasonable costs of implementing this Chapter are borne by the mining operator.

**16.16.170 Mineral Resource Protection**

- A. Mine development is encouraged in compatible areas before encroachment of conflicting uses. Mineral resource areas that have been classified by the State Department of Conservation's 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 by incompatible land uses that may impede or preclude mineral extraction or processing, to the extent possible for consistency with the Alpine County General Plan.
- B. In accordance with PRC §2762, the Alpine County 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 Alpine 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.

**16.16.180 Replacement of Sections Previously in Effect**

This ordinance replaces, in its entirety, all previous sections of Chapter 16.16 of the Alpine County Code.

**16.16.190 Severability**

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

**16.16.200 Effective Date**

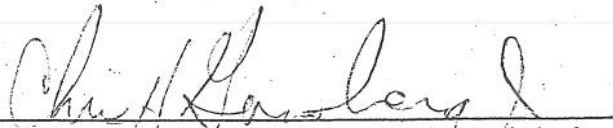
This ordinance shall become effective and in full force and effect thirty (30) days after its passage. Prior to fifteen (15) days from its passage, it shall be posted in a prominent location at the Board of Supervisors Chambers, Markleeville, and shall remain posted thereafter for at least one week.

PASSED AND ADOPTED this 6th day of October, 1998  
by the following vote:

AYES: Supervisors Donald M. Jardine, Herman Zellmer, Katherine Rakow,  
Eric Jung and Chris H. Gansberg, Jr.

NOES: None

ABSENT: None

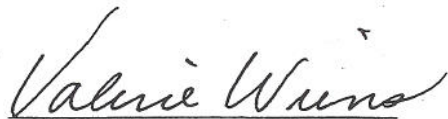
  
Chris Gansberg, Jr., Chairman of the Board of  
Supervisors, County of Alpine, State of California

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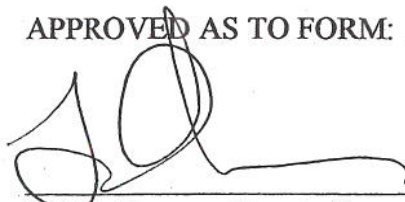
ATTEST:

Barbara Jones, County Clerk  
and ex-officio Clerk of the  
Board of Supervisors



By: Valerie Wiens, Deputy

APPROVED AS TO FORM:



L. Alan Turner, County Counsel