

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

In the Matter of the Revision)	
and Certification of the Tulare)	RESOLUTION NO. 2000-144
County Surface Mining Ordinance)	ORDINANCE NO. 3238

Upon motion of Maze, seconded by Supervisor Maples, the following was adopted by the Board of Supervisors, at an official meeting held on the 29th day of February, 2000, by the following vote:

AYES: Supervisors Sanders, Richmond, Maze, Worthley, Maples
NOES: None
ABSTAIN: None
ABSENT: None

ATTEST: THOMAS W. SHERRY
Acting County Administrative Officer/
Clerk of the Board of Supervisors
By *Jessica Cotton*
Deputy Clerk



- A. Waived the second reading and adopted the attached ordinance.
- B. Directed the Clerk of the Board to publish the ordinance summary with names of the Supervisors which voted for or against the ordinance and posted a certified copy of the complete ordinance in the Office of the Clerk of the Board within fifteen days of adoption.

* * * *

RMA
Co. Counsel
Library
CAO
FN 13206
3/1/00
jc

ORDINANCE NO. 3238

AN ORDINANCE AMENDING SECTIONS 7-25-1095(b), 7-25-1100 (a), 7-25-1100(c), 7-25-1135(b), 7-25-1205, 7-25-1270, 7-25-1275, 7-25-1335(c) and 7-25-1335(e) OF CHAPTER 25 OF PART VII OF THE ORDINANCE CODE OF THE COUNTY OF TULARE PERTAINING TO AND MAKING CERTAIN CLERICAL CORRECTIONS TO THE TULARE COUNTY SURFACE MINING AND RECLAMATION REGULATIONS.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS AS FOLLOWS:

Section 1. Subsection (b) of section 7-25-1095 of Chapter 25 of Part VII of the Ordinance Code of Tulare County is hereby amended to read as follows:

(b) Any person who obtained a vested right to conduct surface mining operations prior to January 1, 1976 , shall have a reclamation plan approved by the County for operations conducted after January 1, 1976, unless a reclamation plan was approved by the County prior to January 1, 1976, and the person submitting that plan has accepted responsibility for reclaiming the mined lands in accordance with that plan. Nothing in this Chapter shall be construed as requiring the filing of a reclamation plan for, or the reclamation of, mined lands on which surface mining operations were conducted prior to, but not after, January 1, 1976.

Section 2. Subsection (a) of section 7-25-1100 of Chapter 25 of Part VII of the Ordinance Code of Tulare County is hereby amended to read as follows:

(a) Applications for a permit, approval of a reclamation plan and/or approval of financial assurances, approval of an interim management plan, minor modifications, or for extensions of time required by sections 7-25-1020, 7-25-1085, 7-25-1095, 7-25-1120, 7-25-1125, 7-25-1130, 7-25-1135, 7-25-1150 and 7-25-1155 of this Article shall be made to the Planning and Development Director. Such applications shall be on forms furnished by the Planning and Development Department and shall provide all information pertaining to the mining operation required by the Act and the regulations, including as appropriate but not limited to the information required

1 by sections 2772 and 2773 of the Act and sections 3500 et seq. and 3700 et seq. of
2 the regulations as well as such additional information as may be required by the
3 Planning and Development Director. Every application shall be signed by the
4 owner or operator of the mining operation or proposed mining operation.

5 Section 3. Subsection (c) of section 7-25-1100 of Chapter 25 of Part VII of the Ordinance
6 Code of Tulare County is hereby amended to read as follows:

7 (c) The Planning and Development Director shall notify the State Department of
8 Conservation and shall submit to the State Department of Conservation any
9 applications filed under this section and all proposed surface mining operations
10 permits, reclamation plans, and/or financial assurances in accordance section 2774
11 of the Act.

12 Section 4. Subsection (b) of Section 7-25-1135 of Chapter 25 of Part VII of the Ordinance
13 Code of Tulare County is hereby amended to read as follows:

14 (b) The financial assurances to guarantee reclamation in accordance with an approved
15 or amended reclamation plan and the conditions thereof shall take the form of
16 surety bonds, irrevocable letters of credit, trust funds, or such other forms of
17 financial assurances as the State Mining and Geology Board and the Board of
18 Supervisors may adopt, issued by a corporation surety duly authorized to conduct
19 surety business in the State of California, payable to the County of Tulare, or, as the
20 alternate of the County, the State Department of Conservation. As a part of the
21 obligation secured thereby and in addition to the face amount thereof, the financial
22 assurances instrument or instruments shall secure payment to the County of Tulare
23 or, as the alternate of the County, the State Department of Conservation for the
24 costs and reasonable expenses and fees, including reasonable attorneys' fees, which
25 the County and/or the State may incur in enforcing such obligations. The form of
26 such financial assurances instruments shall be subject to approval of the County
27 Counsel who may require such additional provisions necessary to guarantee
28 performance of such obligation and recovery therefore.

1 Section 5. Section 7-25-1205 of Chapter 25 of Part VII of the Ordinance Code of Tulare
2 County is hereby amended to read as follows:

3 **SECTION 7-25-1205. ANNUAL INSPECTIONS:**

4 Pursuant to section 2774(b) of the Act, at least once a year the Director of Planning and
5 Development shall conduct an inspection of each surface mining operation to determine whether
6 the surface mining operator is in compliance with the Act and this Chapter. The Director may
7 cause such an inspection to be conducted by a state-registered geologist, state-registered civil
8 engineer, state-licensed landscape architect, state-registered forester or other designee, who is
9 experienced in land reclamation and who has not been employed by the mining operation in any
10 capacity during the previous 12 months. All inspections shall be conducted using the form
11 furnished by the State Mining and Geology Board and shall be undertaken within six (6) months of
12 receipt by the County of the surface mining operation's annual report submitted pursuant to Public
13 Resources Code section 2207.

14 Section 6. Section 7-25-1270 of Chapter 25 of Part VII of the Ordinance Code of Tulare
15 County is hereby amended to read as follows:

16 **SECTION 7-25-1270. APPEALS TO STATE:**

17 (a) An applicant who has been denied a permit to conduct surface mining operations in
18 an area designated as an area of statewide or regional significance under the Act, or
19 any person who is aggrieved by the granting of a surface mining operations permit
20 in such an area may appeal a final decision by the Board of Supervisors under
21 section 7-25-1265 to the State Mining and Geology Board in accordance with
22 section 2775 of the Act. The appeal rights under this section shall be exercised
23 prior to seeking judicial review under section 7-25-1275.

24 (b) If the State Mining and Geology Board remands the appeal under subsection (a) to
25 the County, the Board of Supervisors shall reconsider its action pursuant to the
26 procedures set out in section 7-25-1265.

27 ///

28 ///

1 Section 7. Section 7-25-1275 of Chapter 25 of Part VII of the Ordinance Code of Tulare
2 County is hereby amended to read as follows:

3 **SECTION 7-25-1275. JUDICIAL REVIEW OF DECISION:**

4 Judicial review of a decision of the Board of Supervisors made after a hearing pursuant to this
5 Chapter, if the decision denies or revokes a permit, a reclamation plan or an amendment thereto,
6 shall be made pursuant to section 1094.5 of the Code of Civil Procedure of the State of California.
7 The method of judicial review, the time limits for judicial review and all of the other provisions of
8 section 1094.6 shall govern such judicial review. When giving written notice to the applicant of its
9 decision, the Board of Supervisors shall notify the applicant that the time within which judicial
10 review must be sought is governed by said section 1094.6.

11 Section 8. Subsection (c) of Section 7-25-1335 of Chapter 25 of Part VII of the Ordinance
12 Code of Tulare County is hereby amended to read as follows:

13 (c) The County shall follow the previously approved reclamation plan or conditions in
14 the conduct of such work. However, if the physical site and/or mining operation
15 has changed from that contemplated at the time the reclamation plan or conditions
16 in the conduct of such work were approved so as to cause the previously approved
17 reclamation plan to conflict with the provisions and requirements of this Chapter or
18 the Act, the County may review and approve appropriate modifications or
19 amendments to the reclamation plan before commencing reclamation.

20 Section 9. Subsection (e) of Section 7-25-1335 of Chapter 25 of Part VII of the Ordinance
21 Code of Tulare County is hereby amended to read as follows:

22 (e) If the financial assurances are insufficient to cover the costs incurred by the County
23 under subsection (d) or (f), the owners and operators of the surface mining
24 operation shall be responsible for the costs incurred by the County for conducting
25 and completing reclamation in accordance with this section which costs are in
26 excess of the proceeds from the forfeited financial assurances. The County may
27 take, or assign its right to take, all appropriate action to collect such costs from the
28 owners and operators of the surface mining operation.

1 Section 10. The foregoing ordinance shall take effect thirty (30) days from the date of the
2 passage hereof, and prior to the expiration of fifteen (15) days from the passage hereof a summary
3 shall be published once in the Visalia Times Delta newspaper printed and published in the
4 County of Tulare, State of California, together with the names of the Board of Supervisors voting
5 for and against the same.

6 THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of
7 the County of Tulare, State of California, on the 29th day of February, 2000, at a
8 regular meeting of said Board duly and regularly convened on said day by the following vote:

9
10 AYES: William Sanders, District One
11 Mel Richmond, District Two
12 Bill Maze, District Three
13 J. Steven Worthley, District Four
14 Jim Maples, District Five

15 NOES: None
16 _____

17 ABSENT: None
18 _____



26 William Sanders
27 Chairman, Board of Supervisors

28 ATTEST: THOMAS W. SHERRY
Acting County Administrative Officer/
Clerk of the Board of Supervisors
of the County of Tulare

By: *Janice [Signature]*
Deputy

LED:970500/JJR/43795
February 2, 2000

CHAPTER 25. SURFACE MINING AND RECLAMATION

ARTICLE 1. GENERAL PROVISIONS

SECTION 7-25-1000. LEGISLATIVE INTENT:

This Chapter is adopted to implement and supplement the California Surface Mining and Reclamation Act of 1975 (section 2710 et seq. of the Public Resources Code of the State of California), hereinafter called the "Act," and section 3500 et seq. of Title 14 of the California Administrative Code, hereinafter called the "regulations." All of the requirements of the Act and the regulations are incorporated herein by reference and shall apply as though expressly set forth herein.

SECTION 7-25-1005. PURPOSES:

This Chapter is adopted to regulate the extraction of minerals and to require plans for the reclamation of mined lands, in order to carry out the purposes set forth in sections 2711 and 2712 of the Act and to implement the mineral resources policies in the Tulare County General Plan.

SECTION 7-25-1010. DEFINITIONS:

The definitions set forth in section 2725 et seq. of the Act and section 3500 et seq. of the regulations shall apply throughout this Chapter.

SECTION 7-25-1015. CONFLICTING ORDINANCES:

No permit or reclamation plan shall be approved which does not comply with the zoning ordinances applicable to the property or does not comply with any other ordinance of the County which prohibits or regulates the surface mining operations proposed by the applicant.

SECTION 7-25-1020. APPURTENANT USES:

Sorting, crushing, reducing, storage, recycling, refining, or other processing of minerals, or the operation of a truck depot or an asphalt or concrete batch plant, may be permitted through the surface mining permit approved for surface mining operations in lieu of requiring a special use permit, when such uses

are found by the Planning Commission to be a reasonably necessary adjunct to the mining operations.

SECTION 7-25-1025. APPLICATION:

This Chapter applies to all land owned by any individual, firm, partnership, joint venture, association, corporation, estate or trust. In addition, it applies to any land owned by the United States and any agency of the United States, the State of California and any agency of the State, a city, and a public district or political subdivision of the State of California insofar as it is legally possible to enforce this Chapter, or any portion thereof, against such entities.

SECTION 7-25-1030. AGENTS:

SUCCESSORS-IN-INTEREST:

Any reference in this chapter to the permittee, applicant, owner or operator shall also be deemed to include any duly authorized agents and any successors-in-interest or assigns of the permittee, applicant, owner or operator.

SECTION 7-25-1035. PUBLIC RECORDS:

Reclamation plans, reports, applications, and other documents submitted to the County pursuant to this Chapter are public records unless it can be demonstrated by the applicant, operator or owner of the surface mining operation to the satisfaction of the Planning and Development Director that the release of such information, or part thereof, would reveal production, reserves or rates of depletion entitled to protection as proprietary information. Proprietary information shall be handled in accordance with section 2778 of the Act.

ARTICLE 3. PERMIT, RECLAMATION PLAN, AND FINANCIAL ASSURANCES REQUIREMENTS

SECTION 7-25-1085. PERMIT: WHEN REQUIRED:

Except as provided in sections 7-25-1090 and 7-25-1095 of this Article, any person who proposes to engage in surface mining

operations within the unincorporated area of Tulare County shall, prior to the commencement of such operations, obtain a permit to mine, approval of a reclamation plan and approval of financial assurances in accordance with the provisions of this Chapter, the Act and the regulations.

SECTION 7-25-1090. EXCEPTIONS:

The provisions of this Chapter are not applicable to those activities and operations which are exempted by sections 2714 and 2776 of the Act.

**SECTION 7-25-1095. VESTED RIGHTS:
PERMIT NOT REQUIRED: RECLAMATION
PLAN AND FINANCIAL ASSURANCES
REQUIRED:**

- (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. 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 was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefor. Expenses incurred in obtaining the issuance of a permit shall not be deemed liabilities for work or materials.
- (b) Any person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall have a reclamation plan approved by the County for operations conducted after January 1, 1976, unless a reclamation plan was approved by the County prior to January 1, 1976, and the person submitting that plan has accepted

responsibility for reclaiming the mined lands in accordance with that plan. Nothing in this Chapter shall be construed as requiring the filing of a reclamation plan for, or the reclamation of, mined lands on which surface mining operations were conducted prior to, but not after, January 1, 1976.

- (c) A person who has obtained a vested right or is currently in operation under a permit to conduct surface mining operations shall submit to the County Planning and Development Director, and receive approval of, financial assurances sufficient to ensure reclamation is performed in accordance with the reclamation plan approved for the mined lands of such surface mining operations unless such surface mining operations were terminated and reclaimed in accordance with a reclamation plan approved by the County. Nothing in this Chapter shall be construed as requiring the filing of financial assurances or a reclamation plan for, or the reclamation of, mined lands on which surface mining operations were conducted prior to, but not after, January 1, 1976.

**SECTION 7-25-1100. APPLICATION FOR
PERMIT, RECLAMATION PLAN, AND
FINANCIAL ASSURANCES:**

- (a) Applications for a permit, approval of a reclamation plan and/or approval of financial assurances, approval of an interim management plan, minor modifications, or for extensions of time required by sections 7-25-1020, 7-25-1085, 7-25-1095, 7-25-1120, 7-25-1125, 7-25-1130, 7-25-1135, 7-25-1150 and 7-25-1155 of this Article shall be made to the Planning and Development Director. Such applications shall be on forms furnished by the Planning and

Development Department and shall provide all information pertaining to the mining operation required by the Act and the regulations, including as appropriate but not limited to the information required under the regulations, including as appropriate but not limited to the information required by sections 2772 and 2773 of the Act and sections 3500 et seq. and 3700 et seq. of the regulations as well as such additional information as may be required by the Planning and Development Director. Every application shall be signed by the owner or operator of the mining operation or proposed mining operation.

- (b) In addition to the foregoing, the Planning Commission, Zoning Administrator or the Planning and Development Director, whichever considers the application, may require additional information relevant to the project as needed to determine whether the public health and safety require the denial of the permit, reclamation plan, financial assurances, interim management plan, extension of time, or the imposition of conditions.
- (c) The Planning and Development Director shall notify the State Department of Conservation and shall submit to the State Department of Conservation any applications filed under this section and all proposed surface mining operations permits, reclamation plans, and/or financial assurances in accordance section 2774 of the Act.

SECTION 7-25-1105. APPLICATION FEES:

- (a) Each application for a mining permit and/or approval of a reclamation plan and/or approval of financial assurances or any amendments thereto shall be accompanied by the appropriate fee as

follows:

Mining Permit and/or
 Reclamation Plan \$ 4,131.00

Mining Permit and/or
 Reclamation Plan authorized
 to be processed by the
 Zoning Administrator
 pursuant to section 7-25-
 1115 of this Chapter \$ 2,195.00

Mining Permit and/or
 Reclamation Plan authored
 to be processed by
 the Zoning Administrator
 pursuant to section
 7-25-1115 of this chapter
 which are determined to be
 exempt from the requirements
 of the California
 Environmental Quality Act
 of 1970, as amended \$ 1,737.00

Application for amendment to:

Mining Permit and/or
 Reclamation Plan which was
 processed by the Planning
 Commission \$ 2,031.00

Mining Permit and/or
 Reclamation Plan which was
 processed by the Zoning
 Administrator \$ 1,026.00

Application for Director's Approval of
 Minor Modification to:

Mining Permit and/or
 Reclamation Plan authorized
 to be processed by the
 Planning Commission \$ 433.00

Mining Permit and/or
 Reclamation Plan authorized
 to be processed by the
 Zoning Administrator \$ 217.00

Application for approval

of Financial Assurances for Reclamation Plans to be approved by the Planning and Development Director	\$ 33.00
Appeal of Planning Commission or Zoning Administrator Decision on Mining Permits, Reclamation Plans or Financial Assurances	\$ 267.00
Appeal of Planning and Development Director Decisions on Financial Assurances	\$ 267.00
Annual Inspection Fee pursuant to Article 5 of this Chapter	Total cost of the inspection
Inspection Fee for release of Financial Assurances	Total cost of the inspection
Request for Extension of Time for Surface Mining Permits: Mining Permit authorized to be processed by the Planning Commission	\$ 320.00
Mining Permit authorized to be processed by the Zoning Administrator	\$ 167.00
Interim Management Plans to be processed by the Zoning Administrator	\$ 1,133.00

No part of said fee shall be returned if the applicant subsequently withdraws his application, except in accordance with section 130 of this Ordinance Code.

As used herein, "total cost" includes all the costs associated with the work, including, but not limited to, direct costs for staff time, equipment usage and materials and indirect costs for administration, overhead and services and supplies.

(b) An additional fee in the amount of Ten Dollars (\$10.00) shall be collected for each mining permit and/or reclamation plan or an amendment thereto, to defray the expenses incidental to maintaining and enhancing the automated permit processing equipment and software utilized in the Planning and Development Department for processing of planning and building permits and certificates.

SECTION 7-25-1110. PROCEDURE FOR PROCESSING PERMITS AND RECLAMATION PLANS:

(a) Before granting a permit, approving a reclamation plan and the financial assurances required therefore, or any amendments thereto, the Planning Commission shall hold a public hearing. The Planning and Development Director shall set the public hearing on a date not more than ninety (90) days after the acceptance of the application as complete in accordance with section 65943 of the Government Code of the State of California. However, if an environmental impact report is required under the California Environmental Quality Act of 1970, California Public Resources Code section 21000 et seq., and the state and local regulations adopted pursuant thereto, the matter shall be set for hearing not more than thirty (30) days after completion of the final environmental impact report rather than the ninety (90) day period specified above.

(b) Not less than ten (10) days prior to the public hearing, the Planning and

Development Director shall cause notice of hearing to be given. Notice shall be given by mailing a notice of the hearing to the applicant and to the owners of all property within three hundred (300) feet of the exterior boundaries of the property to which the permit or reclamation plan would apply. If the property to which the permit or reclamation plan would apply is only a portion of the contiguous property owned by the applicant or the person leasing land to the applicant, then said notice shall be mailed to all owners of property within three hundred (300) feet of the exterior boundaries of all the contiguous property owned by the applicant or by the person leasing the land to the applicant. Regardless of the foregoing provisions, no notice need be given to any owner of property which is located more than one-half ($\frac{1}{2}$) mile from the exterior boundaries of the property to which the permit or reclamation plan would apply. The name and address of said owners, for the purpose of such notice, shall be taken from the current County assessment roll. Failure to mail or to receive such notice, as a result of mistake or inadvertence, shall not affect the validity of the hearing or the decision rendered.

- (c) Within thirty-five (35) days after the close of the hearing, the Planning Commission shall, by resolution, grant or deny approval of the permit, reclamation plan and required financial assurances, or any amendments thereto and shall include the findings relied on in making its decision. Any permit and/or reclamation plan and required financial assurances, or amendment thereto, will be approved only if they fully comply with the requirements of the Act, the

regulations and this Chapter and if the establishment, maintenance and operation of the mining operation will not be detrimental to the public health, safety, and general welfare.

Any approval may be granted subject to any condition which the Planning Commission may deem necessary to effectuate the purposes of the Act, the regulations and this Chapter.

- (d) Not more than ten (10) days after the Planning Commission has made its decision, the Planning and Development Director shall cause a copy of the decision to be mailed to the applicant, and to any other person who has expressed an interest therein and has deposited with the Planning and Development Department a self-addressed, stamped envelope for that purpose. Failure to mail or to receive such notice, as a result of mistake or inadvertence, shall not affect the validity of the decision.
- (e) The decision of the Planning Commission shall become final ten (10) days after the date the decision is made if no appeal has been filed pursuant to section 7-25-1265 of this Article. The owner or operator shall not commence surface mining operations until all of the owners and operators of the surface mining operation have executed an acceptance, in a form approved by the County Counsel, of the Planning Commission's decision and have recorded, at the owners' and/or operators' sole expense, the executed acceptance and a certified copy of the Planning Commission's resolution of decision.
- (f) If the Planning Commission does not reach a decision within thirty-five (35) days after the close of the hearing as provided in subsection (c) of this section, the whole of the matter under consideration by the Planning

Commission, including the permit application, proposed reclamation plan and required financial assurances, or any amendments thereto, shall automatically and immediately be referred to the Board of Supervisors for action as it deems warranted under the circumstances, including treatment of such referral as an appeal to the Board of Supervisors under subsection (d) of Section 7-25-1265 of this Chapter. If, during the public hearing, the Planning Commission renders a tie vote on a motion for tentative or final approval or denial of a permit application, proposed reclamation plan and required financial assurances, or any amendments thereto, and is unable to break the tie within fifteen (15) days, the whole of the matter under consideration by the Planning Commission, including the permit application, proposed reclamation plan and required financial assurances, or any amendment thereto, shall automatically and immediately be referred to the Board of Supervisors for action as it deems warranted under the circumstances, including treatment of such referral as an appeal to the Board of Supervisors under subsection (d) of Section 7-25-1265 of this Chapter. For the purposes of this subsection, a tie vote by the Planning Commission may only be broken by an affirmative vote on a subsequent motion for tentative or final approval or denial of a permit application, proposed reclamation plan and required financial assurances, or any amendments thereto.

SECTION 7-25-1115. ALTERNATE PROCEDURES FOR PROCESSING MINING PERMITS, RECLAMATION PLANS AND FINANCIAL ASSURANCES:

- (a) As an alternative to the procedures set forth in section 7-25-1110, the Board of Supervisors may, by resolution, authorize the Zoning

Administrator to hold the hearing and make the decision on applications for specified mining permits and/or reclamation plans and financial assurances. The Board may also adopt criteria, standards, policies and controls to provide assistance and guidance to the Zoning Administrator in making decisions under the standards which are set forth in this Chapter.

- (b) When so authorized, the Zoning Administrator shall hear and decide applications for such mining permits and/or reclamation plans and financial assurances pursuant to the following procedures:

- (1) There shall be a public hearing before the Zoning Administrator on each application. The Zoning Administrator shall set the public hearing on a date not more than thirty (30) days after acceptance of the application as complete. However, if a mitigated negative declaration or an environmental impact report is required under the Environmental Quality Act of 1970, and regulations adopted pursuant thereto, the thirty (30) day period shall not start to run until completion of the mitigated negative declaration or environmental impact report.

- (2) If the mining permit and/or reclamation plan will allow a use of real property which is subject to review by the Site Plan Review Committee under section 16.2 of the Tulare County Zoning Ordinance (Tulare County Ordinance No. 352, as amended), the Zoning Administrator shall notify the Site Plan Review Committee of the fact that the permit

and/or reclamation plan are under consideration. No decision of the Zoning Administrator on a mining permit and/or reclamation plan subject to review by the Site Plan Review Committee shall be made until the Site Plan Review Committee submits a written report as required by the Zoning Ordinance.

- (3) Not less than ten (10) days prior to the public hearing, the Zoning Administrator shall cause notice of the hearing to be given in accordance with section 7-25-1110 of this Article.
- (4) The decision of the Zoning Administrator shall be in accordance with section 7-25-1110 of this Article, shall be in writing and shall include the findings relied on in making the decision.
- (5) A copy of the decision of the Zoning Administrator shall be publicly posted at or near the door of the Planning and Development Department for a period of one (1) week following the making thereof. Not more than two (2) days after making the decision on the application, the Zoning Administrator shall cause a copy of the decision to be mailed to the applicant, to the Board of Supervisors, and to any other person who has expressed an interest therein and has deposited with the Zoning Administrator a self-addressed, stamped envelope for this purpose. Failure to mail or to receive such notice, as a result of mistake or inadvertence, shall not affect the validity of the decision.
- (6) The decision of the Zoning

Administrator shall become final ten (10) days after the date the decision is made if no appeal has been filed pursuant to section 7-25-1265 of this Article. The owner or operator shall not commence surface mining operations until all of the owners and operators of the surface mining operation have executed an acceptance, in a form approved by the County Counsel, of the Zoning Administrator's decision and has recorded, at the owners' and/or operators' own expense, the executed acceptance and a certified copy of the Zoning Administrator's resolution of decision.

- (7) The procedure set forth above constitutes an alternative procedure to that set out in section 7-25-1110. However, unless the applicant requests that the Planning Commission hear the application, the procedure set forth herein shall be followed by the Zoning Administrator whenever applicable.

SECTION 7-25-1120. EXPIRATION OF PERMIT APPROVAL: EXTENSIONS OF TIME:

- (a) All surface mining permits approved under this Chapter shall automatically expire and become null and void two (2) years after the date upon which the permit was granted by the Planning Commission, the Zoning Administrator, or, if appealed, the Board of Supervisors unless the applicant has actually commenced the use authorized by the permit within the two (2) year period. The use shall not be considered to have been commenced until the activities

thereunder have exceeded those exempted under section 2714 of the Act, as described at the time of permit approval.

- (b) Upon application the Planning Commission or Zoning Administrator, if the Zoning Administrator is so authorized by the Board of Supervisors, may grant one or more extensions of said two (2) year period provided that no extension may exceed a period of two (2) years in duration. The decision on the application for an extension of time shall be posted and mailed as provided in section 7-25-1110(d). If the Commission or Zoning Administrator denies an application for extension, the applicant may appeal the decision to the Board of Supervisors within ten (10) days of the date of the decision pursuant to section 7-25-1265.
- (c) If the applicant, or his or her successor, is unable to commence the authorized use in a timely manner due to extenuating circumstances, including but not limited to natural disaster or litigation resulting from the approval of the permit, then the applicant shall immediately notify the Planning and Development Director. Upon verification by the Planning and Development Director of the extenuating circumstances, the two year period established by subsection (a) shall be automatically tolled during the period of any litigation or for six months, whichever period is longer. The Planning and Development Director shall give written notice of the tolling and length of time for which the two year period will be tolled to the owners and operators of the surface mining operation and the Planning Commission and Zoning Administrator and an extension of time will not otherwise be required.

**SECTION 7-25-1125. MINING PERMITS:
RECLAMATION PLANS AND REQUIRED
FINANCIAL ASSURANCES: AMENDMENTS:**

Applications for amendments to an approved surface mining permit and/or an approved reclamation plan or the financial assurances required therefor may be submitted to the Planning and Development Director in accordance with section 7-25-1100. An application shall detail the proposed changes from the original surface mining permit or reclamation plan and required financial assurances and may request modifications to the permit itself, or to the application, waiver or alteration of conditions imposed thereby. The same procedures shall apply to amendment applications as are applicable to applications for an original permit and/or reclamation plan and financial assurances. Deviations from the originally approved surface mining permit or reclamation plan and the financial assurances therefore shall not be undertaken until such application has been approved by the Planning Commission or Zoning Administrator, the decision approving the application has become final and an acceptance of such the approval has been executed by all owners and operators of the surface mining operation and recorded at the owners' or operators' expense with a certified copy of the approval.

**SECTION 7-25-1130. MINOR
MODIFICATIONS: DIRECTOR'S APPROVAL:**

The Planning Commission, Board of Supervisors or Zoning Administrator, as part of any action approving a mining permit and/or reclamation plan and the financial assurances required therefore may include in the approval a delegation to the Planning and Development Director of authority to approve, without notice or hearing, minor modifications to the site development plan for the mining permit and/or the reclamation plan approved by the Planning Commission, Board of Supervisors or Zoning Administrator provided that any minor modification shall not substantially change or alter the use approved or conditions imposed. If such authority is

delegated by the Planning Commission, Board of Supervisors, or Zoning Administrator, the applicant may apply to the Planning and Development Director for a minor modification upon the form of application required by the Director and upon payment of the application fee set forth in section 7-25-1105 of this Article. Such modifications shall be noted on the approved plans and shall be initialed by the Planning and Development Director. The Planning Director's decision shall also be mailed and posted as provided in section 7-25-1115(b)(5). The Planning and Development Director shall not, however, approve minor modifications in approved site development plans or reclamation plans that would modify or violate any condition of approval of those plans without first requesting the body which took the final action to determine if such change constitutes a minor modification. If said body determines, by resolution, that such a proposed change constitutes a minor modification for the specific project, the requested change may be processed as such under this section. If the requested minor modification is disapproved by the Planning and Development Director or determined by the decision-making body not be a minor modification, the applicant may apply for an amendment to the surface mining permit or reclamation plan and the financial assurances required therefore as provided for in section 7-25-1125 of this Article.

SECTION 7-25-1135. SECURITY FOR PERFORMANCE: FINANCIAL ASSURANCES:

- (a) The owners and/or operators of each surface mining operation shall submit financial assurances to ensure the faithful performance of the reclamation plan approved for such surface mining operation in accordance with section 2773.1 of the Act.
- (b) The financial assurances to guarantee reclamation in accordance with an approved or amended reclamation plan and the conditions thereof shall take the form of surety

bonds, irrevocable letters of credit, trust funds, or such other forms of financial assurances as the State Mining and Geology Board and the Board of Supervisors may adopt, issued by a corporation surety duly authorized to conduct surety business in the State of California, payable to the County of Tulare, or, as the alternate of the County, the State Department of Conservation. As a part of the obligation secured thereby and in addition to the face amount thereof, the financial assurances instrument or instruments shall secure payment to the County of Tulare or, as the alternate of the County, the State Department of Conservation for the costs and reasonable expenses and fees, including reasonable attorneys' fees, which the County and/or the State may incur in enforcing such obligations. The form of such financial assurances instruments shall be subject to approval of the County Counsel who may require such additional provisions necessary to guarantee performance of such obligation and recovery therefore.

- (c) When a request for approval of the financial assurances is filed separately from an application for approval of or amendment to a surface mining permit or a reclamation plan, or is filed for a surface mining operation which was approved prior to January 1, 1992, such request shall be filed with the Planning and Development Director in accordance with section 7-25-1100. The Planning and Development Director, or his designee, shall determine whether the proposed security is adequate as to the amount necessary to guarantee reclamation in accordance with any approved reclamation plan or amended reclamation plan, and, if so, shall fix the amount thereof,

subject to the limitations provided in this section. In making any such determination, the Director of Planning and Development shall consider the recommendations of the Public Works Director and the County Counsel. The Planning and Development Director's decision shall be in writing and shall be mailed to all owners and operators of the surface mining operation and posted in the County Courthouse by the Planning and Development Department.

- (d) The security approved for the financial assurances shall be posted with the Planning and Development Director, or with such other officer of the County as the Board of Supervisors may designate by resolution. Such security shall be posted by the date set by the Planning and Development Director or other officer or body approving the financial assurances. No surface mining operations shall be undertaken until such security is posted. Failure to post such security shall be considered a default in or violation of the conditions of any surface mining permit or any vested right to undertake surface mining operations.
- (e) Any decision by the Planning and Development Director under this section shall be mailed and posted as provided in section 7-25-1115(b)(5) and shall become final in ten (10) days from the date mailed and posted unless appealed within that ten (10) day period to the Planning Commission in accordance with section 7-25-1265.

SECTION 7-25-1140. SAME: ANNUAL ADJUSTMENTS:

- (a) The amount of financial assurances required of a surface mining operation for any one year shall be

adjusted annually by the Planning and Development Director to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan. The adjustment approval decision by the Director shall be mailed and posted in accordance with the provisions of section 7-25-1115(b)(5) and will become final within ten (10) days unless appealed to the Planning Commission within that ten (10) day period in the manner set forth in section 7-25-1265 of this Article.

- (b) If the adjustment is not appealed within the time provided, the mining operator shall, within thirty (30) days of the approval, file any required additional financial assurances with the Planning and Development Director or other designated officer or Department. If the adjustment results in a release of financial assurances to the mining operator, the Planning and Development Director shall, within thirty (30) days, report to the Board of Supervisors and place the matter on the Board of Supervisors' agenda for action as prescribed in section 7-25-1150 of this Article.
- (c) Any decision of the Planning Commission under this section shall become final ten (10) calendar days after the date the decision is made if no appeal thereof has been filed pursuant to section 7-25-1265 of this Article.

SECTION 7-25-1145. SAME: CHANGE OF OWNERSHIP:

If a surface mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in full force and effect and shall not be released by the Board of Supervisors until new financial assurances are secured from the new owners or new operators and have

been approved in accordance with section 2773.1 of the Act and section 7-25-1135 of this Article. At such time as new financial assurances have been secured, the Planning and Development Director shall notify the Board of Supervisors who shall take action as set forth in section 7-25-1150 of this Article.

SECTION 7-25-1150. REDUCTION OR RELEASE OF FINANCIAL ASSURANCES:

Upon completion of all or any portion of the required reclamation, the mining operator or owner may request the Planning and Development Director to make an inspection of the surface mining site. If it is found upon inspection that all or a portion of the reclamation has been accomplished in accordance with the approved plan, the Planning and Development Director shall give written notice of the fact to the Board of Supervisors, place the matter on the Board of Supervisors' agenda for action and the Board of Supervisors shall thereafter cause all or a portion of the financial assurances to be released. The Director shall provide the notices required in section 2773.1(c) of the Act.

SECTION 7-25-1155. INTERIM MANAGEMENT PLANS:

- (a) Within ninety (90) days of a surface mining operation becoming idle, as defined in section 2727.1 of the Act, the owner or operator shall make an application for approval of, and submit, an interim management plan to the Planning and Development Director under section 7-25-1100. The interim management plan shall be considered an application for an amendment to the surface mining operation's approved reclamation plan, but shall not be considered a project within the meaning of the California Environmental Quality Act pursuant to the exemption granted by section 2770 of the Act.
- (b) Application for approval of interim management plans shall be

processed in accordance with section 7-25-1115(b) and the following provisions:

- (1) The Zoning Administrator shall approve or tentatively deny the interim management plan within thirty (30) days of acceptance by the Planning and Development Director of a complete application. The Zoning Administrator and the applicant may mutually agree to a longer period of time for the Zoning Administrator's consideration. The Zoning Administrator's decision shall be in writing. A tentative denial of the application shall specify the deficiencies of the proposed interim management plan.
 - (2) Upon notification of a tentative denial, the applicant shall have thirty (30) days or a longer period as agreed to by the Zoning Administrator to submit a revised interim management plan. Upon the timely receipt of a revised interim management Plan, the Zoning Administrator shall consider the revised interim management plan in accordance with the procedures in section 7-25-1115(b) and shall approve or finally deny the revised interim management plan within thirty (30) days of acceptance of the revised plan.
 - (3) The decision by the Zoning Administrator under Paragraph 2 may be appealed to the Board of Supervisors within ten (10) days of the date of such decision pursuant to section 7-25-1265.
- (c) The approved interim management plan shall remain in effect for a

period of not more than five (5) years, at which time the Zoning Administrator shall, upon application of the owners or operators, either renew or extend the time of the interim management plan for another period not to exceed five years or require the operators and/or owners to commence reclamation in accordance with the approved reclamation plan.

- (d) Financial assurances shall remain in effect during the term of the interim management plan and any extension and are subject to the requirements of section 7-25-1135 of this Article.
- (e) Unless the operators and/or owners have a pending interim management plan application, or have an appeal of the same before the Board of Supervisors, any surface mining operation which remains idle, as defined by section 2727.1 of the Act, for more than one year shall be deemed abandoned and the operators and/or owners shall immediately commence reclamation in accordance with the approved reclamation plan.

ARTICLE 5. INSPECTIONS

SECTION 7-25-1205. ANNUAL INSPECTIONS:

Pursuant to section 2774(b) of the Act, at least once a year the Director of Planning and Development shall conduct an inspection of each surface mining operation to determine whether the surface mining operator is in compliance with the Act and this Chapter. The Director may cause such an inspection to be conducted by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, state-registered forester or other designee, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months. All inspections shall be conducted using the form furnished by the State Mining and Geology

Board and shall be undertaken within six (6) months of receipt by the County of the surface mining operation's annual report submitted pursuant to Public Resources Code section 2207.

SECTION 7-25-1210. ANNUAL INSPECTION: FEES:

The operator shall be responsible for payment of the inspection fee established in section 7-25-1105 of this Chapter. Such fee shall be due within thirty (30) days of written notification by the Planning and Development Director. Failure to pay the fee in a timely manner may be considered a violation of the surface mining permit or any vested right to operate and shall be cause for exercise of any of the remedies under this Chapter, including but not limited to revocation of the surface mining permit or vested right to operate pursuant to Article 9 of this Chapter.

SECTION 7-25-1215. NOTICE:

- (a) The Planning and Development Director shall notify the Director of Conservation, within 30 days of completion of the inspection, that the inspection has been conducted. The notice shall contain a statement regarding the surface mine's compliance with the Act, shall include a copy of the completed inspection form, and shall specify which aspects of the surface mining operations, if any, are inconsistent with the Act or the conditions of approval of the mining permit and/or reclamation plan. If the surface mining operation has an appeal pending in the case of a surface mining operator or owner with vested rights under subdivision (b) of section 2770 of the Act, a review of existing financial assurances pending pursuant to subdivision (c) of section 2770, or an appeal pending pursuant to subdivision (e) or (h) of section 2770 of the Act, the notice shall so indicate.

- (b) The Planning and Development Director shall also transmit to the operator and owner and the body which took final action on the permit and/or plan a copy of the notice and any supporting documentation, including any inspection report prepared by the geologist, civil engineer, landscape architect, or forester.

ARTICLE 7. APPEALS

SECTION 7-25-1265. APPEALS:

- (a) Any person adversely affected by one of the following decisions may appeal that decision to the Board of Supervisors pursuant to this subsection (c) of this section:
- (1) A decision of the Planning Commission or the Zoning Administrator on any permit, reclamation plan and required financial assurances therefore or any amendment thereto.
 - (2) A decision of the Zoning Administrator on any interim management plan.
 - (3) A decision by the Planning Commission on an appeal under subsection (b) of this section of a decision of the Planning and Development Director on any financial assurances or annual adjustments thereto under section 7-25-1135 or 7-25-140.
- (b) The applicant may appeal a decision by the Planning Commission or the Zoning Administrator denying an extension of time under section 7-25-1120 or section 7-25-1155(c).
- (c) Any person adversely affected by a decision of the Planning and Development Director on any financial assurances or annual adjustments thereto under section 7-25-1135 or 7-25-1140 may

appeal the decision to the Planning Commission under the following procedure:

- (1) An appeal to the Planning Commission shall be in writing and filed with the Planning and Development Director within ten (10) days after the date of the decision of the Planning and Development Director. An appeal shall specifically set forth the grounds for the appeal. At the time of filing the appeal, the appellant shall pay the appropriate fee under section 7-25-1105 to the Planning and Development Director to defray the expense incidental to the proceedings.
- (2) Upon the filing of an appeal, the Planning and Development Director shall:
 - (A) Transmit to the Planning Commission all public documents in the files of the Planning and Development Director pertaining to the matter.
 - (B) Set an appeal hearing before the Planning Commission.
 - (C) Not less than ten (10) days prior to the appeal hearing, mail a notice of the appeal hearing to the appellant, the applicant, to all persons to whom copies of the decision of the Planning and Development Director were mailed, and to all property owners to whom notices were given pursuant to subsection (b) of section 7-25-1110 of this Article.
- (3) After the appeal hearing, the Planning Commission may

affirm, reverse or modify the decision of the Planning and Development Director. The decision of the Planning Commission may be appealed as provided in section 7-25-1265(a). The appeal rights under this subsection (c) shall be exercised prior to filing an appeal pursuant to section 7-25-1265(a).

- (d) An appeal to the Board of Supervisors shall be in writing and filed with the Clerk of the Board of Supervisors within ten (10) days after the date on which the decision of the Planning Commission or Zoning Administrator was made. An appeal shall specifically set forth the grounds for the appeal. At the time of filing the appeal, the appellant shall pay the appropriate fee under section 7-25-1105 to the Planning and Development Director to defray the expense incidental to the proceedings.
- (e) Upon the filing of an appeal with the Board of Supervisors, the Planning and Development Director shall transmit to the Clerk of the Board of Supervisors copies of all documents in the files of the Planning Commission or Zoning Administrator pertaining to the matter.
- (f) The Clerk of the Board of Supervisors shall mail a notice of the appeal hearing to the appellant, the applicant, to all persons to whom copies of the decision of the Planning Commission or Zoning Administrator were mailed, and to all property owners to whom notices were given pursuant to subsection (c) of section 7-25-1110 of this Article, not less than ten (10) days prior to the appeal hearing.
- (g) The hearing on an appeal of a decision by the Zoning Administrator on an application for

approval of an interim plan shall be scheduled within forty-five (45) days of the filing of the appeal unless the owners and operators of the surface mining operation and Board of Supervisors mutually agree to a longer period.

- (h) After an appeal hearing, the Board of Supervisors shall, within thirty days affirm, reverse or modify the appealed decision, or refer the matter back to the Planning Commission or Zoning Administrator for further action. The appeal rights under this section shall be exercised prior to filing an appeal pursuant to section 2775 of the Act.
- (i) Unless otherwise provided in this section, all appeals filed with the Board of Supervisors shall be subject to section 165 of this Ordinance Code.

SECTION 7-25-1270. APPEALS TO STATE:

- (a) An applicant who has been denied a permit to conduct surface mining operations in an area designated as an area of statewide or regional significance under the Act, or any person who is aggrieved by the granting of surface mining operations permit in such an area may appeal a final decision by the Board of Supervisors under section 7-25-1265 to the State Mining and Geology Board in accordance with section 2775 of the Act. The appeal rights under this section shall be exercised prior to seeking judicial review under section 7-25-1275.
- (b) If the State Mining and Geology Board remands the appeal under subsection (a) to the County, the Board of Supervisors shall reconsider its action pursuant to the procedures set out in section 7-25-1265.

immediately notify the Board of Supervisors.

SECTION 7-25-1275. JUDICIAL REVIEW OF DECISION:

Judicial review of a decision of the Board of Supervisors made after a hearing pursuant to this Chapter, if the decision denies or revokes a permit, a reclamation plan or an amendment thereto, shall be made pursuant to section 1094.5 of the Code of Civil Procedure of the State of California. The method of judicial review, the time limits for judicial review and all of the other provisions of section 1094.6 shall govern such judicial review. When giving written notice to the applicant of its decision, the Board of Supervisors shall notify the applicant that the time within which judicial review must be sought is governed by said section 1094.6.

ARTICLE 9. VIOLATIONS AND REMEDIES

SECTION 7-25-1325. REMEDIES NOT EXCLUSIVE:

The provisions in this chapter of any remedy to the County, or to any board or officer of the County, for noncompliance with or default in the performance of any reclamation plan or the financial assurances therefore, or of any condition of any permit or reclamation plan, shall not be deemed as a limitation on any other remedy at law or in equity which the County, or any board or officer of the County, or any other public officer or agency, nor any member of the public, may otherwise have. The remedies set out in this chapter are in and may be used in the alternative at the discretion of the initiating body or officer.

SECTION 7-25-1330. FINANCIAL ASSURANCES: FORFEITURE:

- (a) If the Planning and Development Director at any time determines that the mining operator or owner is financially incapable of performing the required reclamation, or has abandoned its surface mining operation without commencing or completing reclamation, he/she shall

- (b) Upon receipt of such a report, the Board of Supervisors shall schedule a public hearing. The hearing shall be set and notice shall be provided as set forth in section 7-25-1110(b) of this Article.

- (c) If the Board of Supervisors, following the public hearing, determines that the operator or owner is financially incapable of performing reclamation in accordance with the approved reclamation plan, or has abandoned the surface mining operation without commencing or completing reclamation, the Board shall, in compliance with section 2773.1(b) of the Act, notify the operator of the surface mining operations by personal service or certified mail that the Board intends to take appropriate action to forfeit the surface mining operation's financial assurances. The notice shall specify the reasons for so doing. The Board of Supervisors shall allow and the notice shall advise the operator that the operator will have sixty (60) days to commence or cause to be commenced reclamation of the surface mining operation site in accordance with the approved reclamation plan. The notice shall require that reclamation be completed within the time limits specified by the approved reclamation plan or within some other time period mutually agreed upon by the Board of Supervisors and the operator.

- (d) If the operator or owner has not commenced reclamation or caused reclamation to be commenced within sixty (60) days of the notice given under subsection (c) or does not substantially complete the reclamation within the time limits specified in the notice given under

subsection (c), the Board of Supervisors may require forfeiture of financial assurances in accordance with section 2773.1 of the Act and section 7-25-1335 of this Article.

SECTION 7-25-1335. PERMITTEE DEFAULT ON RECLAMATION: PERFORMANCE BY COUNTY:

- (a) If the owners or operators of a surface mining operation fail to commence or complete reclamation in accordance with the approved reclamation plan, then the Board of Supervisors shall have authority to order and otherwise undertake the planning and conduct of all or any part of the work necessary to accomplish the reclamation plan, to perform any conditions in default, to demand performance of any surety company issuing the security, or to otherwise cure any default.
- (b) The officers, employees, and agents of the County, and any contractor hired by the County, and his/her employees, subcontractors, and agents, and any engineers, surveyors and other experts retained by the County, may enter the mining site and any adjacent property of the owners and operators of the surface mining operations for the purposes of planning or conducting all or any part of the work described in subsection (a) of this section, bringing and using thereon any and all equipment and machines necessary for doing such work, and using any equipment, supplies, earth, or other materials found thereon.
- (c) The County shall follow the previously approved reclamation plan or conditions in the conduct of such work. However, if the physical site and/or mining operation has changed from that contemplated at the time the reclamation plan or conditions in the conduct of such work were approved so as to cause the

previously approved reclamation plan to conflict with the provisions and requirements of this Chapter or the Act, the County may review and approve appropriate modifications or amendments to the reclamation plan before commencing reclamation.

- (d) The Board of Supervisors is authorized to order retention and deposit into the County general fund, all or any portion of the proceeds from the financial assurances for its costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred in enforcing the obligations secured by the financial assurances, and for its reasonable expenses incurred in any inspections, giving notices, conducting hearings pursuant to sections 7-25-1110 through 7-25-1155, 7-25-1265 through 7-25-1275, and 7-25-1325 through 7-25-1350 of this Chapter, and for any expenses incurred in the planning, surveying, testing, and administration in preparation for the letting of any contracts, administration and enforcement of contracts, and otherwise doing any of the work mentioned in this section.
- (e) If the financial assurances are insufficient to cover the costs incurred by the County under subsection (d) or (f), the owners and operators of the surface mining operation shall be responsible for the costs incurred by the County for conducting and completing reclamation in accordance with this section which costs are in excess of the proceeds from the forfeited financial assurances. The County may take, or assign its right to take, all appropriate action to collect such costs from the owners and operators of the surface mining operation.

(f) If the Board of Supervisors determines that the work has been completed for the accomplishment of the reclamation plan, or for the performance of conditions in default or as otherwise needed to cure any default, or if the Board determines that there is no reasonable prospect that such work can be accomplished by any means mentioned in this section and if the Board determines that by reason of changed circumstances no public purpose would be served by completion of such work, the Board shall order any portion of the proceeds from such security not retained by the County under subsection (d) of this section or not expended under the provisions of this section, to be refunded to the owners, operators or their sureties, as their interests may appear, in accordance with section 7-25-1150.

SECTION 7-25-1340. REVOCATION OF PERMIT:

(a) Failure of an owner or operator to comply with all conditions of approval of the permit, the Act, the regulations or this Chapter shall be a basis for revocation of any permit or vested right to conduct a surface mining operation. When noncompliance or a violation is discovered during an inspection or at any other time, the Planning and Development Director shall give the owner or operator of the surface mining operation written notice of the acts of noncompliance or violation and direct that they be corrected within a specified period of time. If such corrections are not made in compliance with the notice, the Planning and Development Director shall report the noncompliance to the Planning Commission which may commence revocation proceedings.

- (b) Before revoking a permit, the Planning Commission shall hold a public hearing and render a decision pursuant to the procedure set forth in section 7-25-1110 of this Chapter.
- (c) At the hearing the Planning Commission may change the financial assurances originally required. The Planning Commission may revoke the permit and require that the reclamation plan be implemented immediately or may allow the continuation of the surface mining operations with or without additional conditions.
- (d) Any interested person shall be entitled to appeal to the Board of Supervisors from the decision of the Planning Commission as provided in section 7-25-1265 of this Chapter.

SECTION 7-25-1345. VIOLATION OF ACT: ADMINISTRATIVE PENALTIES:

Upon determination that a surface mining operation is not in compliance with the Act or Public Resources Code section 2207, the Planning Commission or the Board of Supervisors may impose administrative penalties in accordance with sections 2774.1 and 2774.2 of the Act and the following procedure:

(a) If the Planning and Development Director determines, based upon the annual inspection or otherwise confirmed by inspection of the surface mining operation, that the surface mining operation is in violation of the Act or Public Resources Code section 2207, the Planning and Development Director may give notice of the violation or violations to the operator by personal service or certified mail with a copy to the Director of the State Department of Conservation. If the violation or violations extend or continue beyond thirty (30) days of the date of notification, the Planning and Development Director

may issue an order requiring compliance in accordance with section 2774.1(a) and 2774.1(b) of the Act, which order shall specify a time for compliance and set a date for a hearing on such order before the Planning Commission, which date will not be sooner than thirty (30) days after the date of the order. A copy of the order shall be forwarded to the Director of the State Department of Conservation.

- (b) The hearing before the Planning Commission shall be noticed in accordance with section 7-25-1110(b). At the close of the hearing or at a later date announced before the close of the hearing, the Planning Commission shall do one of the following:
 - (1) Approve the order of the Planning and Development Director.
 - (2) Modify to remove any of the violations cited and approve the order of the Planning And Development Director as modified, or
 - (3) Decline to approve the order of the Planning and Development Director.
- (c) If the Planning Commission either approves or modifies and approves the order of the Planning Director, the Planning Commission's decision will become final and the order so approved will take effect ten (10) days after such decision unless the decision is appealed to the Board of Supervisors pursuant to section 7-25-1265. The Planning Commission's decision shall be mailed as provided in section 7-25-1110(d). The mailing to the operator shall be by certified mail.
- (d) If the operator violates or fails to comply with an effective order requiring compliance with the Act or Public Resources Code section 2207

and issued according to section 2774.1 and this section, the Planning Commission may issue an order imposing administrative penalties allowed in accordance with section 2774.1 of the Act. Any order imposing administrative penalties shall become effective upon issuance and the penalties imposed thereby shall be paid to the Planning and Development Director unless such order is appealed or a petition for review of such order is made to the Board of Supervisors within thirty (30) days of the date the order is issued. Such appeal or petition for review shall be made and considered in accordance with section 7-25-1265 and section 2774.2 of the Act. The Board of Supervisors decision and order on such an appeal or petition for review shall comply with the requirements of section 7-25-1265 and section 2774.2 of the Act.

- (e) Judicial review of the Board of Supervisors' decision and order under subsection (d) may be made pursuant to section 2774.2(e) of the Act and shall be subject to the California Code of Civil Procedure section 1094.5.

SECTION 7-25-1350. NUISANCE:

Any surface mining and/or reclamation operations or activities which violate any provision of this Chapter, or any permit or reclamation plan granted or approved pursuant to this Chapter, shall constitute a public nuisance and may be abated pursuant to the procedures of the Tulare County Public Nuisance Ordinance.

SECTION 7-25-1355. VIOLATIONS:

Every person violating any provision of this Chapter, or of any permit or reclamation plan granted or approved pursuant to this Chapter, is guilty of an infraction, and upon conviction thereof shall be punishable as provided in section 125 of this Ordinance Code. Such

person shall be guilty of a separate offense for each and every day during any portion of which any violation of this Chapter is committed, continued or permitted by such person, and shall be punishable therefor as herein above provided.