

ORDINANCE NO. 04029

AN ORDINANCE AMENDING CHAPTER 16.04 OF THE MONTEREY COUNTY CODE TO REFLECT AND INCORPORATE CHANGES IN STATE LAW AND REGULATIONS PERTAINING TO SURFACE MINING AND RECLAMATION.

County Counsel Synopsis

*This ordinance amends and updates Chapter 16.04 of the Monterey County Code to reflect amendments to the Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710 et seq.) since the Act became effective in 1976. The amendments to Chapter 16.04 include, among other things, provisions regarding filing of annual mining reports, payment of annual reporting fees, approved financial assurances for each operation, lead agency annual inspections of mines, idle mines, requirement of mine operators to adhere to minimum verifiable reclamation standards, penalties for non-compliance, lead agency requirement to prepare Statement of Findings before approving an action that would threaten the potential for mineral extraction on mineral classified lands, lead agencies' review and approval of financial assurances and interim management plans, and submittal of copies of reclamation plans and permit copies to the Department of Commerce.*

THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTEREY ORDAINS:

Section 1. Chapter 16.04 is amended to read:

Chapter 16.04

SURFACE MINING AND RECLAMATION

Sections:

- 16.04.010 Purpose and intent.
- 16.04.020 Definitions.
- 16.04.025 Incorporation by reference.
- 16.04.030 Scope.
- 16.04.040 Permit and plan approval - Required.
- 16.04.050 Permit and plan approval - Not required under certain conditions.
- 16.04.060 Notice to Director, of the Department of Conservation, State Mining and Geology Board of permit applications.
- 16.04.070 Application, review, public hearing.
- 16.04.075 Standards for reclamation.
- 16.04.080 Reclamation Plan; Review by State Department of Conservation; Conditions of approval to require financial assurances; and, Performance bond.
- 16.04.090 Records.
- 16.04.095 Interim Management Plans.
- 16.04.100 Periodic site inspection.
- 16.04.110 Amendments from reclamation plan.
- 16.04.120 Repealed.

- 16.04.130 Review of provisions.
- 16.04.140 Mineral Resource Protection
- 16.04.150 Appeal - Acceptance.
- 16.04.160 Appeal - Action by Board of Supervisors.
- 16.04.170 Repealed.
- 16.04.180 Violations and Penalties.
- 16.04.190 Notice of violation recordation.
- 16.04.200 Violation - Removal of notice.
- 16.04.210 Repealed.
- 16.04.220 Repealed.
- 16.04.230 No construction or use in violation.
- 16.04.240 All County officials shall aid enforcement.
- 16.04.250 Repealed.
- 16.04.260 Repealed.
- 16.04.270 Repealed.
- 16.04.280 Repealed.
- 16.04.290 Severability.

**Section 2. Section 16.04.010 of Chapter 16.04 is amended to read:**

16.04.010 PURPOSE AND INTENT.

A. This chapter is adopted pursuant to the California Surface Mining and Reclamation Act of 1975, Chapter 9, Public Resources Code as may be amended from time to time..

B. The board finds and declares that the extraction of minerals is essential to the continued economic well-being of the county and to the needs of the 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.

C. The board further finds that the reclamation of mined lands as provided in this chapter will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.

D. The board further finds 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. (Ord. 2402 Section .011, 1978.)

E. 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.), as those provisions may be amended from time to time, 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.

**Section 3. Section 16.04.020 of Chapter 16.04 is amended to read as follows:**

16.04.020 DEFINITIONS.

A. "Area of Regional Significance" means an area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.

B. "Area of Statewide Significance" means an area designated by the 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" means excavations created by the surface mining of rock, unconsolidated geologic deposits or solid to provide material (borrow) for fill elsewhere.

D. "Compatible Land Uses" means land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.

E. "Exploration" or "prospecting" means the search for minerals by geological, geophysical, geochemical or other techniques, including, but not limited to sampling, assaying, drilling, or any surface or underground work needed to determine the type, extent, or quantity of minerals present.

F. "Haul Road" means 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.

G. "Idle" means surface mining operations curtailed for a period of one year or more, by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.

H. "Incompatible Land Uses" means land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial and commercial.

I. "Mined lands" includes 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.

J. "Minerals" means 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.

K. "Mining waste" includes the residual soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other material or property directly resulting from, or displaced by, surface mining operations.

L. "Operator" means any person who is engaged in surface mining operations, or who contracts with others to conduct operations on his/her behalf, except a person who is engaged in surface mining operations as an employee with wages as his/her sole compensation.

M. "Overburden" means soil, rock, or other materials that lie above a natural mineral deposit or in between deposits, before or after their removal, by surface mining operations.

N. "Permit" means any formal authorization from, or approved by, the county, the absence of which would preclude surface mining operations.

O. "Person" means any individual, firm, association, corporation, organization, or partnership, or any city, county, district, or the state of any department or agency thereof.

P. "Reclamation" means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse affects 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 reasonable danger to public health or safety. The process may extend to affected lands and bodies of water surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

Q. "State Board" means the State Mining and Geology Board, in the Department of Conservation, State of California.

R. "State Geologist" means the individual holding office as structured in Section 677 of Article 3, Chapter 2 of Division 1 of the Public Resources Code.

S. "Stream Bed Skimming" means excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.

T. "Surface mining operations" means all or any part of the process involved in the mining of minerals on mined lands by removing overburden and mining directly 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:

1. Inplace distillation, retorting or leaching;
2. The production and disposal of mining waste;
3. Prospecting and exploratory activities. (Ord. 2402 Section .012, 1978.)

4. Borrow pitting;
5. Streambed skimming; and,
6. Segregation and stockpiling of mined materials (and recovery of same).

Section 4. Section 16.04.025 is added to read:

16.04.025. INCORPORATION BY REFERENCE.

The provisions of SMARA (PRC Section 2710 et seq.), PRC Section 2207, and State regulations CCR Section 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.

**Section 5. Section 16.04.030 is amended to read:**

16.04.030 SCOPE.

A. Except as provided in this Chapter, no person shall conduct surface mining operations unless a permit, Reclamation Plan, and financial assurances for reclamation have first been approved by the County. Any applicable exemption from this requirement does not automatically exempt a project or activity from the application of other regulations, ordinances or policies of the County, including but not limited to, the application of the California Environmental Quality Act ("CEQA", Public Resources Code, Division 13, Section 21000 et seq.), as may be amended from time to time, the requirement of surface mining or other permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be permitted under the law. The provisions of this Chapter shall apply to all lands within the County, public and private.

B. 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 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 CEQA, as may be amended from time to time.

(b) The 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 or commercial uses in the County general plan.

(b) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the County.

(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) Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to, and necessary for, ongoing operations for the extraction of oil or gas that comply with all of the following conditions:

a. The operations are being conducted in accordance with PRC Division 3 (commencing with Section 3000).

b. The operations are consistent with any general plan or zoning applicable to the site.

c. The earthmoving activities are within oil or gas field properties under a common owner or operator.

d. No excavated materials are sold for commercial purposes.

(8) The solar evaporation of sea water or bay water for the production of salt and related minerals.

(9) 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.

(10) The cleaning out of a previously engineered, constructed facility for which approved design plans exist, is an activity to restore the usefulness of that flood control facility to its original design purposes. It is not the intent of this Subsection to exempt the removal of materials from natural channels. The removal of post construction accumulated materials from a responsible, public agency approved, managed, engineered, constructed facility intended for the purpose of water retention, or detention, debris retention, or from a flood water conveyance, where the post extraction condition, capacity or grade of the facility or conveyance does not exceed the as-built approved design specification contained in the approved documents for the facility or conveyance.

(11) 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 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, as defined by the Department of Forestry and Fire Protection or to excavations for materials that are, or have been, sold for commercial purposes.

C. Prior to engaging in any activity claimed to be exempt under this Section, the operator shall notify the Director of Planning and Building Inspection prior to commencing the proposed activity. The Director shall determine whether the proposed activity is exempt, or not exempt under this Section and notify the operator, in writing, within 30 days of the Director's determination. The Director's determination shall be appealable pursuant to Section 16.04.140.

**Section 6. Section 16.04.040 of Chapter 16.04 shall be amended to read:**

**16.04.040 PERMIT AND PLAN APPROVAL - REQUIRED.**

A. Any person, except as provided in Section 16.04.030, who proposes to engage in surface mining operations as defined in this chapter shall, prior to the commencement of such operations, obtain a permit to mine, and approval of a reclamation plan, in accordance with the provisions set forth in this chapter and as further provided in Article 5, California Surface Mining and Reclamation Act of 1975, as may be amended from time to time.

**B. Fees:**

1. A fee, as established from time to time by the Board of Supervisors for the permitted use shall be paid to the County of Monterey, State of California, at the time of filing.

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

C. All applications for a Reclamation Plan for surface mining operations shall be made on forms provided by the Salinas office of the County Planning and Building Inspection Department and as called for by Section 2772 of California Surface Mining and Reclamation Act of 1975, as may be amended from time to time. (Ord. 3007 Section 3, 1984; Ord. 2402 Section .014(a), 1978.)

**Section 7. Section 16.04.050 of Chapter 16.04 shall be amended to read:**

**16.04.050 PERMIT AND PLAN APPROVAL - NOT REQUIRED UNDER**

CERTAIN CONDITIONS.

A. No person who has obtained a vested right to conduct a surface mining operation prior to January 1, 1976, shall be required to secure a permit pursuant to the provisions of this chapter as long as such vested right continues, provided that no substantial change is made in that operation except in accordance with the provisions of this chapter.

B. A person shall be deemed to have such vested rights if, prior to January 1, 1976, he has in good faith and in reliance upon a permit or other authorization, if such permit or other authorization is required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefor. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials.

C. A person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall submit to the county planning department and receive, within a period of six months ("a reasonable period of time"), approval of a reclamation plan for operations to be conducted after January 1, 1976, unless a reclamation was approved by the County of Monterey prior to January 1, 1976, and the person submitting that plan has accepted responsibility for reclaiming the mined lands in accord with that plan.

D. Nothing in this chapter shall be construed as requiring the filing of a reclamation plan for, the reclamation of, mined lands on which surface mining operations were conducted prior to, but not after January 1, 1976. (Ord. 2402 Section .014(b), 1978.)

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

**Section 8. Section 16.04.060 of Chapter 16.04 is amended to read:**

16.04.060 NOTICE TO DIRECTOR, OF THE DEPARTMENT OF CONSERVATION, STATE MINING AND GEOLOGY BOARD, OF PERMIT APPLICATIONS AND ANNUAL REPORT REQUIREMENTS.

A. The Director, of the Department of Conservation, State Mining and Geology Board, shall be notified of the filing of all permit applications. (Ord. 2402 Section .014(c), 1978; California Public Resources Code Section 2774(e), as may be amended from time to time).

B. Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the County Planning and Building Inspection 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.

**Section 9. Section 16.04.070 of Chapter 16.04 shall be amended to read:**

16.04.070 APPLICATION, REVIEW, PUBLIC HEARING, AND FINDINGS.

A. Applications for a Site Approval or Reclamation Plan for surface mining or land reclamation projects shall be made on forms provided by the Planning and Building Inspection Department. Said application shall be filed in accord with this Chapter and procedures to be established by the Planning Director. The forms for Reclamation Plan applications shall require, at a minimum, each of the elements required by SMARA (Sections 2772-2773) and State Regulations, as may be amended from time to time, and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed Reclamation Plan, to be established at the discretion of the Director of the Planning and Building Inspection Department. As many copies of the application as may be required by the Director of the Planning and Building Inspection Department shall be submitted to the Planning and Building Inspection Department.

B. As many copies of a Reclamation Plan application as may be required shall be submitted in conjunction with all applications for surface mining operations. For surface mining operations that are exempt from a Coastal Development Permit, or Use Permit pursuant to this Chapter, the Reclamation Plan application shall include information concerning the mining operation that is required for processing the Reclamation Plan. All documentation for the Reclamation Plan shall be submitted to the County at one time.

C. Applications shall include all required environmental review forms and information prescribed by the Director of the Planning and Building Inspection Department.

D. Upon completion of the environmental review procedure and filing of all documents required by the Director of the Planning and Building Inspection Department, consideration of the Site Approval or Reclamation Plan for the proposed or existing surface mine shall be completed pursuant to Chapters 20.70 and 21.74 of the Monterey County Code at a public hearing before the Planning Commission, and pursuant to Section 2774 of the Public Resources Code, as those provisions may be amended from time to time.

E. Within thirty (30) days of acceptance of an application for a surface mining operations and/or a Reclamation Plan as complete, the Planning and Building Inspection Department shall notify the Office of Mine Reclamation, 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 and Building Inspection Department shall also notify the State Department of Transportation that the application has been received.

F. The Planning and Building Inspection Department shall process the application(s) through environmental review pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the Monterey County CEQA Guidelines, as those provisions may be amended from time to time.

G. Subsequent to the appropriate environmental review, the Planning and Building Inspection Department shall prepare a staff report with recommendations for consideration by the Planning Commission.

H. Not less than ten calendar days prior thereto, the Secretary of the Planning Commission shall give notice of hearing thereon by one publication in a newspaper of general circulation and by posting notice thereof in conspicuous places close to the property involved. In

addition, the secretary of the planning commission may also give notice of such hearing by mailing, postage prepaid, a notice of the time and place of such hearing to all persons owning property adjacent to the exterior boundaries of the area actually mined or to be mined. Addresses shall be used from the last equalized assessment roll, or alternatively, from such other records of the assessor or the tax collector as contain more recent addresses in the option of the secretary of the planning commission.

I. The Planning Commission shall hold at least one noticed public hearing on the application for surface mining operation and/or Reclamation Plan.

J. The Planning Commission shall then take action to approve, conditionally approve, or deny the application for surface mining operation and/or Reclamation Plan, and to approve the initial financial assurances pursuant to PRC Section 2770(d), as may be amended from time to time. Where the Planning Commission takes action to approve or conditionally approve surface mining operations and/or Reclamation Plans, the following Findings of Approval shall be made as applicable:

1. Surface Mining Operations. In addition to any findings required by this Chapter and Monterey County Code Sections 20.70.050 and 21.74.050, Approvals for surface mining operations shall include a finding that the project complies with the provisions of SMARA and State regulations, as those provisions may be amended from time to time.

2. Reclamation Plans. For Reclamation Plans, the following findings shall be required:

(a) That the Reclamation Plan complies with SMARA Sections 2772 and 2773, as may be amended from time to time, and any other applicable provisions;

(b) That the Reclamation Plan complies with applicable requirements of State regulations (CCR Sections 3500-3505, and Sections 3700-3713, as those provisions may be amended from time to time).

(c) That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are consistent with this Chapter and the Monterey County General Plan and any applicable resource plan or element.

(d) That the Reclamation Plan has been reviewed pursuant to CEQA and the Monterey County CEQA Guidelines, as those provisions may be amended from time to time, and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible.

(e) 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 mitigation will compensate for related disturbance to resource values.

(f) That the Reclamation Plan will restore the mined lands to a usable condition which is readily adaptable for appropriate land uses consistent with the General Plan and applicable resource plan.

(g) That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that Department. Where the 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.

K Written notice of the decision of the planning commission shall be given promptly to the Applicant and to those who have requested notice of the decision in writing at the hearing on the application. (Ord. 3007, Section 4, 1984; Ord. 2402 Section .015, 1978.)

L. The Planning and Building Inspection Department shall forward a copy of each approved Coastal Development Permit and/or Use Permit for surface 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 and Building Inspection Department shall submit to the State Department of Conservation for each active or idle mining operation a copy of the Site Approval or Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year.

**Section 10. Section 16.04.075 shall be added to Chapter 16.04 to read:**

16.04.075. STANDARDS FOR RECLAMATION.

A. All Reclamation Plans shall comply with the provisions of SMARA (Section 2772 and 2773) and State regulations (CCR Section 3500-3505), as those provisions may be amended from time to time. 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 Sections 3700-3713, as may be amended from time to time).

B. The County may impose additional performance standards as developed either in review of individual projects, as warranted, or through the formulation and adoption of Countywide performance standards.

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 the County. Each phase of reclamation shall be specifically described in the Reclamation Plan and shall include (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.

**Section 11. Section 16.04.080 of Chapter 16.04 shall be amended to read:**

16.04.080 RECLAMATION PLAN; REVIEW BY STATE DEPARTMENT OF CONSERVATION; CONDITIONS OF APPROVAL TO REQUIRE FINANCIAL ASSURANCES; AND, PERFORMANCE BOND.

A. Reclamation Plan and Financial Assurances:

Prior to final approval of a Reclamation Plan, financial assurances (as provided in this Chapter), or any amendments to the Reclamation Plan or existing financial assurances, the Planning Commission shall certify to the State Department of Conservation that the Reclamation Plan and/or financial assurance complies with the applicable requirements of State law, and

submit the plan, assurance, or amendments to the State Department of Conservation for review. The Planning Commission may conceptually approve the Reclamation Plan and financial assurance before submittal to the State Department of Conservation. If a surface mining application is being processed concurrently with the Reclamation Plan, the Planning Commission may simultaneously also conceptually approve the surface mining application. However, the Planning Commission may defer action on the surface mining application until taking final action on the Reclamation Plan and financial assurances. If necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve the surface mining permit with the condition that the Planning and Building Inspection Department shall not issue the surface mining permit for the mining operations until cost estimates for financial assurances have been reviewed by the State Department of Conservation and final action has been taken on the Reclamation Plan and financial assurances.

B. Review by State Department of Conservation:

Pursuant to PRC Section 2774(d), as may be amended from time to time, the State Department of Conservation shall be given 30 days to review and comment on the Reclamation Plan and 45 days to review and comment on the financial assurance. The Planning Commission shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. Staff shall prepare a written response describing the disposition of the major issues raised by the State for the Planning Commission's approval. In particular, when the Planning Commission's position is at variance with the recommendations and objections raised in the State's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the Planning Commission shall be promptly forwarded to the operator/applicant.

C. Conditions of approval shall require financial assurances:

1. To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the County shall require as a condition of approval, security which will be released upon satisfactory performance. The applicant shall pose security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, lien, undertaking, other surety guarantee, or other method acceptable to the County and the State Mining and Geology Board, conditioned upon the faithful performance of the Reclamation Plan, and as specified in State regulations, and which the County reasonably determines is adequate to perform reclamation in accordance with the surface mining operation's approved Reclamation Plan. Financial assurances shall be made payable to the County of Monterey and the State Department of Conservation. (Public Resources Code Section 2773.1(a)(4), as may be amended from time to time). Such surety shall be filed with the Director of the Planning and Building Inspection Department and reviewed and revised, as necessary, annually intained in an amount equal to the cost of completing the remaining reclamation of the site as prescribed in the approved or amended Reclamation Plan during the succeeding one-year period, or other reasonable term, as determined by the Director of the Planning and Building Inspection Department, or the Director's authorized designee. (Ord. 3007 Section 5, 1984; Ord. 2402 Section .016, 1978.)

2. 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.

3. Cost estimates for the financial assurance shall be submitted to the Planning and Building Inspection 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, the County has reason to determine that additional costs may be incurred. The Director of the Planning and Building Inspection Department shall have the discretion to approve the financial assurance if it meets the requirements of this Chapter, SMARA, and State regulations.

4. 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 Director of the Planning and Building Inspection Department. 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.

(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 State Department of Conservation 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 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.

(8) 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.

D. Repealed.

**Section 12. Section 16.04.085 shall be added to Chapter 16.04 to read:**

#### SECTION 16.04.085 STATEMENT OF RESPONSIBILITY

The person submitting the Reclamation Plan shall sign a statement accepting responsibility including an update of financial assurances, for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be kept by the Planning and Building Inspection 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 and Building Inspection Department for placement in the permanent record.

**Section 13. Section 16.04.090 of Chapter 16.04 shall be amended to read:**

#### 16.04.090 RECORDS.

A. Reclamation plans, reports, applications, and other documents submitted pursuant to this chapter are public records unless it can be demonstrated to the satisfaction of the County that the release of 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.

B. A copy of all permits, reclamation plans, reports, applications, and other documents submitted pursuant to this chapter, including proprietary information, shall be furnished to the Director of the Department of Conservation, and the State Mining and Geology Board, by the County of Monterey.

C. Proprietary information shall be made available to persons other than the Director of the Department of Conservation and the State Mining and Geology Board, only when authorized by the mine operator and by the mine owner in accordance with Section 2778, California Surface Mining and Reclamation Act of 1975, as may be amended from time to time. (Ord. 2402 Section 0.17, 1978.)

**Section 14. Section 16.04.095 shall be added to Chapter 16.04 to read:**

#### 16.04.095 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 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 and Building Inspection 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 and Building Inspection 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 45 days prior to approval by the Planning and Building Inspection Department.

D. Within 60 days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Director of the Planning and Building Inspection Department and the operator, the Planning and Building Inspection Department shall review, deem adequate and approve or deny the IMP in accordance with this Chapter. If the IMP is inadequate, the operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator and the Director of the Planning and Building Inspection Department, to submit a revised IMP. The Planning and Building Inspection Department shall approve or deny the revised IMP within sixty (60) days of receipt. If the Planning and Building Inspection Department denies the revised IMP, the operator may appeal that action to the Board of Supervisors pursuant to Monterey County Code Section Chapters 20.86 and 21.80, as those provisions may be amended from time to time.

E. The IMP may remain in effect for a period not to exceed five years, at which time the Planning and Building Inspection Department may renew the IMP for another period not to exceed five years, and for increments of five years thereafter, or require the surface mining operator to commence reclamation in accordance with its approved Reclamation Plan.

**Section 15. Section 16.04.100 of Chapter 16.04 shall be amended to read:**

**16.04.100 SITE INSPECTIONS.**

A. As a condition of approval for the permit or the reclamation plan, or both, a schedule for periodic inspections of the site shall be established with the Director of Planning and Building Inspection to evaluate continuing compliance with the permit and the reclamation plan.

B. Except as otherwise required, the Director of the Planning and Building Inspection Department or the Director's designee shall promptly conduct inspection of all surface mining operations in the County of Monterey and perform all acts which the Director deems necessary to implement the requirements of the Surface Mining and Reclamation Act of 1975, as may be amended from time to time.

C. Each operator of a surface mining operation shall reimburse or pay to the County the full cost of the inspection services, including related administrative costs, required pursuant to the Act. The Director of Planning and Building Inspection is authorized to enter into such agreements with operators or surface mining operations, as the Director deems appropriate, approved as to form by County Counsel, in order to ensure full recovery of all of the County's costs in the implementation of the Act. (Ord. 3585, 1992; Ord. 3007 Section 6, 1984; Ord. 2402 Section .018, 1978.)

D. The Planning and Building Inspection Department shall arrange for inspection of a surface mining operation within six months of receipt of the Annual Report required in Section 16.04.060, to determine whether the surface mining operation is in compliance with the approved

use permit, or coastal permit, 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 Director of the Planning and Building Inspection Department. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

The Planning and Building Inspection 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 and State Department of Conservation. The operator shall be solely responsible for the reasonable cost of such inspection.

**Section 16. Section 16.04.110 of Chapter 16 shall be amended to read:**

16.04.110 AMENDMENTS TO RECLAMATION PLAN.

A. Amendments to an approved reclamation plan may be submitted to the County at any time, detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until such amendment has been filed with, and approved, by the County. For the purposes of this Section, "substantial deviation" means: increases in size, depth, production, and/or end use; as determined by the Director of the Planning and Building Inspection Department. Amendments to an approved reclamation plan shall be approved by the same procedure as is prescribed for approval of a reclamation plan. (Ord. 2402 Section .019, 1978.)

B. Operator shall pay applicable fees consistent with Section 16.04.040, and provide financial assurances consistent with the requirements of this Chapter, SMARA and State Regulations, as those provisions may be amended from time to time.

**Section 17. Section 16.04.120 of Chapter 16.04 shall be amended to read:**

16.04.120 REPEALED.

**Section 18. Section 16.04.130 of Chapter 16.04 shall be amended to read:**

16.04.130 REVIEW OF PROVISIONS.

This Chapter shall be continuously reviewed and revised, annually in order to ensure that it is in accordance with State policy for mined lands reclamation, (Ord. 2402 Section .014(d), 1978.) and consistent with the requirements of, SMARA and State Regulations, as those provisions may be amended from time to time.

**Section 19. Section 16.04.140 of Chapter 16.04 shall be amended to read:**

16.04.140 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 County General Plan.

B. In accordance with PRC Section 2762, as may be amended from time to time, the 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 the County will be guided by information provided on the location of identified mineral resources of regional significance. Conservation and potential development of identified mineral resource areas will be considered and encouraged. Recordation on property titles of the presence of important mineral 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.

**Section 20. Section 16.04.150 of Chapter 16.04 shall be amended to read:**

16.04.150 APPEAL - ACCEPTANCE.

A. Who May Appeal; Time of Appeal.

1. Any person aggrieved by an act, determination, or administrative interpretation of the Director of the Planning and Building Inspection Department, in the exercise of the authority granted herein, shall have the right to appeal the Director's act, determination, or administrative interpretation to the Planning Commission. Such appeal shall be in writing and shall be filed with the Secretary to the Planning Commission, within (10) days after written notice of the decision has been mailed to the applicant, in accordance with the provisions of Chapters 20.88 and 21.82 of the Monterey County Code, as those provisions may be amended from time to time.

2. An appeal may be made to the Board of Supervisors by the applicant, the Director of the Planning and Building Inspection Department, any public agency, or person aggrieved by a decision of the Planning Commission. Such appeal shall be in writing and shall be filed with the Clerk of the Board of Supervisors and with the appropriate authority within ten days after written notice of the decision has been mailed to the applicant.

3. Written notice of the decision shall be given promptly to the appellant and to those who have requested notice, in writing, of the hearing on the application; and no appeal shall be accepted until the notice of the decision has been given.

4. At the time of the filing of the appeal the appellant shall pay the required filing fee as established from time to time by the Board of Supervisors to the clerk of the Board of Supervisors. Except the director of building inspection shall be exempt from payment of fees.

B. Requirements for Contents of Appeal. The appellant must specifically state in the

notice of appeal:

1. The identity of the appellant and his interest in the decision;
2. The identity of the decision appealed from the conditions appealed from;
3. A clear, complete but brief, statement of the reasons why, in the opinion of the appellant, the decision or the conditions imposed were unjustified or inappropriate because:
  - a. There was lack of a fair and impartial hearing, or
  - b. The findings or decision or conditions are not supported by the evidence, or
  - c. The decision was contrary to law;
4. The specific reasons the appellant disagrees with the findings of the planning commission if he disagrees;
5. The notice of the appeal shall set forth specific facts of the matter in sufficient detail to notify interested persons of the nature of the proceedings, to place the interested persons upon notice as to how any proposed action may affect their interest so that they may formulate their defense or opposition without being subjected to surprise. The board will not accept on appeal stated in generalities, legal or otherwise.
  - C. Form. A form for giving notice of appeal may be provided. The form need not be used if the contents of the notice of appeal is complete.
  - D. Acceptance of Appeal. An appeal shall not be accepted by the Board of Supervisors unless it is complete and complies with all requirements. The secretary of the board shall not accept a notice of appeal if it is obvious on the face of the notice that it is incomplete. (Ord. 3007 Section 9, 1984; Ord. 2402 Section .022, 1978.)

**Section 21. Section 16.04.160 of Chapter 16.04 shall be amended to read:**

**16.04.160 APPEAL - ACTION BY BOARD OF SUPERVISORS.**

A. Upon receipt of the notice of appeal, the board shall, within fifteen days following the filing of the appeal, set a date for public hearing thereon, giving notice thereof pursuant to section 16.04.070.C. and additionally to those who have requested notice of appeal, in writing, at the hearing of the application.

B. The hearing before the Board of Supervisors shall be denovo except that when relevant new evidence is available at the time of the appeal which was not available at the time of the original hearing, the appeal may be returned to the Planning Commission for reconsideration. The board may reject an appeal for failure of the appellant to present all the evidence available to him/her at the time of the Planning Commission hearing.

C. If a request for continuance is granted, the person who asks for the continuance shall notify the interested public in the same manner and to the same extent that notice was given to the public for the meeting from which consideration of the appeal was continued. If notice is not given, the appeal may not be heard on a date for which inadequate notice is given. Failure to give notice may be grounds for denial of an appeal.

D. The Board of Supervisors may reverse or affirm, wholly, or in part, or modify the order, requirement, condition, finding or decision appealed from, and make such order, requirement, condition, finding or decision as should be made, and such action shall be final. (Ord. 3007 Section 9, 1984.)

**Section 22. Section 16.04.170 of Chapter 16.04 shall be amended to read:**

16.04.170 REPEALED.

**Section 23. Section 16.04.180 of Chapter 16.04 shall be amended to read:**

16.04.180 VIOLATIONS AND PENALTIES.

A. Where surface mining is being performed in violation of this Chapter, the site may be posted with a "Stop Work" notice by the Director of the Planning and Building Inspection Department, and the owner of record notified of the violation in writing by personal delivery thereof to the person to be notified or by certified mail, return receipt requested, postage prepaid, stating that the owner has ten days in which to correct the violation. All work shall cease immediately upon notice, and shall not begin until a valid permit has been issued therefor pursuant to this Chapter, except as authorized to correct the violation.

B. If any surface mining or clearing of trees and brush over that necessary for normal surveying or ongoing continued land and vegetation maintenance purposes for which a permit is required is evident on the property as determined by field inspection prior to the grant of the permit, the director of building inspection, county surveyor or the secretary of the planning commission may withhold approval of the permit to mine or other approval for the term determined by the Board of Supervisors necessary to allow property compaction and re-establishment of the disturbed soil, covered by sufficient appropriate vegetation to prevent erosion. (Ord. 3007 Section 9, 1984.)

C. If the Director of the Planning and Building Inspection Department, based upon an annual inspection of the mining operation, determines that a surface mining operation is not in compliance with this Chapter, the applicable Site Approval, any required permit and/or the Reclamation Plan, the County shall follow the procedures set forth in Public Resources Code, Sections 2774.1 and 2774.2, as may be amended from time to time, concerning violations and penalties, as well as those provisions of the Monterey County Code Sections 20.70.060 and 21.74.060, as may be amended from time to time, for revocation, or modification and/or abandonment of a surface mining permit and/or reclamation plan which are not preempted by SMARA.

**Section 24. Section 16.04.190 of Chapter 16.04 shall be amended to read:**

16.04.190 NOTICE OF VIOLATION RECORDATION.

A. Whenever the Director of the Planning and Building Inspection Department determines that mining has not been completed in accordance with a mining permit or the plans and specification for reclamation, or whenever the Director of the Planning and Building Inspection Department determines that mining has been done without the required permit, the Director may record a Notice of Violation with the Office of the County Recorder. The owner(s) of the property, as revealed by the assessment roll, on which the violation is situated and any other person responsible for the violation shall be notified of the recordation, if their address is available.

B. If the property owner(s) or authorized agent disagree with the determination, he may submit evidence to the Director of the Planning and Building Inspection Department indicating that there is no violation and then shall have a right to appeal an adverse decision of the Director to the Planning Commission and the Board of Supervisors, in accordance with the provisions of Sections 16.04.150 through 16.04.160, as those provisions may be amended from time to time. (Ord. 3007 Section 9, 1984.)

**Section 25. Section 16.04.200 of Chapter 16.04 shall be amended to read:**

**16.04.200 VIOLATION - REMOVAL OF NOTICE.**

A. The Director of the Planning and Building Inspection Department shall submit a removal of the Notice of Violation to the County Recorder when:

1. It is determined by the Director of the Planning and Building Inspection Department, the Planning Commission, or the Board of Supervisors, after review, that no violation of this Chapter exists; or

2. All required and corrective work, including replacement and landscaping if required, has been completed and approved by the Director of the Planning and Building Inspection Department.

B. The fee for the submittal of removal of Notice of Violation shall be that set from time to time by the Board of Supervisors. (Ord. 3007 Section 9, 1984.)

**Section 26. Sections 16.04.210 through 16.04.280 of Chapter 16.04 shall read:**

**16.04.210 VIOLATION - PENALTY.**

Repealed. (Ord. 3659, Section 8; 1993.)

**16.04.220 CIVIL ENFORCEMENT.**

Repealed. (Ord. 3659, Section 8; 1993.)

**16.04.230 NO CONSTRUCTION OR USE IN VIOLATION.**

No building shall be constructed nor shall a permit for any use be issued on any parcel or lot surface mined in violation of the requirements of this Chapter, nor shall any parcel or lot be used if mined in violation of this Chapter until the land is restored or 10 years, whichever is first. (Ord. 3007 Section 9, 1984.)

**16.04.240 ALL COUNTY OFFICIALS SHALL AID ENFORCEMENT.**

All departments, officials and public employees of the County of Monterey which are vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this Chapter, and shall issue no such permits or licenses for uses, buildings, or purposes where the same would be in conflict with the provisions of this Chapter, and any such permits or licenses, if issued in conflict with the provisions of this Chapter, shall be null and void. (Ord. 3007 Section 9, 1984.)

16.04.250 CIVIL ENFORCEMENT AGAINST NUISANCE.

Repealed. (Ord. 3659, Section 8; 1993.)

16.04.260 EACH DAY IS A VIOLATION.

Repealed. (Ord. 3659, Section 8; 1993.)

16.04.270 COST OF CIVIL ENFORCEMENT.

Repealed. (Ord. 3659, Section 8; 1993.)

16.04.280 REMEDIES CUMULATIVE.

Repealed. (Ord. 3659, Section 8; 1993.)

**Section 27. Section 16.04.290 is added to Chapter 16.04 to read:**

16.04.290 SEVERABILITY.

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

**Section 28. Effective Date.**

This Ordinance shall take effect thirty (30) days following adoption in the Non-Coastal Zone of the County of Monterey. This Ordinance shall take effect thirty (30) days following Certification by the California Coastal Commission, in the Coastal Zone of the County of Monterey.

**PASSED AND ADOPTED** this **29<sup>th</sup>** day of **June**, 1999, by the following vote:  
AYES: **Supervisors Salinas, Pennycook, Calcagno, Johnsen and Potter.**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

/S/ Judy Pennycook  
JUDY PENNYCOOK, Chair  
Board of Supervisors

ATTEST:  
SALLY R. REED  
CLERK OF THE BOARD

(SEAL)

By /S/ Nancy Lukenbill

APPROVED AS TO FORM  
DOUGLAS C. HOLLAND  
COUNTY COUNSEL

By \_\_\_\_\_