



ORDINANCE No. 1996

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

URGENCY ORDINANCE REPEALING AND REENACTING
ARTICLE 31.B OF CHAPTER II OF THE LAND USE
AND DEVELOPMENT CODE OF NEVADA COUNTY
PERTAINING TO SURFACE MINING PERMITS AND
RECLAMATION PLANS

THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

SECTION I: Statement of Purpose and Intent and Declaration
Of Urgency

The Board of Supervisors has determined that the following ordinance should be adopted as an urgency measure pursuant to California Government Code Section 25123(d) and Section 25131 for the immediate preservation of the public peace, health or safety pending adoption of a revision to the existing Land Use and Development Code provisions pertaining to surface mining permits and reclamation plans

The State Mining and Geology Board (SMGB) has formally determined that the existing County zoning ordinance provisions implementing the State Surface Mining and Reclamation Act (SMARA) contained in Article 31.B of Chapter II of the Land Use and Development Code are deficient following amendment of SMARA to require more specificity in the area of financial assurances. The County has drafted revisions to Article 31.B that have been approved by the Policy Committee of the SMGB. However, said revisions were being processed as part of the comprehensive

zoning ordinance update presently before the Board of Supervisors for workshops in advance of environmental review and have not yet been adopted. There is a need to enact those drafted revisions as an urgency ordinance effective immediately.

The SMGB has given notice that it is mandated to assume responsibility for the review and approval of all reclamation plans if the revisions are not adopted by March 28, 1999. Such an assumption of responsibility for processing by the State would disrupt and delay processing of at least three (3) reclamation plans currently being reviewed locally. This ordinance would enact the proposed revisions immediately, satisfying state requirements, pending its final adoption as part of the comprehensive zoning ordinance update and thus assist in ensuring uninterrupted careful and timely County review of local reclamation plans by local staff most familiar with the operation and special County concerns.

SECTION II:

Article 31.B of Chapter II of the Land Use and Development Code of the County of Nevada is hereby repealed.

SECTION III:

Article 31.B of Chapter II of the Land Use and Development Code of the County of Nevada is hereby re-enacted, to read as shown in Exhibit "A", attached hereto and incorporated herein by this reference.

SECTION IV:

If any section, subsection, sentence, clause, phrase or portion of this Chapter is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent

provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION V:

This Ordinance is adopted as an urgency ordinance to provide for the immediate preservation of the public peace, health, safety and welfare and shall take effect and be in force immediately from and after its passage. Before the expiration of fifteen (15) days after its passage it shall be published once with the names of the Supervisors voting for and against same in the _____ Union _____, a newspaper of general circulation printed and published in the County of Nevada.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the _____ 23rd _____ day of _____ March _____, 19 _____ 99 _____, by the following vote of said Board:

Ayes: Supervisors Peter Van Zant, Karen Knecht, Bruce Conklin, Elizabeth Martin, Sam Dardick.
Noes: None.
Absent: None.
Abstain: None.

ATTEST:
CATHY R. THOMPSON
Clerk of the Board

By: Cathy R. Thompson

Peter Van Zant
Chairman

THE FOREGOING INSTRUMENT IS A
CORRECT COPY OF THE ORIGINAL Ord. 1996
ON FILE IN THIS OFFICE

ATTEST: MAR 24 1999
CATHY R. THOMPSON
Clerk of the Board of Supervisors
COUNTY OF NEVADA
By: Elizabeth Martin Deputy

DATE	COPIES SENT TO
3-24-99	Union
	Planning (3)
	Counsel

Exhibit " A "

CHAPTER II: ZONING REGULATIONS

Article 31.B. Surface Mining Permit and Reclamation Plan

Sec. L-II 31.B.1 Purpose and Intent

The purpose and intent of this section is to ensure:

- A. The recognition and protection of valuable mineral resources for current and future generations in a manner that does not create land use conflicts.
- B. The protection of valuable mineral deposits from intrusion by incompatible land uses that will impede or preclude mineral extraction or processing.
- C. That adverse effects on neighboring activities and the environment are prevented or minimized and that mined lands are reclaimed to a usable condition that is readily adaptable for alternative land uses.
- D. That the production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.
- E. That residual hazards to the public health and safety are eliminated.

Sec. L-II 31.B.2 Definitions

- A. AREA OF REGIONAL SIGNIFICANCE: An area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.
- B. AREA OF STATEWIDE SIGNIFICANCE: An area designated by the State Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the State and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.

- C. BORROW PITS: Excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.
- D. COMPATIBLE LAND USES: Land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.
- E. EXPLORATION: The search for economic mineral or ore by (1) geological surveys, (2) geophysical or geochemical prospecting, (3) bore holes and trial pits, (4) surface or underground headings, drifts, or tunnels. Exploration aims at locating the presence of economic deposits and establishing their nature, shape, and grade.
- F. HAUL ROAD: A road along which material is transported from the area of excavation to the processing plant or stockpile area of the surface mining operation.
- G. 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.
- H. INCOMPATIBLE LAND USES: Land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.
- I. MINED LANDS: The surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.
- J. 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.

- K. MINING, RECREATIONAL: The extraction of minerals primarily for recreation on a seasonal basis and using such devices as pans, rockers, and dredges with intakes less than or equal to 8" in diameter.
- L. OPERATOR: Any person who is engaged in surface mining operations, or who contracts with others to conduct operations on his/her behalf, except a person who is engaged in surface mining operations as an employee with wages as his/her sole compensation.
- M. OVERBURDEN: Soil, rock, or other materials that lie above a natural mineral deposit or in between deposits, before or after their removal by mining operations.
- N. QUARRY: A place, cavern, or pit where stone is taken from the rock or ledge, or dug from the earth, for building or other purposes; a stone pit.
- O. QUARRYING: The digging out of stone or slate from an open excavation.
- P. 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 back-filling, grading, re-soiling, re-vegetation, soil compaction, stabilization, or other measures.
- Q. STREAMBED SKIMMING: Excavation of sand and gravel from streambed deposits above the mean summer water level or stream bottom, whichever is higher.
- R. SURFACE MINING: 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, combination, concentration, processing, in-place distillation or retorting or leaching, the production and disposal of mining waste, borrow pitting, streambed skimming, and segregation and stockpiling of mined materials (and recovery of same). Said process shall not include the processing and use of on-site aggregate for on-site construction.

- S. WASTE, MINING: The barren rock excavated from a mine. The waste dump is the area where waste is disposed of or piled.

Sec. L-II.31.B.3 Incorporation by Reference

The following are made a part of this section by reference with the same force and effect as if the provisions therein were specifically and fully set out herein as those provisions and regulations may be amended from time to time, excepting that when the provisions of this section are more restrictive than correlative State provisions, this section shall prevail:

- A. California's Surface Mining and Reclamation Act of 1975 (Public Resources Code sections 2710 et seq.), hereinafter referred to as "SMARA"
- B. Public Resources Code section 2207 (relating to annual reporting requirements)
- C. State Mining and Geology Board regulations (hereinafter referred to as "State regulations") for surface mining and reclamation practice (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, sections 3500 et seq.)

Sec. L-II 31.B.4 Scope

- A. GENERAL: Except as provided in this section, no person shall conduct surface mining operations unless the County has first approved a Use Permit, Reclamation Plan, and financial assurances for reclamation. Any applicable exemption from this requirement does not automatically exempt a project or activity from the application of other General Plan policies or regulations of the County, including but not limited to, the application of CEQA, the requirement for 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 Section shall apply to all lands within the unincorporated county, public and private.
- B. EXPLORATION:
 - 1. Mineral exploration is allowed in the "AG", "FR", "M1", "M2", "P", and "PD" Districts subject to zoning compliance and building permit issuance, if required. However, a Use Permit shall be required if:
 - a. Overburden or mineral deposits in excess of 1,000 cubic yards are disturbed, or

- b. The operation in any one location exceeds one acre in size, or
 - c. De-watering will occur or water will be discharged from the site as a result of the operation.
- 2. Smaller-scale exploration is allowed in all other Districts not listed in 1.a. above, subject to approval of a Use Permit, providing:
 - a. Methods of geological survey, geophysical, or geochemical prospecting are used, or
 - b. Bore holes and trial pits not exceeding 100 cubic yards of overburden or other mineral disturbance per acre may be done.
 - c. No explosives may be used other than geophysical; there may be no drifting or tunneling and de-watering or water discharge is not allowed.
- 3. All exploratory operations shall require a reclamation plan unless:
 - a. Less than 1,000 cubic yards of overburden are disturbed, and
 - b. The size of the operation in any one location is one acre or less.

In those instances where a reclamation plan is not required, an erosion control plan, approved by the Nevada County Planning Department, and a grading permit shall be required for those operations in which 50 cubic yards or more of overburden are disturbed.

- C. SURFACE MINING: Surface mining is allowed in the "AG", "FR", "M1", "M2", "P", and "PD" Districts and where the property is zoned "ME", subject to approval of a Use Permit and Reclamation Plan.
- D. EXEMPTIONS: This section shall not apply to the following activities:
 - 1. Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.
 - 2. On-site excavation and on-site earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related

excavation, grading, compaction, or the creation of fills, road cuts, and embankments

3. 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.
4. Recreational mining as defined in Section L-II 31.B.2 above. Certain Federal and State regulations and local building and sanitation regulations may apply.
5. Such other mining operations categorically identified in Public Resource Code section 2714 as excepted activities.

Sec. L-II 31.B.5 Vested Rights

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

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

Sec. L-II 31.B.6 Process

- A. Applications for a Use Permit and/or Reclamation Plan for surface mining or land reclamation projects shall be made on forms provided by the Planning Department. The forms for Reclamation Plan applications shall require, at a minimum, each of the elements required by SMARA (Public Resources Code sections 2772-2773) and State regulations, and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed reclamation. For surface mining operations that are exempt from a Use Permit pursuant to this section, 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.

- B. Within 30 days of acceptance of an application for a Use Permit for surface mining operations and/or a Reclamation Plan, including financial assurances, as complete, the Planning Department shall request review and comment on the application and financial assurances by the State Department of Conservation and other selected public agencies. Whenever mining operations are proposed in the 100-year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the Planning Department shall also notify the State Department of Transportation that the application has been received.
- C. Pursuant to Public Resources Code section 2774(d), the State Department of Conservation shall be given 30 days to review and comment on the Reclamation Plan and 45 days to review and comment on the financial assurance. The Planning Commission shall evaluate written comments received, if any, from the State Department of Conservation and other selected public agencies, and may incorporate said comments into conditions of approval, if applicable. Following a noticed public hearing(s), the Planning Commission shall then take action to approve, conditionally approve, or deny the Use Permit and/or Reclamation Plan, and the financial assurances pursuant to Public Resources Code section 2770(d).
- D. The Planning Department shall forward a copy of each approved Use Permit for mining operations and/or approved Reclamation Plan and a copy of the approved financial assurances to the State Department of Conservation. Staff shall also prepare a written response describing the disposition of the major issues raised by the State and forward said response to the State. In particular, if the Commission's action is at variance with the recommendations and objections raised in the State's comments, the written response shall address why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the staff shall be promptly forwarded to the operator/applicant.
- E. By July 1 of each year, the Planning Department shall submit to the State Department of Conservation for each active or idle mining operation a copy of the Use Permit or Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year.

Sec. L-II 31.B.7 Standards for Surface Mining Use Permits

All surface mining Use Permits shall:

- A. Comply with the policies of the Nevada County General Plan Chapter 17: Mineral Management.
- B. Provide for periodic reviews of the Permit by the Planning Agency to ensure compliance with Permit conditions. Said reviews time periods shall not exceed 5 years with the first review not to exceed 5 years from approval of the Permit.
- C. Include provisions for management of water quality and quantity based on the following standards:
 1. Require the conservation of on-site water during mining operations.
 2. Require that off-site water discharge comply with State water quality standards.
 3. Require that any increase or decrease of off-site discharge is not detrimental to the downstream environment or downstream water uses.
 4. When the Planning Agency determines, based on expert testimony, that existing surface or subsurface water quality or quantity may be threatened, require a comparable supply of water to adjacent homes and businesses through accessible forms of security or alternative sources of water.

Where water quantity and quality problems occur, an immediate water supply shall be provided by the operator unit the source of the problem is determined. The burden of proof shall be on the operator to show that the mining operation did not create the water problem. If it is determined that the operator is at fault, impacted owners shall be compensated by the operator.

Sec. L-II 31.B.8 Standards for Reclamation

All Reclamation Plans shall comply with Article 4. Site Development Standards and the provisions of SMARA (Public Resources Code sections 2772 and 2773) and State regulations (California Code of Regulations sections 3500-3505). Reclamation Plans approved after January 15, 1993, Plans for proposed new mining operations, and any substantial amendments to previously approved Plans, shall also comply with the requirements for reclamation performance standards (California Code of Regulations sections 3700-3713).

Reclamation activities shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that may be disturbed again in future operations. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the County. Each phase of reclamation shall be specifically described in the Reclamation Plan and shall include (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) standards for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation.

Sec. L-II 31.B.9 Statement of Responsibility

The person submitting the Reclamation Plan shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Plan. The Planning Department shall keep said statement in the mining operation's permanent record. Upon sale or transfer of the operation, the new operator shall submit a signed statement of responsibility to the Planning Department for placement in the permanent record.

Sec. L-II 31.B.10 Findings for Approval

- A. USE PERMITS. In addition to findings required by Section L-II 31.5, Use Permits for surface mining operations shall include a finding that the project complies with the provisions of SMARA and State regulations.
- B. RECLAMATION PLANS. For Reclamation Plans, the following findings shall be required:
1. That the Plan and potential use of reclaimed land pursuant to the Plan are consistent with the General Plan and the provisions of this section.
 2. That the Plan complies with SMARA (Public Resource Code sections 2772 and 2773), applicable requirements of State regulations (California Code of Regulations sections 3500-3505, and sections 3700-3713), and any other applicable provisions;
 3. That the Plan has been reviewed pursuant to CEQA and the County's environmental review guidelines, and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible.
 4. That the Plan minimizes water degradation, air pollution, damage to aquatic or wildlife habitat,

flooding, erosion, and other adverse effects from surface mining operations.

5. That the Plan restores the mined lands to a usable condition that is readily adaptable for alternative land uses.
6. That the Plan restores the mined lands to a condition that creates no danger to public health or safety.
7. That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values.
8. That the Plan will restore the mined lands to a usable condition that is readily adaptable for alternative land uses consistent with the General Plan.
9. 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.

Sec. L-II 31.B.11 Financial Assurances

- A. To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the County shall require as a condition of approval security that 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 State Mining and Geology Board 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 Plan. Financial assurances shall be made payable to the County of Nevada and the State Department of Conservation and, where applicable, the United States Forest Service and Federal Bureau of Land Management.
- B. Financial assurances will be required to ensure compliance with elements of the Reclamation Plan, including but not

limited to, re-vegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if necessary.

- C. Cost estimates for the financial assurance shall be submitted to the Planning Department with the Use Permit and/or Reclamation Plan application. 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 Planning Commission shall have the discretion to approve the financial assurance if it meets the requirements of this Section, SMARA, and State regulations.
- D. The amount of the financial assurance shall be based upon the estimated costs of reclamation for the years or phases stipulated in the approved Reclamation Plan, including any maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities since January 1, 1976, and new lands to be disturbed by surface mining activities in the upcoming year. A California registered professional engineer and/or other similarly licensed and qualified professional retained by the operator and approved by the Planning Director shall prepare cost estimates.

The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved 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 re-vegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved 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 10% shall be added to the cost of financial assurances.

- E. In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, the County or State Department of Conservation may need to contract with a third party commercial company for reclamation of the site.

- F. The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required).
- G. The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.
- H. Revisions to financial assurances shall be submitted to the Planning Director each year prior to the anniversary date for approval of the financial assurances. The financial assurance shall cover the cost of existing disturbance and anticipated activities for the next calendar year, including any required interim reclamation. If revisions to the financial assurances are not required, the operator shall explain, in writing, why revisions are not required.

Sec. L-II 31.B.12 Interim Management Plan

- 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 Use Permit conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the Planning Department, and shall be processed as an amendment to the Reclamation Plan. IMPs shall not be considered a project for the purposes of environmental review.
- B. Financial assurances for idle operations shall be maintained as though the operation were active, or as otherwise approved through the idle mine's IMP.
- C. Upon receipt of a complete proposed IMP, the Planning Department shall forward the IMP to the State Department of Conservation for review at least 30 days prior to approval.
- D. Within 60 days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Planning Director and the operator, the Planning Commission shall review and approve or deny the IMP in accordance with this Section. The

operator shall have 30 days, or a longer period mutually agreed upon by the operator and the Planning Director, to submit a revised IMP. The Commission shall approve or deny the revised IMP within 60 days of receipt.

- E. The IMP may remain in effect for a period not to exceed 5 years, at which time the Planning Commission may renew the IMP for another period not to exceed 5 years, or require the surface mining operator to commence reclamation in accordance with its approved Reclamation Plan.

Sec. L-II 31.B.13 Annual Report Requirements

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

Sec. L-II 31.B.14 Inspections

The Planning Department shall arrange for inspection of a surface mining operation within 6 months of receipt of the Annual Report required in subsection M., to determine whether the surface mining operation is in compliance with the approved Use Permit and/or Reclamation Plan, approved financial assurances, and State regulations. In no event shall less than one inspection be conducted in any calendar year. Said inspections may be made by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months, or other qualified specialists, as selected by the Planning Director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

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

Sec. L-II 31.B.15 Violations and Penalties

If the Planning Director, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this Section, the applicable Use Permit, any other required permit, and/or the Reclamation Plan, the County shall follow the provisions of Section L-II 37.6 Revocation of permit, as well as the procedures set forth in Public Resources Code sections 2774.1 and 2774.2 concerning violations and penalties.

Sec. L-II 31.B.16 Fees

The County of Nevada shall 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 Use Permit 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 section are borne by the mining operator.

Sec. L-II 31.B.17 Mineral Resource Protection

Mine development is encouraged in compatible areas as shown in the General Plan 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 Section, shall be protected from intrusion by incompatible land uses that may impede or preclude mineral extraction or processing, to the extent possible consistent with the General Plan.