

BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF FRESNO  
STATE OF CALIFORNIA  
ORDINANCE NO. T-061-332

AN ORDINANCE AMENDING THE ZONING PROVISIONS OF THE  
ORDINANCE CODE OF THE COUNTY OF FRESNO BY AMENDING SECTIONS  
803.1, 803.12, 803.16, 853.B, AND 858 RELATING TO DEFINITIONS AND TO  
SURFACE MINING AND RECLAMATION.

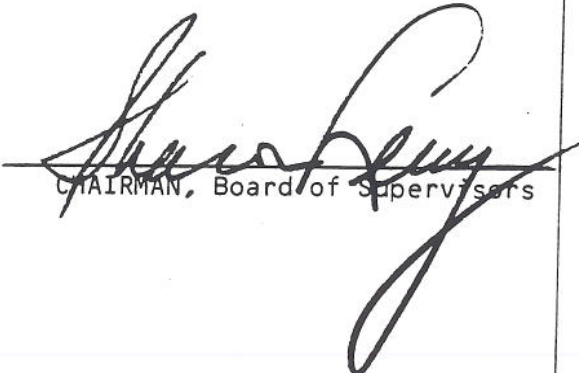
The Board of Supervisors of the County of Fresno ordains as follows:

Section 1: The Ordinance Code of the County of Fresno is hereby amended  
by amending Sections 803.1, 803.12, 803.16, 853-B, AND 858 thereof to read in their  
entirety as set forth in Exhibits "A", "B", "C", "D", AND "E" attached hereto and  
incorporated herein by reference.


Section 2: This Ordinance shall take effect and be in force after certification by  
the California State Mining and Geology Board.

THE FOREGOING ORDINANCE was passed and adopted by the following vote  
of the Board of Supervisors of the County of Fresno this 18th day of May, 1999,  
to wit:

- AYES: Supervisors Koligian, Arambula, Case, Oken, Levy
- NOES: None
- ABSENT: None

  
CHAIRMAN, Board of Supervisors

ATTEST:  
SHARI GREENWOOD, Clerk  
Board of Supervisors

By   
Deputy

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# EXHIBIT "A"

## SECTION 803

### CONSTRUCTION AND DEFINITIONS

For the purpose of carrying out the intent of this Division, words, phrases, and terms shall be deemed to have the meaning ascribed to them in the following sections covering definitions. In construing the provisions of this Division, specific provisions shall supersede general provisions relating to the same subject.

#### SECTION 803.1 - GENERAL TERMINOLOGY

When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural, those in the plural number include the singular; "or" includes "and," and "and" includes "or."

- A. The word "Assessor" shall mean the County Assessor of the County of Fresno.
- B. The words "Board" or "Board of Supervisors" shall mean the Board of Supervisors of the County of Fresno.
- C. The word "Building" includes the word "Structure," but shall not include "temporary structures" as defined in Section 803.16.
- D. The word "City" shall mean any city situated in the County of Fresno.
- E. The word "Commission" shall mean the Planning Commission of the County of Fresno.
- F. The word "County" shall mean the County of Fresno.
- G. The words "County Recorder" shall mean the County Recorder of the County of Fresno.
- H. The word "Department" shall mean that Department charged with the responsibility of administering the Zoning Ordinance of the County of Fresno.
- I. The word "Director" shall mean the Director of that Department charged with the responsibility of administering the Zoning Ordinance of the County of Fresno.
- J. The word "Federal" shall mean the Government of the United States of America.
- K. The word "Shall" is mandatory; and the word "may" is permissive; however, use of the word "shall" in this Division is not intended to, nor shall it be deemed to, create a mandatory duty imposed by an enactment within the meaning of Government Code Section 815.6.  
  
(Amended by Ord. 86-012 (AT 295) adopted 9-30-86)
- L. The word "State" shall mean the State of California.
- M. The word "used" includes the words "arranged for, designed for, occupied or intended to be occupied for."

- N. The words "Zone Map" shall mean the Official Zone Map of the County of Fresno which is a part of the comprehensive Zoning Division of the County of Fresno.
- O. The words "Zoning Ordinance" or "Ordinance" shall mean the comprehensive Zoning Ordinance of the County of Fresno, as contained in this Division.

## EXHIBIT "B"

### SECTION 803.12: SPECIFIC DEFINITIONS - GROUP K. (Amended by Ord. 490.133 adopted 6-7-77)

MAJOR STREET OR MAJOR HIGHWAY shall mean a highway with intersections at grade and on which partial control of access and geometric design and traffic control measures are used to expedite the safe movement of through traffic. Major streets or major highways shall be designated in the Circulation Element of the General Plan of the County of Fresno.

MARQUEE shall mean a permanent roofed structure attached to and supported by the building and projecting over public property.

MEDICAL OFFICE shall mean any building or portion of a building used or intended to be used as an office for the practice of any type of medicine, including chiropractics, dentistry or optometry. It shall also include clinics of a medical or dental nature.

MEDICAL OR DENTAL CLINIC shall mean the same as "Medical Office."

MOBILEHOME shall mean a "Trailer" in excess of eight feet wide or forty feet long designed to be used with or without a permanent foundation, and equipped to contain one (1) "Dwelling Unit".

(Amended by Ord. 490.175 re-adopted 5-29-79)

MOBILEHOME PARK shall mean an area or tract of land developed and operated in accordance with Title 25, California Administrative Code, where two (2) or more mobilehome spaces are rented or leased or held out for rent or lease to accommodate "Mobilehomes" used for human habitation.

(Added by Ord. 490.175 re-adopted 5-29-79)

MOBILEHOME PARK SERVICES shall mean commercial services available within the park only to residents, their guests and park employees. The Special Standards of Section 855-N (Mobilehome Park Services) shall apply.

(Added by Ord. 490.188 adopted 10-29-79)

MOTEL shall mean a building or group of buildings used for transient residential purposes containing guest rooms or dwelling units with automobile storage space provided in connection therewith, which building or group is designed, intended, or used primarily for the accommodation of transient automobile travelers, including groups designated as auto cabins, motor courts, motor hotels and similar designation.

MOTORHOME shall mean a "Recreational Vehicle" in which the portions providing motive power and habitable space are constructed as a single unit.

(Added by Ord. 490.175 re-adopted 5-29-79)

NONCONFORMING BUILDING shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations. (See Section 876 for regulations.)

NONCONFORMING USE shall mean a use which was lawful when established but which does not conform to subsequently established zoning or zoning regulations. (See Section 876 for regulations.)

NURSERY SCHOOL shall mean the same as "Day Nursery."

## EXHIBIT "C"

### SECTION 803.16: SPECIFIC DEFINITIONS - GROUP 0. (Amended by Ord. 490.133 adopted 6-7-77)

STABLE, COMMERCIAL shall mean the keeping of horses for remuneration.

STABLE, PRIVATE shall mean a detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.

STABLE, PUBLIC shall mean a stable other than a private stable.

STAND, TEMPORARY shall mean the same as "Structure, Temporary."

STORY shall mean a space in a building between the surface of any floor and the surface of the floor next above, or if there is no floor above, then the space between such floor and the ceiling or roof above.

STORY, FIRST shall mean the lowest story in a building which qualifies as a story, as defined herein. The floor level in a building having only one floor level shall be classified as a first story, providing such floor level has more than one-half (1/2) its height above the average adjoining finished grade, (See Basement).

(Added by Ord. T-251, adopted 9-16-80)

STORY, ONE-HALF shall mean the same as "Half Story."

STREET shall mean a public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, other than an alley, which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except as excluded in this Division.

STREET, LOCAL shall mean any street, dedicated as such, serving as the principal means of access to property, which street is now shown as a Major or Secondary Highway or Major Traffic Street on the General Plan of the County.

STREET, SIDE shall mean that street bounding a corner or reversed corner lot and which extends in the same general direction as the line determining the depth of the lot.

STREET CENTER LINE shall mean the center line of a street right-of-way as established by official surveys.

STREET LINE shall mean the boundary line between street right-of-way and abutting property.

STRUCTURE shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.

STRUCTURES, ADVERTISING shall mean the same as "Advertising Structure."

STRUCTURE, TEMPORARY shall mean a structure which is readily movable and used or intended to be used for a period not to exceed two hundred and ten (210) consecutive days. The Special Standard of Section 855-N shall apply.

(Amended by Ord. 490.166 adopted 12-19-78; 490.166c adopted 2-20-79)

STRUCTURAL ALTERATION shall mean a change in the supporting members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joist, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.

SUPERMARKET shall mean any establishment, including groceries and grocery stores having 15,000 or more square feet of floor area devoted principally to the sale of food.

(Amended by Ord. 490.17 adopted 11-24-64)

SURFACE MINING OPERATION As regulated in Section 858, 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. A surface mining operation may include the use of such equipment, structures, and facilities as are necessary or convenient for the extraction, processing, storage, and transport of materials.

SWIMMING POOL shall mean any permanent structures containing water intended for recreational uses where a building permit is required. Such structures shall include wading pools.

(Added by Ord. 490.123 adopted 12-7-76)

# EXHIBIT "D"

## SECTION 853

### USES PERMITTED SUBJECT TO CONDITIONAL USE PERMIT

#### A. CLASSIFIED CONDITIONAL USE PERMITS

Certain uses listed in the districts are permitted only when subject to Conditional Use Permit. Such uses shall be subject to all applicable property development standards of the district in which they are to be located and to the provisions of Section 873.

#### B. UNCLASSIFIED CONDITIONAL USE PERMITS

In addition, to those uses permitted subject to Classified Conditional Use Permit, the following uses may be permitted by Unclassified Conditional Use Permit except for any use, including a power generating plant, that utilizes coal, coke, or other coal-based fuel as an industrial fuel source, or where expressly prohibited:

(Amended by Ord. T-039-307 adopted 2/26/91).

1. Airport or aircraft landing facilities, provided, however, no review of such permit shall be required in any of the following areas: Section 28, T. 13 S., R. 14 E.; Section 4, T. 15 S., R. 17 E.; Section 21, T. 17 S., R. 17 E.; Section 34, T. 19 S., R. 17 E.; M.D.B. & M.

2. Ambulance substations.

(Added by Ord. 490.151 adopted 6-20-78)

3. Cemeteries.

4. Convents and rectories when connected with other religious institutions such as schools or churches.

5. Development of natural resources with necessary buildings, apparatus, or appurtenances thereto. For surface mining operation see provisions of Section 858.

(Amended by Ord. 490.55 adopted 6-17-69)

6. Golf courses and driving ranges.

7. Governmental facilities.

8. Health spas.

(Added by Ord. 490.175 re-adopted 5-29-79)

9. Hospitals.

10. Interstate freeways interchange commercial development as shown on an approved Interstate Freeway General Plan.

(Added by Ord. 490.95 adopted 11-27-73)



11. Oil and gas development uses subject to the provisions of Section 857.  
(Amended by Ord. No. T-240 adopted 8-17-81)
12. Parks, including facilities appropriate and incidental to parks.  
(Added by Ord. 490.125 adopted 12-7-70; amended by Ord. 490.175 re-adopted 5-29-79)
13. Private clubs and lodges.  
(Added by Ord. T-010-267 adopted 10-20-82)
14. Public utility and public services, structures, uses and buildings, except as otherwise provided in this Division.
15. Radio or television antennas and transmitters (commercial).
16. Residential facilities caring for seven or more, subject to the population density standards of Rest Homes (855-N.).  
(Added by Ord. T-244 adopted 4-19-83)
17. Rest Homes.  
(Amended by Ord. T-244 adopted 4-19-83)
18. Rifle and pistol practice range, skeet field, archery range or other similar place.
19. Solid waste disposal facilities.  
(Added by Ord. 490.200 adopted 5-5-80)
20. Solid waste processing facilities.  
(Added by Ord. 490.200 adopted 5-5-80)
21. Solid waste transfer stations.  
(Added by Ord. 490.200 adopted 5-5-80)
22. Small oil refineries limited to removal of entrained crude oil from natural gas; separation of crude oil into naphtha, kerosene, fuel oil, and diesel oil; blending of naphtha and kerosene to produce jet fuel and gasoline; and reforming of heavy naphtha in the presence of a catalyst to produce unleaded gasoline.  
(Added by Ord. 490.136 adopted 9-24-79)
23. Stadia.

# EXHIBIT "E"

## SECTION 858

### REGULATIONS FOR SURFACE MINING AND RECLAMATION IN ALL DISTRICTS

This Section sets forth regulations for conducting surface mining and reclamation in a manner consistent with California 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 (SMGB) 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.). The regulations contained herein shall apply in all Zone Districts.

Mineral resources are valuable community assets which must be safeguarded against preemption by competing or conflicting land uses. However, mineral deposits are frequently located in areas which are also suited for other types of development or are in areas characterized by significant natural resources. Care must be taken to ensure that mineral resources are recovered efficiently and safely, with minimal disruption to surrounding land uses and environmental values, and that sites are reclaimed to a usable condition which is readily adaptable for alternative land uses.

#### A. USES PERMITTED SUBJECT TO CONDITIONAL USE PERMIT

Surface mining operations, including the use of such equipment, structures, and facilities as are necessary or convenient for the extraction, processing, storage, and transport of materials, including but not limited to the following (except for those uses specifically exempted under Section 858-B):

1. Sand and gravel separation plants.
2. Rock crushers.
3. Concrete batch plants.
4. Asphalt batch plants.
5. Rock, sand, and gravel trucking operations.  
(Amended by Ord. 490.198 adopted 4-21-80)

These uses shall be subject to all regulations of this Section and Section 873 (including the public hearing as required under Section 873). Except as provided in this Section, no person shall conduct a surface mining operation unless a Conditional Use Permit (CUP), Mining and Reclamation Plan and the Financial Assurances for reclamation have first been approved by the County.

#### B. EXEMPTIONS

This Section shall not apply to the following activities:

1. Excavation or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.

2. On-site excavation and on-site earthmoving activities which are an integral and necessary part of a construction project which has been approved by the County and which 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. Surplus materials shall not be exported from the site 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. 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.
4. 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.
5. Emergency excavations or grading conducted by the State 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.
6. Excavation or grading for the exclusive purpose of obtaining materials for roadbed construction and maintenance conducted in connection with timber operations or forest management on land owned by the same person or entity, where slope stability and erosion are controlled in accordance with the applicable performance standards of the State Reclamation Regulation, Sections 3704(f) and 3706 (d) 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 is limited to excavation and grading that is conducted adjacent to timber operation or forest management roads and shall 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 to excavation for materials that are, or have been, sold for commercial purposes.

7. Excavation, grading, or other earthmoving activities by the property owner or operator in an oil or gas field that are integral to, and necessary for, on-going operations for the extraction of oil or gas and no excavated materials are sold for commercial purposes.

### C. DEFINITIONS

The definitions set forth below shall apply to this Section.

1. BORROW PIT - Excavation created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.
2. DOC - California State Department of Conservation, the administrative department for the Surface Mining and Reclamation Act of 1975, as amended.
3. DOC DIRECTOR - Director of the California State Department of Conservation.
4. 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.

5. **MINED LANDS** - 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.
6. **MINING WASTE** - 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.
7. **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.
8. **OPERATOR** - Any person who is engaged in surface mining operations, or who contracts with others to conduct operations, except a person who is engaged in surface mining operations as an employee with wages as sole compensation.
9. **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.
10. **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.
11. **RESOILING** - The process of artificially building or reconstructing a soil profile.
12. **SMARA** - State of California Surface Mining and Reclamation Act of 1975, as amended.
13. **SMGB** - State Mining and Geology Board. The SMGB oversees the administration and enforcement of SMARA.
14. **STREAMBED SKIMMING** - Excavation of sand and gravel from streambed deposits above the mean summer water level or stream bottom, whichever is higher.
15. **SURFACE MINING OPERATION** - 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. A surface mining operation may include the use of such equipment, structures, and facilities as are necessary or convenient for the extraction, processing, storage, and transport of materials.

## D. REQUIRED SUBMISSIONS

The application for a CUP shall include a Mining and Reclamation Plan.

The Plan shall encompass the entire property and shall be separated into phases of operation and reclamation. No phase shall exceed eighty (80) acres. Reclamation of areas previously excavated by the operator pursuant to a nonconforming right or under a previous CUP will not be required unless such areas are proposed for fill or reworking to added depths.

The Mining and Reclamation Plan must include the following and contain sufficient detail to enable the Planning Commission to make the required finding pursuant to Section 858-F:

### 1. Project Information

- a. The name and address of the operator and any person designated by the operator as an agent.
- b. The names and addresses of the owners of all surface interests and mineral interests in the lands.
- c. The size and legal description of the lands that will be affected by the surface mining operation including related processing and storage.
- d. A vicinity map.
- e. A map of the subject property including boundaries and topographic details of the land.
- f. (Optional) Background information on the operator or company's experience with surface mining.

### 2. Environmental Data

- a. A description of the environmental setting of the site and surrounding area, including:
  - (1) Existing land use including location of all streams, roads, railroads, utility facilities and structures within, or adjacent to the subject property.
  - (2) Vegetation types and condition.
  - (3) Soil types and condition.
  - (4) Groundwater elevation.
  - (5) Surface water characteristics.
  - (6) Other factors as may be required related to environmental impacts and their mitigation and reclamation.
- b. A geologic description, including the general geologic setting, a detailed description of the geology of the area in which surface mining is to be conducted including principal minerals or rocks present
- c. An estimate of the quantity and quality of groundwater and surface water present in the vicinity of the proposed operation.  
(Sec. 858-B added by Ord. 490.189 adopted 10-29-79)

### 3. Mining Plan

- a. A site plan which includes the following:
  - (1) Existing and proposed roads, including ingress-egress roads and on-site roads; proposed surface treatment and means to limit dust.
  - (2) Processing and storage areas including locations of equipment, structures, and facilities.
  - (3) Proposed setbacks, screening, fencing, gates, parking, and signs.
  - (4) Proposed phasing for the mining operation and reclamation work.
  - (5) Cross section (typical) defining planned slopes, extent of overburden, extent of sand and gravel deposits, and water table.

- (6) Such other data necessary to adequately review the proposal.
- b. A map showing routes between the property and the nearest arterial
- c. A statement of anticipated quantity and type of minerals for which the surface mining operation is to be conducted.
- d. A statement of operations including:
  - (1) Commencement of operations.
  - (2) Proposed hours and days of operation.
  - (3) Anticipated duration of operation.
  - (4) Maximum anticipated depth of the mining operation.
  - (5) Proposed method of extraction and processing.
  - (6) Proposed equipment.
  - (7) Operating practices proposed to be used to minimize noise, vibration and dust.
  - (8) An estimate of the quantity and quality of water required by the proposed operation specifying proposed sources, conveyances, quantity and quality, and disposal methods of used and surplus water, and methods to be employed to prevent pollution of surface and/or groundwater.  
(Amended by Ord. 490.189 adopted 10-29-79)
  - (9) Disposal methods for tailings or other wastes resulting from any aspect of the proposed operation.  
(Amended by Ord. 490.189 adopted 10-29-79)
  - (10) For each standard identified in the Mining and Reclamation Standards (858-H) the operator shall specify how the requirement will be addressed in the mining operation. The implementation proposal for each standard must be site specific, measurable and verifiable. The list will be the basis for compliance determinations during annual inspections. (The list may be combined with that required in Subsection 4.a.(8) below.)

#### 4. Reclamation Plan

- a. A description of planned reclamation of the site including the following:
  - (1) Description of the proposed use of the mined lands after reclamation.
  - (2) Evidence that all owners of a possessory interest in the land have been notified of the proposed use.
  - (3) Description of the manner in which reclamation, adequate for the proposed use will be accomplished, including the following:
    - (a) The manner in which contaminants will be controlled, and mining waste will be disposed.
    - (b) The manner in which affected streambed channels and streambanks will be rehabilitated to a condition minimizing erosion and sedimentation.
  - (4) Time schedule for the completion of surface mining on each segment of the mined lands.
  - (5) The phasing plan for reclamation activities and schedule for completion.
  - (6) Statement of how reclamation of the site may affect future on-site mining and mining in the surrounding area.
  - (7) Measures proposed to protect public health and safety with consideration given to the degree and type of present and probable future exposure of the public to the site.
  - (8) For each standard identified in the Mining and Reclamation Standards (858-H) the operator shall specify how the requirement will be addressed in the reclamation activity. The implementation proposal for each standard must be site specific, measurable and verifiable. The list will be the basis for compliance determinations during annual inspections. (The list may be combined with that required in Subsection 3.d.(10) above.)

- (9) Type of Financial Assurances proposed.
- (10) The disposition of any equipment or structures.

- b. A site plan showing the reclamation proposal including:
  - (1) New Contouring.
  - (2) Water features and methods planned to overcome stagnation.
  - (3) Vegetative planting.
  - (4) Access and treatment thereof.
  - (5) Phasing.
- c. A soil salvage plan and if proposed for refill, definition of refill material, and probable sources.

## E. PROCESSING

The Mining and Reclamation Plan shall be processed as a part of the CUP application pursuant to the provisions of Section 873. The following provisions shall also apply to processing of the Plan.

1. The following notices and requests for comments shall be given:
  - a. State Department of Conservation:
    - (1) The Department shall notify the DOC Director of the acceptance of an application for a CUP and Mining and Reclamation Plan for a surface mining operation, or an amendment thereto within thirty (30) days of acceptance.
    - (2) Prior to approval of the Mining and Reclamation Plan, amendment thereto, or Financial Assurances, the Department shall submit, by certified, return receipt requested mail to the DOC Director, the Mining and Reclamation Plan, information prepared pursuant to CEQA and any other pertinent information for use in the review of the Plan along with a certification from the Director that the Mining and Reclamation Plan is in compliance with the applicable requirements of Article 1 of the State Regulations, set forth in subsections 858-D, and -H of this Section. The DOC Director shall have 30 days from the receipt of said information in which to prepare written comments. The review period for Financial Assurances shall be 45 days. The Financial Assurances may be processed and reviewed separately but mining work shall not commence until all reviews are completed.
  - b. State Department of Transportation: Whenever a mining operation is 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 is within one mile, up or down-stream, of any State highway bridge, the Department shall notify Caltrans that the application has been received. Caltrans shall have not more than 45 days to review and comment on the proposed operation. The County may not issue nor renew a permit until a comment has been received or the 45-day review period has lapsed, whichever occurs first.
2. The Department shall evaluate any written comments from the DOC Director and prepare a written response describing the disposition of the major issues raised. If the County's position is at variance with the DOC Director's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of the written comments and responses shall be forwarded to the operator/applicant.
3. The Planning Commission may not take action on the CUP and Mining and Reclamation Plan until such time as the DOC Director's 30-day review period has ended and a written response to any comments has been prepared. In addition to the findings set forth in

Section 873, the Planning Commission shall make a finding on the Mining and Reclamation Plan pursuant to Section 858-F. The CUP approval shall be conditioned upon acceptance of Financial Assurances by the Director.

4. Before any mining or reclamation activity is begun or any building or structure is erected, a site plan reflecting all conditions of approval shall have been submitted to and approved by the Director, pursuant to the provisions of Section 874, Site Plan Review. The site plan shall encompass all that area shown on the approved Mining and Reclamation Plan.

The Department shall not approve the Site Plan Review application for the mining operation and the mining operation may not commence until the DOC Director's 45 day review period for Financial Assurances is complete, a written response has been prepared for any comments and the Director has accepted the Financial Assurances.

5. Following the approval of the CUP, Mining and Reclamation Plan and Financial Assurances, or amendments thereto, the Department shall forward a copy of the CUP for surface mining operations, the approved Mining and Reclamation Plan, and the approved Financial Assurances to the California State Department of Conservation.
6. When a Reclamation Plan is processed without the need for a CUP, such as on federal lands, the procedures of Section 873, including a public hearing, shall apply.

#### F. FINDINGS FOR APPROVAL

In addition to findings required by the Section 873, the approval of a CUP for a surface mining operation shall be subject to the following finding:

The Mining and Reclamation Plan has been reviewed for compliance with the Regulations for Surface Mining and Reclamation in All Districts, Section 858, and meets the applicable requirements therein.

#### G. FINANCIAL ASSURANCES

1. To ensure that reclamation will proceed in accordance with the approved Mining and Reclamation Plan, the 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 the County and the SMGB as specified in State regulations, and which the County reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved Mining and Reclamation Plan. Financial Assurances shall be made payable to the County of Fresno and the State Department of Conservation.
2. Financial Assurances will be required to ensure compliance with elements of the Mining and 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, erosion and drainage control, and disposal of hazardous materials.
3. Cost estimates for the Financial Assurances shall be submitted to the Department of Public Works & Development Services for review and approval prior to the operator securing Financial Assurances. The Director shall forward, by certified mail return receipt requested, 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 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 Director shall then have the discretion to approve the Financial Assurances if it meets the requirements of this Section, SMARA, and State regulations.

4. The amount of the Financial Assurances shall be based upon the estimated costs of reclamation for the years or phases stipulated in the approved Mining and 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 in the upcoming year. Cost estimates should be prepared by a California registered Professional Engineer and/or other similarly licensed and qualified professional retained by the operator and approved by the Director. The estimated amount of the Financial Assurances shall be based on an analysis of physical activities necessary to implement the approved Mining and 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 Mining and 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.
5. 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.
6. 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.
7. 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 the surface mining operation, inflation, and reclamation of lands accomplished in accordance with the approved Mining and Reclamation Plan. The Financial Assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the operator may not claim credit for reclamation scheduled for completion during the coming year. The updated cost estimates shall be considered during the Department's annual inspection and accepted thereafter if further adjustment is not required. Any required changes shall be completed and submitted within thirty (30) days of notice from the County.
8. Revisions to Financial Assurances shall be submitted to the Director for approval by July 1st each year. The Financial Assurances shall cover the cost of reclamation 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.

#### H. MINING AND RECLAMATION STANDARDS

The standards for surface mining operations and reclamation shall be as follows:

1. No extraction of material or overburden shall be permitted within twenty-five (25) feet of any property boundary nor within fifty (50) feet of a boundary contiguous with a public road right-of-way or recorded residential subdivision.

2. No stockpiled soil or material shall be placed closer than twenty-five (25) feet from a property boundary.
3. No production from an open pit shall create a slope steeper than 2:1 within fifty (50) feet of a property boundary nor steeper than 1½:1 elsewhere on the property, except steeper slopes may be created in the conduct of extraction for limited periods of time prior to grading the slope to its reclamation configuration, and slopes of 1:1 may be maintained five (5) feet below the lowest water table on the property, experienced in the preceding three (3) years.
4. Security fencing four (4) feet in height consisting of not less than three (3) strands of barbed wire, or an approved equivalent, shall be placed along any property line abutting a public right-of-way and around any extraction area where slopes steeper than two (2) feet horizontal to one (1) foot vertical are maintained. Such interior fencing will not be required where exterior fencing surrounds the property.
5. Screening of the site shall be achieved by planting trees of a variety approved by the Director along all property lines adjacent to a public road right-of-way or a recorded residential subdivision. Adequate screening can generally be achieved with evergreen trees planted in two (2) staggered rows, with twenty (20) feet between the rows and between the trees in each row. As an alternative, oleanders or shrubs of a similar size and density may be planted in the same pattern at ten (10) foot intervals. The plant species and planting plan and timetable shall be designated in the Mining and Reclamation Plan. All required plants shall be maintained in a good horticultural manner. In areas where it is found that the planting of trees or shrubs will not achieve the desired screening effect due to soil conditions, the Director may approve an alternate method of screening consisting of meandering dirt berms of sufficient height to screen the site.  
(Amended by Ord. T-252 adopted 12-9-80)
6. The first one hundred (100) feet of access road(s) intersecting with a County maintained road shall be surfaced in a manner approved by the Board and shall not exceed a two (2) percent grade and shall have a width of not less than twenty-four (24) feet.
7. Where an access road intersects a County Maintained road, it shall be improved with a driveway approach constructed to Fresno County Standards.
8. All interior roads within the site shall be maintained so as to control the creation of dust.
9. Traffic control and warning signs shall be installed as required by the Commission at the intersection of all private roads with public roads. The placement, size, and wording of these signs shall be approved by the Director.  
(Amended by Ord. T-252 adopted 12-9-80)
10. When the plan calls for resoiling, coarse hard mine waste shall be leveled and covered with a layer of finer material or weathered waste. A soil layer shall then be placed on this prepared surface. Surface mine operators who do not salvage soil during the initial operations shall attempt, where feasible, to upgrade remaining materials. The use of soil conditioners, mulches, or imported topsoil shall be considered where revegetation is part of the Mining and Reclamation Plan and where such measures appear necessary. It is not justified, however, to denude adjacent areas of their soil, for any such denuded areas must in turn be reclaimed.
11. The species selected for revegetation shall be those with good survival characteristics for the topography, resoiling characteristics, and climate of the mined area. The operator shall provide a schedule and methodology for monitoring vegetation and replacing vegetation should the Department determine that replacement is necessary.

12. Additional vegetative planting may be required in the interest of erosion control.
13. Grading and revegetation shall be designed to minimize erosion and to convey surface runoff to natural drainage courses or interior basins designed for water storage. Basins that will store water during periods of surface runoff shall be designed to prevent erosion of spillways when these basins have outlet to lower ground.
14. Stockpiles of overburden and minerals shall be managed to minimize water and wind erosion.
15. Erosion control facilities such as settling basins, ditches, streambank stabilization, and dikes shall be constructed and maintained where necessary to control erosion.
16. Extraction operations adjacent to any flowing stream shall be separated from the stream by closed dikes. No extractions within the stream will be permitted.
17. All water utilized in the plant operation shall be disposed of behind a closed dike so that it will not cause impairment of water in any stream.
18. Operations shall be conducted to substantially prevent siltation of groundwater recharge areas.
19. Settling ponds or basins shall be constructed to prevent potential sedimentation of streams at operations where they will provide a significant benefit to water quality.
20. Good operating practices shall at all times be utilized to minimize noise, vibration, dust and unsightliness. In reviewing a proposal the Planning Commission shall consider:
  - a. The location of the processing plant.
  - b. The location where unused equipment will be stored.
  - c. Proposals for the removal of all structures, metallic equipment, debris, or objects upon conclusion of the extraction operations.
21. Operating hours may be limited to designated periods except during periods of public emergency affecting the health and welfare of the community requiring continuous operation.
22. Any night lighting established on the property shall be arranged and controlled so as not to illuminate public rights-of-way or adjacent properties.
23. Processing and storage yards shall be centrally located on the site whenever possible.  
(Added by Ord. 490.189 adopted 10-29-79)
24. All surface mining operations and reclamation activities shall be conducted consistent with all policies of the Noise Element of the Fresno County General Plan.  
(Added by Ord. 490.189 adopted 10-29-79)
25. The Department shall consider the potentially adverse environmental effects of surface mining operations and will generally require that:
  - a. Disturbances of vegetation and overburden in advance of mining activities be minimized.
  - b. Sufficient topsoil be saved to perform site reclamation in accordance with the Mining and Reclamation Plan.
  - c. All reasonable and practical measures be taken to protect the habitat of fish and wildlife.
  - d. Temporary stream or watershed diversion be restored.
  - e. Permanent piles or dumps of mine waste rock and overburden be stabilized and not restrict the natural drainage without suitable provisions for diversion and toxic materials be removed or confined to control leaching.  
(Added by Ord. 490.189 adopted 10-29-79)

26. Reclamation of mined lands shall be implemented in conformance with applicable performance standards as set forth in the State Regulations Sections 3703 et seq. pertaining to the subjects listed below:
  - a. Wildlife habitat.
  - b. Backfilling, regrading, slope stability, and recontouring.
  - c. Revegetation.
  - d. Drainage, diversion structures, waterways, and erosion control.
  - e. Prime and other agricultural land reclamation.
  - f. Building, structure, and equipment removal.
  - g. Stream protection including surface and groundwater.
  - h. Topsoil salvage, maintenance, and redistribution.
  - i. Tailing and mine waste management.
  - j. Closure of surface openings.

(Note: The performance standards are detailed in the Department's application materials for Mining and Reclamation Plans.)

#### I. EXCEPTION TO STANDARDS

1. The approved Mining and Reclamation Plan shall be complied with. The Director may, upon written request, approve, subject to limitations imposed by other provisions of law or regulation, minor deviations that are determined not to be significant, will have no adverse effect upon nearby properties and will not constitute a nuisance. A minor deviation may include a change in the excavation phasing and subsequent reclamation phasing; the type of plant materials along the public right-of-way; or operational requirements. In no case will a minor deviation be approved that is in conflict with any condition of the approved CUP, or standard or condition of this Section, unless previously approved by the Planning Commission or Board of Supervisors.

Proposed revisions to setbacks, hours or days of operation, life of the permit or additional uses or activities are not to be considered minor deviations.

(Amended by Ord. T-252 adopted 12-9-80; Ord. No. T-033-299 adopted 6-7-88)

2. The Planning Commission may grant an exception to any standard contained herein upon written request when such exception will not result in a hazardous condition; the cost of strict compliance would be unreasonable in view of all the circumstances; it is consistent with the planned or actual subsequent use or uses of the mining site; the replacement provision is no less stringent than the initial standard; and the exception will not adversely affect property or persons in the area. Such request may be filed with the original or a subsequent application and shall include a complete statement of justification.

(Amended by Ord. 490.196 adopted 3-11-80)

#### J. SPECIAL CONDITIONS

1. Where the reclamation work on any phase is not completed within the time period set forth in the approved Mining and Reclamation Plan or as extended by the Director, the County or its contractor may enter upon the operator's premises to perform said work and use the financial assurance security funds to pay for the cost thereof. In the event the operator fails to complete reclamation work as required herein and the security as specified herein is not sufficient for the cost of reclamation work, the operator shall then be liable to the County for the cost of any work required to be performed by the County in accordance with the Mining and Reclamation Plan. Where the County is authorized to enter upon property to cause work to be done, the CUP may be revoked by the Board of Supervisors upon thirty (30) days written notice first being given to the operator.

2. Prior to the excavation of any material, the operator shall execute a recordable agreement, binding upon his successors, heirs or assigns, covenanting to perform all reclamation in the manner prescribed by the approved CUP and Mining and Reclamation Plan. Said person shall agree to pay all court costs, attorney fees and interest at the legal rate from the date in which such costs have been incurred and further shall waive any and all defenses, legal or equitable, if an action at law is instituted to enforce the provisions of said agreement. The owner(s) shall execute a recordable agreement, binding upon his successors, heirs or assigns, which shall permit the County to enter upon the property to enforce completion of the Mining and Reclamation Plan.
3. Reclamation work in any phase shall proceed in such a manner that no excavated area within that phase is allowed to remain in an unreclaimed state for more than three years. Reclamation of any phase shall be completed within one year of commencing operation in any subsequent phase.

#### K. INTERIM MANAGEMENT PLAN

1. Within 90 days of a surface mining operation becoming idle, the operator shall submit to the Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of this Section and the conditions of the CUP for the site and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. Application shall be made for a modification of the CUP. The proposed IMP shall be processed as an amendment to the Mining and Reclamation Plan as set forth in Section 858-E including the thirty (30) day review by the DOC Director. IMPs shall not be considered a project for the purposes of environmental review.
2. The Financial Assurances for an idle operation shall be maintained as though the operation were active.
3. Within sixty (60) days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Director and the operator, the Planning Commission shall review and approve or deny the IMP in accordance with this Section. If there are deficiencies in the Plan, the operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator and the 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 Board of Supervisors. The appeal hearing shall be scheduled within forty-five (45) days from the filing of appeal or a longer period if mutually agreed upon.
4. The IMP may remain in effect for a period not to exceed five (5) years. At that time, upon application by the operator, the Planning Commission may renew the IMP for another period not to exceed five (5) years if the operation is in full compliance with the IMP, or require the operator to commence reclamation in accordance with its approved Mining and Reclamation Plan.

#### L. OPERATOR'S ANNUAL REPORT REQUIREMENTS

1. The surface mining operator shall forward an annual surface mining report to the State Department of Conservation and to the County Department of Public Works & Development Services on a date established by DOC, upon forms furnished by SMGB. The State's prescribed fees shall be forwarded to DOC with the annual report. A new mining operator must file an initial surface mining report and applicable filing fee with DOC prior to commencement of operations or within thirty (30) days of Site Plan Review approval, whichever is sooner. The DOC Director shall provide notification of receipt of the report and

fee and shall also advise of any deficiencies in the report within ninety (90) days of receipt of said report. The operator or agent shall have thirty (30) days in which to submit a revised report.

2. The operator shall also submit annual adjustment information to the Department for updating of the Financial Assurances consistent with Section 858-G. This is required prior to July 1 of each year.

#### M. ANNUAL INSPECTIONS AND REPORTS

1. The Department shall conduct or cause an inspection of the surface mining operation within six (6) months of receipt of the operator's annual report to determine whether the surface mining operation is in compliance with the approved CUP and Mining and Reclamation Plan, approved Financial Assurances, and State Regulations. At least one inspection shall be conducted in each 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 twelve (12) months, or other qualified specialists, as selected by the Director. The annual inspection shall be conducted using a form approved and provided by the SMGB. The Department shall submit the completed inspection form to the DOC Director within thirty (30) days of the date of completion of the inspection along with a notice of completion of the inspection which contains statements on compliance with SMARA, any inconsistencies with SMARA and any pending action on the Mining and Reclamation Plan, amendments, or Financial Assurances. Copies shall also be sent to the operator. The operator shall be responsible for the reasonable cost of the inspection.
2. By July 1 of each year, the Department shall submit to the DOC Director a report on each active or idle mining operation. The report shall consist of a copy of any CUP or Mining and Reclamation Plan amendment, as applicable, or a statement that there have been no changes during the previous year.
3. The Department shall annually review and update, as necessary, the Financial Assurances of each surface mining operation based on annual adjustment data submitted by the operator pursuant to Section 858-G.

#### N. PUBLIC RECORDS

Mining and Reclamation Plans, reports, applications, and other documents submitted to the County are public records unless it can be demonstrated to the satisfaction of the County that the release of such 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 each application. A copy of all permits, Mining and Reclamation Plans, reports, applications, and other documents submitted pursuant to this Section, including proprietary information, shall be forwarded to the DOC by the Department. Proprietary information shall be made available to persons other than the DOC Director only when authorized by the mine operator and by the mine owner.

(Added by Ord. 490.189 adopted 10-29-79)

#### O. VIOLATIONS AND PENALTIES

If the 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 Section, the Conditional Use Permit and/or the Mining and Reclamation Plan, the County shall

follow the procedures set forth in SMARA (Public Resources Code, §2774.1 and §2774.2) concerning violations and penalties, as well as those provisions of the County Zoning Ordinance for revocation of the CUP which are not preempted by SMARA.

(Note: Failure of the County to comply with provisions of SMARA and the State Regulations may be grounds for the SMGB to take action to assure compliance through administration of SMARA.)

P. FEES

The County may establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this Section 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 the time of filing of the CUP application, Mining and 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 Section are borne by the mining operator.