

Chapter 6.80 - SURFACE MINING AND RECLAMATION

Sections:

Article I - General Provisions

6.80.010 - Citation of chapter.

This chapter may be referred to and cited as the Alameda County surface mining ordinance.

(Ord. 99-60 (part); prior gen. code § 8-127.0)

6.80.015 - Incorporation by reference.

The provisions of the California Surface Mining and Reclamation Act of 1975 (PRC § 2710 et seq.), hereinafter known as SMARA, PRC Section 2207 (relating to annual reporting requirements), and State Mining and Geology Board regulations (hereinafter referred to as "state regulations") CCR § 3500 et seq., as those provisions and regulations may be amended from time to time, are made a part of this chapter by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this chapter are more restrictive than correlative state provisions, this chapter shall prevail.

(Ord. 99-60 (part))

6.80.020 - Purpose and authority.

This chapter shall regulate surface mining (operations and reclamation of Mined Lands within the unincorporated area of the County pursuant to the California Surface Mining and Reclamation Act of 1975, Division II, Chapter 9, Public Resources Code, as amended.

(Ord. 99-60 (part): prior gen. code § 8-111.0)

6.80.030 - Intent.

The county of Alameda recognizes that the extraction of minerals is essential to the continued economic well-being of the county and to the needs of society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The county also recognizes that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications therefore may vary accordingly.

The intent of this chapter is to ensure the continued availability of important mineral resources, while regulating surface mining operations as required by SMARA, Public Resources Code (PRC) Section 2207, and state regulations for surface mining and reclamation practice (California Code of Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.), to ensure:

- A. Prevention or mitigation of adverse effects on the environment, including air pollution, impedance of groundwater movement and water quality degradation, damage to aquatic or wildlife habitat, flooding, erosion, sedimentation effects and excessive noise;

- B. Progressive reclamation concurrent with mining so that mined lands are returned to a condition adaptable for alternate land uses, with no residual hazards to public health or safety and with land and water resources maintained in a state beneficial to society; and
- C. Consistency with mineral resource management policies of the general plan.

(Ord. 99-60 (part): prior gen. code § 8-111.1)

6.80.031 - Mineral resource protection.

Mine development is encouraged in compatible areas before encroachment of conflicting uses. Mineral resource areas that have been classified by the State Department of Conservation's Division of Mines and Geology or designated by the State Mining and Geology Board, as well as existing surface mining operations that remain in compliance with the provisions of this chapter, shall be protected from intrusion by incompatible land uses that may impede or preclude mineral extraction or processing, to the extent possible for consistency with the county's general plan.

In accordance with PRC § 2762, the county's general plan and resource maps shall be updated to reflect mineral information (classification and/or designation reports) within twelve (12) months of receipt from the State Mining and Geology Board of such information. Land use decisions within the county shall be guided by information provided on the location of identified mineral resources of regional significance. Conservation and potential development of identified mineral resource areas shall be considered and encouraged. Recordation on property titles of the presence of important mineral resources within the identified mineral resource areas may be encouraged as a condition of approval of any development project in the impacted area. Prior to approving a use that would otherwise be incompatible with mineral resource protection, conditions of approval may be applied to encroaching development projects to minimize potential conflicts.

(Ord. 99-60 (part))

6.80.040 - Surface mining permit and reclamation plan required.

Except as provided in Section 6.80.050 of this chapter, no person shall conduct surface mining operations unless a surface mining permit, reclamation plan, and financial assurances for reclamation have first been approved by the county. Any applicable exemption from this requirement does not automatically exempt a project or activity from the application of other regulations, ordinances, or policies of the county, including but not limited to, the application of CEQA, the requirement of surface mining permits or other permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be permitted under the law. The provisions of this chapter shall apply to all lands within the county, public and private.

(Ord. 99-60 (part): prior gen. code § 8-111.2)

6.80.050 - Exceptions.

- A. General. The provisions of this chapter are not applicable to:
 - 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. Prospecting for, or the extraction of, minerals for commercial purposes or the removal of overburden in total amounts of less than one thousand (1,000) cubic yards on any property of one acre or less shown as a unit on the latest county assessment roll;

3. Onsite excavation and onsite earthmoving activities that are an integral and necessary part of a construction project undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, if all of the following conditions are met:
 - a. All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act ("CEQA," Public Resources Code, Division 13, § 21000 et seq.).
 - b. The county's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to CEQA.
 - c. The approved construction project is consistent with the general plan and zoning of the site.
 - d. Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.
 4. Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools or other materials, including the onsite stockpiling and onsite recovery of mined materials, if all of the following conditions are met:
 - a. The plant site is located on lands designated for industrial or commercial uses in the county's general plan.
 - b. The plant site is located on lands zoned industrial or commercial, or are contained within a zoning district intended exclusively for industrial activities by the county.
 - c. None of the minerals being processed are being extracted onsite.
 - d. All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.
 5. Surface mining operations that are required by federal law in order to protect a mining claim, if such operations are conducted solely for that purpose;
 6. The solar evaporation of sea water or bay water for the production of salt and related minerals;
 7. Emergency excavations or grading conducted by the department of water resources or the reclamation board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters or other emergencies;
 8. Road construction and maintenance for timber or forest operations if the land is owned by the same person or entity, and if the excavation is conducted adjacent to timber or forest operation roads. This exemption is only available if slope stability and erosion are controlled in accordance with board regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and postclosure uses in consultation with the department of forestry and fire protection. This exemption does not apply to onsite excavation or grading that occurs within one hundred (100) feet of a Class One watercourse or seventy-five (75) feet of a Class Two watercourse, or to excavations for materials that are, or have been, sold for commercial purposes.
 9. Such other surface mining operations categorically identified by the State Board pursuant to Sections 2714(d) and 2758(c) of the Public Resources Code as involving only minor and infrequent surface disturbances; provided that the surface mining operation so exempted shall still be consistent with Section 6.80.030 of this chapter as determined by the director of community development.
- B. Existing Operations—Mining Permits. Any surface mining operation authorized to operate under a quarry or sand and gravel permit issued prior to January 1, 1976, pursuant to Ordinance No. 67-199

and Ordinance No. 18 N.S. shall not be required to obtain a surface mining permit so long as such quarry or sand and gravel permit remains in effect and surface mining is conducted in accordance with regulations in effect at the time the permit was issued, including any permit conditions imposed.

- C. Existing Operations—Reclamation Plans. Any surface mining operation operating under a quarry or sand and gravel permit granted prior to January 1, 1976, shall be required to have an approved reclamation plan only for that portion of the mining site on which surface operations have been conducted after January 1, 1976. Such approval shall be obtained prior to the commencement of any mining operations after January 1, 1976. Reclamation plans approved by the county board of supervisors prior to January 1, 1976, shall be exempt from the provisions of this chapter.

(Ord. 99-60 (part): prior gen. code § 8-111.3)

[\(Ord. No. 2012-4, § 2, 1-10-12\)](#)

6.80.060 - Uses permitted other than mining.

- A. If a mining operation is being conducted in an A district, all other uses permitted pursuant to the district regulations may be conducted on the site provided such uses do not interfere with meeting any of the requirements of this chapter and provided any such uses are not prohibited by conditions of the surface mining permit or approved reclamation plan;
- B. If a mining operation is being conducted in any other district, uses permitted pursuant to such other district regulations may be conducted on the site only if also permitted by the surface mining permit or approved reclamation plan;
- C. Sorting, crushing, reducing, refining, mixing, packaging or other processing of minerals, or the operation of an asphalt or concrete batch plant; or any operation that uses or supplies materials produced, imported or used by mining and/or processing operations or an asphalt or concrete batch plant, may be permitted in conjunction with mining operations if conducted within an A, M-1 or M-2 district, upon securing of a surface mining permit, when such uses are found by the planning commission to be an accessory use to the mining operations and when the planning commission finds that the effects of such processing, use, storage or transport of materials, including noise, odor, smoke, dust, bright lights, vibration, traffic, and production of waste, can be controlled so as to be compatible with adjacent uses and so as not to degrade natural resources;
- D. Accessory uses to mining operations and processing of minerals.

(Ord. 99-60 (part): prior gen. code § 8-111.5)

6.80.061 - Severability.

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

(Ord. 99-60 (part))

6.80.062 - Effective date.

This chapter shall take effect thirty (30) days following its adoption.

(Ord. 99-60 (part))

6.80.070 - Definitions.

As used in this chapter:

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

"Bench" means a level area that interrupts a slope, constructed for such purposes as to retain or limit rock falls, provide working surfaces or access, and to control erosion.

"Borrow pits" means excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

"Compatible land uses" means land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and that 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.

"Critical gradient" means the maximum stable inclination of an unsupported slope under the most adverse conditions that it will likely experience, as determined by current engineering technology.

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

"Haul road" means an internal road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation.

"Haul route" means an external road along which previously excavated, processed or stockpiled material is transported to an off-site area.

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

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

"Mine" includes all mineral bearing properties of whatever kind or character, whether underground, or in a quarry or pit, or any other source from which any mineral substance is or may be obtained.

"Mined lands" includes the surface, subsurface, and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools or other materials or property which result from, or are used in, surface mining operations are located.

"Minerals" means any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

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

"Operator" means any person who is engaged in surface mining operations, or who contracts with others to conduct operations on his behalf, except persons who are engaged in surface mining operations as employees with wages as their sole compensation.

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

"Permittee" means any person or operator who possesses a valid permit to operate a surface mine in Alameda County that meets the requirements of this chapter and SMARA. When the operator and the permittee are not the same person, the operator shall identify the permittee to the county.

"Person" means any individual, firm, association, corporation, organization, partnership, or any local agency as defined by Government Code Section 53090 et seq.

"Reclamation" means the combined process of land treatment that minimizes disruption or alteration of groundwater movement, water quality degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, sedimentation, 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 that is readily adaptable for alternate land uses, and so that adverse impacts on groundwater resources are mitigated, and no danger to public health or safety is created. The process may extend to affected lands under the control of the operator surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, erosion and sediment control, stabilization, restoration of groundwater recharge areas, or other measures.

"SMGB" means the State Mining and Geology Board.

"State Geologist" means the individual holding office pursuant to PRC Division 1, Chapter 2, Article 3, Section 677, or his/her designee appointed for purposes of administering SMARA and SMARA Regulations.

"State policy" means the State Policy for the Reclamation of Mined Lands adopted pursuant to Section 2755 of the Public Resources Code.

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

"Surface mining operations" or "mining operations" means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging, quarrying, or surface work incident to an underground mine. Surface mining operations include, but are not limited to:

1. In-place distillation, retorting or leaching;
2. The production and disposal of mining waste;
3. The removal of overburden;
4. Prospecting and exploratory activities;
5. Borrow pit activity;
6. Streambed skimming; and
7. Segregation and stockpiling of mined materials (and recovery of same).

"Surface Mining and Reclamation Act (SMARA) Regulations" means SMGB regulations for surface mining and reclamation practice, as set forth in CCR Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.

"Topsoil" means the upper part of the soil profile that is relatively rich in humus, which in the field of agronomy is known as the A-1 horizon of the soil profile.

(Ord. 99-60 (part): prior gen. code §§ 8-113.0—8-113.13)

[\(Ord. No. 2012-4, § 3, 1-10-12\)](#)

Article II - Application Procedure

6.80.080 - Filing.

Application for a surface mining permit and for approval of a reclamation plan shall be filed with the community development agency. The reclamation plan shall be filed concurrently with the surface mining permit application, along with all required environmental review forms and information prescribed by the director of community development. Said application shall be filed in accord with this chapter and procedures to be established by the director of community development. The prospective permittee shall submit as many copies of a surface mining permit and reclamation plan application as required by the director of community development. In the case of a pre-existing surface mining operation described under Section 6.80.050C of this chapter the reclamation plan shall be filed alone; however, for surface mining operations that are exempt from a surface mining permit as described under Section 6.80.050C of this chapter, the reclamation plan application shall include information concerning the mining operation that is required for processing the reclamation plan, including but not limited to environmental review prepared pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the county's environmental review guidelines, where determined to be necessary by the director of community development.

(Ord. 99-60 (part): prior gen. code § 8-115.0)

[\(Ord. No. 2012-4, § 4, 1-10-12\)](#)

6.80.090 - Form of application.

The form of the application for a surface mining permit or approval of a reclamation plan shall be as prescribed by the planning director and provided by the community development agency. The forms for reclamation plan applications shall require, at a minimum, each of the elements required by SMARA (§ 2772-2773) and state regulations, and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed reclamation plan, to be established at the discretion of the director of community development.

(Ord. 99-60 (part): prior gen. code § 8-115.1)

[\(Ord. No. 2012-4, § 5, 1-10-12\)](#)

6.80.091 - Notice of filing to state.

Within thirty (30) days of acceptance of an application for a surface mining permit for surface mining operations and/or a reclamation plan as complete, the community development agency shall notify the State Department of Conservation of the filing of the application(s). Whenever mining operations are proposed in the 100-year flood plain of any stream, as shown in Zone A of the flood insurance rate maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the planning department shall also notify the State Department of Transportation that the application has been received.

(Ord. 99-60 (part))

[\(Ord. No. 2012-4, § 6, 1-10-12\)](#)

6.80.092 - Environmental review.

The community development agency shall prepare an environmental review for any surface mining permit and/or reclamation plan application pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the county's environmental review guidelines.

(Ord. 99-60 (part))

[\(Ord. No. 2012-4, § 7, 1-10-12\)](#)

6.80.093 - Staff analysis.

Subsequent to the appropriate environmental review, the community development agency shall prepare a staff analysis with recommendations for consideration by the planning commission.

(Ord. 99-60 (part))

[\(Ord. No. 2012-4, § 8, 1-10-12\)](#)

6.80.094 - Public hearing—General.

The planning commission shall hold a noticed public hearing on the surface mining permit and/or reclamation plan. Upon completion of the environmental review procedure and filing of all documents required by the director of community development, consideration of the surface mining permit and/or reclamation plan for the proposed or existing surface mine shall be completed at the public hearing before the planning commission, and pursuant to Section 2774 of the Public Resources Code. The planning commission shall take action at the hearing to approve, conditionally approve, or deny the surface mining permit and/or reclamation plan, and to approve the financial assurances pursuant to PRC § 2770(d) and to Section 6.80.241.

(Ord. 99-60 (part))

[\(Ord. No. 2012-4, § 9, 1-10-12\)](#)

6.80.100 - Fees.

The application fees for a surface mining permit or approval of a reclamation plan, or for modification of an existing permit or approved reclamation plan shall be as established by resolution by the board of supervisors and shall be submitted at the time of application. The county shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this chapter and the state regulations, including but not limited to, processing of applications, annual reports, inspections, monitoring, enforcement and compliance. The operator shall pay such fees as required by the county, at the time of filing of the surface mining 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 chapter are borne by the operator.

(Ord. 99-60 (part): prior gen. code § 8-115.2)

6.80.110 - Referral.

Surface mining permit applications and proposed reclamation plans shall be referred to the director, State Department of Conservation, the county director of public works, the county flood control and water conservation district and to such other agencies, groups or individuals that in the opinion of the director of community development need to know of such proposals or can contribute information necessary to complete evaluation. Referral shall occur during the environmental review process as specified in Section 6.80.092 of this chapter, and at any other time deemed appropriate by the director of community development.

(Ord. 2003-61 (part); Ord. 99-60 (part): prior gen. code § 8-115.3)

[\(Ord. No. 2012-4, § 10, 1-10-12\)](#)

6.80.112 - Special referral to state.

Prior to final approval of a reclamation plan, financial assurances (as provided in this chapter), or any amendments to the reclamation plan or existing financial assurances by the planning commission, the director of community development shall certify to the State Department of Conservation that the reclamation plan and/or financial assurance complies with the applicable requirements of state law, and submit the plan, assurance, or amendments to the State Department of Conservation for review. The planning commission may conceptually approve the reclamation plan and financial assurance before submittal to the State Department of Conservation. If a surface mining permit is being processed concurrently with the reclamation plan, the planning commission may simultaneously also conceptually approve the surface mining permit. However, the planning commission may defer action on the surface mining permit until taking final action on the reclamation plan and financial assurances. If necessary to comply with permit processing deadlines, the planning commission may conditionally approve the surface mining permit with the condition that the community development agency shall not issue the surface mining permit for the mining operations until cost estimates for financial assurances have been reviewed by the State Department of Conservation and final action has been taken on the reclamation plan and financial assurances.

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

(Ord. 99-60 (part))

[\(Ord. No. 2012-4, § 11, 1-10-12\)](#)

6.80.113 - Submittal of approved permit and reclamation plan to state.

The community development agency shall forward a copy of each approved surface mining permit for mining operations and/or approved reclamation plan, and a copy of the approved financial assurances to the State Department of Conservation. By July 1st of each year, the community development agency shall submit to the State Department of Conservation for each active or idle mining operation a copy of

the surface mining permit or reclamation plan amendments, as applicable, or a statement that there have been no changes during the previous year.

(Ord. 99-60 (part))

[\(Ord. No. 2012-4, § 12, 1-10-12\)](#)

6.80.115 - Statement of responsibility.

The permittee and/or operator for which a reclamation plan has been approved shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the reclamation plan. Said statement shall be kept by the community development agency in the mining operation's permanent record. Upon sale or transfer of the operation, the new permittee and/or operator shall submit a signed responsibility to the community development agency for placement in the permanent record.

(Ord. 99-60 (part))

[\(Ord. No. 2012-4, § 13, 1-10-12\)](#)

6.80.120 - Application to modify a surface mining permit or approved reclamation plan.

Applications to modify the terms or conditions of, or uses permitted under, a surface mining permit or an approved reclamation plan shall be in accord with the provisions of this section, except that minor changes in dimensions, volumes, or timing of the staging plans that will not affect implementation the reclamation plan may be approved by the director of community development. Applications to expand the land area affected by an existing permit or approved reclamation plan shall be in accord with this article.

(Ord. 99-60 (part): prior gen. code § 8-115.4)

[\(Ord. No. 2012-4, § 14, 1-10-12\)](#)

6.80.130 - Urgency modification in public interest—Issuance by community development director.

The county director of community development may modify the terms of any surface mining permit heretofore granted and in effect, where there is neither time nor opportunity for such modification to be granted pursuant to Section 6.80.120 and subject to all of the following further limitations:

- A. The modification shall be effective for not more than three days, as specified by the director of community development or the deputy director designee.
- B. The modification shall apply only to such mining operations as related to the emergency.
- C. The modification is in the public interest.

(Ord. 2003-61 (part); Ord. 99-60 (part): prior gen. code § 8-115.5)

[\(Ord. No. 2012-4, § 15, 1-10-12\)](#)

Article III - Investigation and Action

6.80.140 - Investigation.

Upon the filing of an application for a surface mining permit or a reclamation plan, the planning commission shall make such investigations as are necessary to determine whether or not the proposed mining and reclamation operations conform to this chapter.

(Ord. 99-60 (part): prior gen. code § 8-117.0)

6.80.150 - Hearing.

The planning commission shall conduct a public hearing, notice of which shall be given as provided in Section 17.54.750 of this code (Zoning Ordinance), prior to taking action on an application for a surface mining permit or reclamation plan.

(Ord. 99-60 (part): prior gen. code § 8-117.1)

6.80.160 - Findings.

- A. Surface Mining Permits. In addition to any findings required by the county, approval of a surface mining permit for surface mining operations shall include a finding that the project complies with the provisions of SMARA and state regulations.
- B. Reclamation Plans. For approval of reclamation plans, the planning commission shall make all of the following findings:
 - 1. That the reclamation plan complies with SMARA Sections 2772 and 2773 as may be amended, the provisions of this chapter and other applicable provisions;
 - 2. That the reclamation plan complies with applicable requirements of state regulations (CCR §§ 3500-3505, and 3700-3713, as may be amended).
 - 3. That the reclamation plan and potential use of reclaimed land pursuant to the plan are consistent with this chapter and the county's general plan and any applicable resource plan or element.
 - 4. That the reclamation 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.
 - 5. That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site mitigation will compensate for related disturbance to resource values.
 - 6. That the reclamation plan will restore the mined lands to a usable condition that is readily adaptable for alternative land uses consistent with the general plan and applicable resource plan, or as specified in the reclamation plan.
 - 7. That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that department. Where 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.
 - 8. That the reclamation plan is consistent with protection of the public health, safety and welfare. The planning commission shall state the basis for its determinations regarding such finding.

(Ord. 99-60 (part): prior gen. code § 8-117.2)

6.80.170 - Action.

If the planning commission makes positive findings as to Section 6.80.160 of this chapter, the planning commission may issue the surface mining permit or approve the reclamation plan, applying such conditions to either as may be necessary to effect the conformance specified in said Section 6.80.160. If its finding is negative, the planning commission shall deny such issuance or approval.

(Ord. 99-60 (part): prior gen. code § 8-117.3)

6.80.180 - Conditions.

- A. One of the following types of security, in an amount determined by the planning commission and in compliance with Section 6.80.241 of this chapter, shall be furnished to guarantee faithful performance of the work to be done under the terms of the surface mining permit and reclamation plan:
 - 1. Bond or bonds by one or more duly authorized corporate sureties,
 - 2. A deposit, either with the local agency or a responsible escrow agent or trust company, of money or negotiable bonds of the kind approved for securing deposits of public moneys;
- B. The term of the permit shall be specified;
- C. The planning commission shall specify a schedule for periodic review of the surface mining permit and the reclamation plan by the planning commission as required in Section 6.80.190 of this chapter at time intervals not to exceed five years for the reclamation plan and at such an interval as the planning commission determines appropriate for the surface mining permit.

In addition to the conditions herein specified, the commission may impose other conditions related to the public health, safety and welfare, including, but not limited to, such matters as hours of operation, limitations on hauling and the use of public roads and streets.

(Ord. 99-60 (part): prior gen. code § 8-117.4)

6.80.181 - Annual report requirements.

As a condition of each permit, annual inspections and reports of mining and reclamation activities shall be required of the operator. Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the director of community development 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 thirty (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.

After the first year, the annual report shall include the material excavated and recycled materials, and the total tonnage of material documented pursuant to Section 2207 of the Public Resources Code. If requested, a copy of any supporting documentation shall also be provided to the director of community development by the operator.

(Ord. 2003-61 (part); Ord. 99-60 (part))

[\(Ord. No. 2012-4, § 16, 1-10-12\)](#)

6.80.182 - Annual inspections.

- A. General. The community development agency shall arrange for inspection of a surface mining operation within six months of receipt of the annual report required by this chapter, to determine whether the surface mining operation is in compliance with the approved surface mining permit and/or reclamation plan, approved financial assurances, and state regulations. In no event shall less than one inspection be conducted in any calendar year. Said inspections may be made by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous twelve (12) months, or other qualified specialists, as selected by the director of community development or the deputy director designee. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.
- B. Notice and Fees. The community development agency shall notify the State Department of Conservation within thirty (30) days of completion of the inspection that said inspection has been conducted, and shall forward a copy of said inspection notice and any supporting documentation to the operator. The operator shall be solely responsible for the reasonable cost of such inspection.

(Ord. 2003-61 (part); Ord. 99-60 (part))

[\(Ord. No. 2012-4, § 17, 1-10-12\)](#)

6.80.190 - Periodic review of surface mining permit and reclamation plan.

Surface mining permits and approved reclamation plans shall be reviewed by the planning commission, in accordance with the schedule adopted at the time of approval according to Section 6.80.180C of this chapter, to consider new or changed circumstances within the general area of the mining operations that should be accommodated by the permit or plan. The review shall include a public hearing as specified by Section 6.80.150 of this chapter.

At the conclusion of the public hearing, the planning commission may modify the permit or reclamation plan to conform to with this chapter, and such modified permit or plan shall be binding upon the operation. Any fees for periodic reviews shall be collected as specified by Section 6.80.100.

(Ord. 99-60 (part): prior gen. code § 8-117.5)

[\(Ord. No. 2012-4, § 18, 1-10-12\)](#)

6.80.200 - Appeal.

The action taken by the planning commission to issue, approve, deny, or modify a surface mining permit or a reclamation plan may, within ten days of that action, be appealed to the board of supervisors by any person. Such appeal shall be filed with and heard by the board of supervisors in the manner specified by Section 17.54.670 of this code. If the board of supervisors determines the findings made and action taken by the planning commission to be satisfactory, the appeal shall be denied. If it determines otherwise, the board of supervisors shall make its own findings and take action in accordance with Sections 6.80.160, 6.80.170 and 6.80.180 of this chapter.

As provided by the State Public Resources Code, an applicant whose request for a surface mining permit to conduct operations in an area of statewide or regional significance has been denied by the board of supervisors on appeal, may within fifteen (15) days of such denial, appeal to the State Mining

and Geology Board. If the State Board determines the decision of the board of supervisors is not supported by substantial evidence in the record, the board of supervisors shall hold a public hearing to reconsider its action.

(Ord. 99-60 (part): prior gen. code § 8-117.6)

Article IV - Regulations

6.80.210 - Mining.

Surface mining operations shall be conducted and the site maintained in accordance with the following requirements:

- A. Slopes.
 1. Finished slopes shall conform to the requirements of Section 6.80.240E.
 2. Temporary slopes steeper than the finished slopes, in areas where finished slopes are to occur, shall be constructed and maintained in accordance with the recommendations, as approved by the director of community development or the deputy director designee, of a soil engineer or a civil engineer registered in the state or an engineering geologist registered and certified in the state. Temporary slopes shall not be created or maintained in a manner that will interfere with the construction of finished slopes conforming to subsection (A)(1) of this section, and the soil engineer or engineering geologist shall make specific recommendations for the conversion of such temporary slopes to finished slopes.
- B. Benches. Benches shall be provided where necessary to control drainage on slopes or to provide for access or public safety.
- C. Setbacks.
 1. Surface mining excavations shall not be conducted closer than:
 - a. Twenty-five (25) feet of the common property line of any parcel, except where the adjacent property is being mined in the same manner with respect to such line;
 - b. Fifty (50) feet of the right-of-way or future width line of any street.
 2. Mining excavations shall be set back from water courses, flood control channels, reservoirs and water conservation facilities a distance as may be determined by the planning commission on recommendation of Alameda County flood control and water conservation district or public works agency to be sufficient to protect existing or planned facilities.
- D. Screening of Operations. Where the planning commission determines that mining operations may conflict with visual qualities that should be maintained for adjacent areas, such operations shall be screened by the operator by the construction of appropriate landforms and planting and maintenance of appropriate landscape materials.
- E. Fencing. Fencing for surface mines shall be designed and installed in order to preserve the health, safety and welfare of the public, including pedestrians, motor vehicles on public and private ways, and all persons and uses on adjacent lands. In areas where surface mine operations are located within wildlife movement corridors, fences shall be designed to permit passage of wildlife with minimal hazard. Fences may be of any reasonable description that fit these criteria. The fence type proposed for the surface mine shall be submitted with the mining plan for review and approval by the planning commission. Gates, the same height and type as the approved fence, shall be installed at all points of vehicular or pedestrian ingress and egress, and shall be kept locked when not in regular use.

- F. Use of Explosives. No explosives shall be used except as authorized by the surface mining permit. When authorized, the specific times of use shall be approved by the director of public works.
- G. Drainage—Water Quality and Conservation.
1. Provision shall be made to protect mining operations from overflow from adjacent streams or from slope failures caused by infiltration and seepage from surface water bodies by the construction of levees or other devices to prevent flooding. No obstruction shall be placed in stream channels without obtaining a permit allowing such obstruction from the county flood control and water conservation district.
 2. Grades in areas being mined shall be maintained so as to avoid accumulations of water that could serve as breeding areas for mosquitoes.
 3. Excavations that may penetrate near or into usable water bearing strata shall not reduce the transmissivity or area through which water may flow unless approved equivalent transmissivity or area has been provided elsewhere, nor subject such groundwater basin or subbasin to pollution or contamination.
 4. Nothing in this chapter shall be construed to prevent the use of mined lands for the conservation or storage of water, or for the control of flood or storm waters, by a public agency duly authorized to engage in such work, provided that any such use will not conflict with nor prevent reclamation required under an approved reclamation plan, and provided such use is approved by the county flood control and water conservation district and/or public works agency.
 5. Any waters discharged from the site to adjacent lands, streams, or bodies of water or to any groundwater body shall meet all applicable water quality standards of the regional water quality control board and any other agency with authority over such discharges. Records of any water quality monitoring conducted in conjunction with the requirements of such agency or agencies shall be made available to the director of community development and the director of public works on request. Discharges of water to designated on-site settling ponds or desilting basins shall not be deemed to be in violation of this chapter solely on the basis of sediment content.
- H. Erosion, Sedimentation and Pollutant Discharge.
1. During the period mining operations are being conducted, and prior to final reclamation of mined lands, the operator shall take measures to prevent erosion of adjacent lands from water discharged from the site of mining operations and the off-site discharge of sediment. Such measures may include the construction of properly designed retarding basins, settling ponds and other water treatment facilities, ditches, diking and revegetation of slopes. No discharge of sediment to off-site bodies of water shall be permitted that will result in higher concentrations of silt than existed in off-site waters prior to mining operations.
 2. Stockpiles of overburden and minerals shall be managed to minimize water and wind erosion.
 3. The removal of vegetation and overburden in advance of surface mining shall be kept to a minimum.
- I. Control of Noise, Dust and Bright Lights. All activities of mining and processing minerals shall be conducted in a manner that noise, dust and bright lights do not exceed levels compatible with the uses of adjacent lands as determined by the planning commission in the issuance of the surface mining permit or as a result of its periodic review of any permit.
- J. Salvage of Topsoil. Topsoil suitable for use in revegetation shall be stockpiled at the site of mining operations in an amount up to that necessary for future reclamation.

- K. Hours of Operation. Hours during which mining operations and processing of minerals may be conducted shall be established by the planning commission in approving any permit. Such hours of operation shall be set to minimize conflict between the operations and other uses conducted in the immediate area.
- L. Boundary Markers. The property approved for mining operations shall be prominently and permanently marked. Where property lines cannot otherwise be determined, their location shall be established by survey by a registered civil engineer or licensed surveyor. The requirement for boundary markers may be waived by the planning commission where excavation will not occur within one thousand (1,000) feet of the property boundary.
- M. Groundwater Use. All groundwater lost by pond evaporation and by export with the product in the mining operation and related activities shall be determined with reasonable accuracy and recorded annually. Said information shall be made available to the director of community development and the director of public works if required.

(Ord. 2003-61 (part); Ord. 99-60 (part): prior gen. code § 8-119.0)

[\(Ord. No. 2012-4, § 19—21, 1-10-12\)](#)

6.80.220 - Ingress, egress and traffic safety.

Access roads used for transporting minerals from areas of mining operations to county roads shall be located only at points designated by the planning commission.

A complete plan or plans of the proposed construction at the intersection of each access road with a county road shall be submitted to the director of public works for review and recommendation to the planning commission. An encroachment permit shall be obtained from the director of public works prior to performing any work within a county road right-of-way.

Adequate sight distances shall be maintained, turning radii shall be sufficient to facilitate turning of the largest anticipated trucks, and, where necessary, a deceleration lane from the county road shall be provided for right turn movements into an access road, and a left turn lane provided to facilitate turns from the county road into the access road. A length of not less than one hundred (100) feet of the access road shall be paved to county standards from its intersection with a county road. The width of the paved area shall not be less than twenty-four (24) feet.

Traffic control devices, including signs and pavement markings at the access road entrance, and additional signing or marking on the county road to warn of the approaching access road, shall be provided as determined necessary. All such work shall be provided, and may be required to be maintained, at the permittee's and/or operator's expense.

During hauling operations, any spillage of materials on county roads shall be promptly and completely removed.

(Ord. 2003-61 (part); Ord. 99-60 (part): prior gen. code § 8-119.1)

6.80.230 - Intermittent operation.

Whenever surface mining operations are conducted on an intermittent basis, with one or more years between operating periods, the following procedures shall be followed:

- A. Interim Management Plans.
 - 1. General. Within ninety (90) days of a surface mining operation becoming idle, the operator shall submit to the community development agency a proposed interim management plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but

not limited to all surface mining permit conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the community development agency, and shall be processed as an amendment to the reclamation plan, with review and consideration of comments by the director of community development or the deputy director designee and other county agencies. IMPs shall not be considered a project for the purposes of environmental review.

2. Financial Assurances. Financial assurances for idle operations shall be maintained as though the operation were active, or as otherwise approved through the idle mine's IMP.
 3. State Review. Upon receipt of a complete proposed IMP, the community development agency shall forward the IMP to the State Department of Conservation for review. The IMP shall be submitted to the State Department of Conservation at least thirty (30) days prior to approval.
 4. Review Process. Within sixty (60) days of receipt of the proposed IMP, or a longer period mutually agreed upon by the director of community development or the deputy director designee and the operator, the planning commission shall review and act upon the IMP in accordance with this chapter. If denied, the operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator and the director of community development or the deputy director designee, to submit a revised IMP. The planning commission shall act upon the revised IMP within sixty (60) days of receipt. If the planning commission denies the revised IMP or approves the IMP with conditions with which the operator disagrees, the operator may appeal the action to the board of supervisors within ten calendar days of the decision of the planning commission.
 5. Length of Term. The IMP may remain in effect for a period not to exceed five years, at which time the planning commission may renew the IMP for another period not to exceed five years, or require the operator to commence reclamation in accordance with its approved reclamation plan.
- B. Closing Down. The operator shall notify the director of community development of the intention to close down operations at least thirty (30) days prior to such action. The director of community development or his/her agent shall inspect the site, notify the operator of what protective devices or structures and what corrective measures are or may be necessary for the protection of adjacent properties, environmental resources, and the general public, according to the approved interim management plan, and take appropriate steps to see that necessary corrections are made.
- C. Starting Up. At least thirty (30) days before starting up inoperative mining operations, the operator shall notify the director of community development and his/her agent, who shall inspect the site. Operations shall not recommence until the director of community development or the deputy director designee has determined that all requirements of the operation's surface mining permit and this chapter are met and has authorized such commencement.

(Ord. 2003-61 (part); Ord. 99-60 (part): prior gen. code § 8-119.2)

[\(Ord. No. 2012-4, § 22, 1-10-12\)](#)

6.80.240 - Reclamation and reclamation plans.

- A. General Requirements. All reclamation plans shall comply with the provisions of SMARA (§ 2772 and § 2773 as may be amended), state regulations (CCR § 3500-3505 as may be amended) and the requirements of this chapter. Reclamation plans approved after January 15, 1993, reclamation plans for proposed new mining operations, and any substantial amendments to previously approved reclamation plans, shall also comply with the requirements for reclamation performance standards

(CCR § 3700-3713 as may be amended). Reclamation of mined lands shall be carried out in accordance with the requirements of this chapter, the approved reclamation plan and state policy. The operator shall guarantee all reclamation work accomplished for any period as may be determined necessary by the planning commission to assure the permanency of any or all physical reclamation features and standards.

- B. Progressive and Interim Reclamation. Reclamation of mined lands shall take place as soon as practical following completion of mining operations at successive locations within the mining site as specified by the planning commission in the approval of the reclamation plan. 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) criteria for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation.
- C. Disposal of Overburden and Mining Waste.
 - 1. Permanent piles or dumps of overburden and waste rock placed on the land surface shall be made stable, shall not block natural drainage without provision for diversion, shall have an overall smooth or even profile and, where practical, shall be placed in the least visible location. Old equipment and similar inert mining wastes shall be removed or buried. Toxic materials shall be removed or protected to prevent leaching.
 - 2. Overburden and mining waste placed below the existing or potential groundwater level shall not reduce the transmissivity or area through which water may flow unless approved equivalent transmissivity or area has been provided elsewhere.
- D. Drainage, Erosion and Sediment Control.
 - 1. Any temporary stream or watershed diversion shall be restored in final reclamation unless determined unnecessary by the planning commission based on recommendation of the county flood control and water conservation district and/or public works agency.
 - 2. Regrading and revegetation shall be designed and carried out to minimize erosion, provide for drainage to natural outlets or interior basins designed for water storage, and to eliminate potholes and similar catchments that could serve as breeding areas for mosquitoes.
 - 3. Silt basins which will store water during periods of surface runoff shall be equipped with sediment control and removal facilities and protected spillways designed to minimize erosion when such basins have outlet to lower ground.
 - 4. Final grading and drainage shall be designed in a manner to prevent discharge of sediment above natural levels existent prior to mining operations.
 - 5. Upon reclamation, no condition shall remain that will or could lead to the degradation of water quality below applicable standards of the regional water quality control board or any other agency with authority over water quality.
- E. Final Slope Gradient. Final slopes shall be of such gradient as necessary to provide for slope stability, maintenance of required vegetation, public safety, and the control of drainage, as may be determined by engineering analysis of soils and geologic conditions and by taking into account probable future uses of the site. Final slopes shall not be steeper than two feet horizontal to one foot vertical (2:1) unless the applicant can demonstrate to the satisfaction of the planning commission that any such steeper slope will not:
 - 1. Be incompatible with the alternate future uses approved for the site;
 - 2. Be hazardous to persons that may utilize the site under the alternate future uses approved for the site; and

3. Reduce the effectiveness of revegetation and erosion control measures where such are necessary.

In no event shall the steepness of slopes exceed the critical gradient as determined by an engineering analysis of the slope stability.

- F. Backfilling and Grading. Backfilled and graded areas shall be compacted to avoid excessive settlement and to the degree necessary to accommodate anticipated future uses. If future use of the site contemplates structures for human occupancy, fill placement shall conform to the Uniform Building Code except that alternate methods of backfilling and grading may be utilized when incorporated in the approved reclamation plan. Material used in refilling shall be of a quality suitable to prevent contamination and pollution of groundwater.
- G. Resoiling. Resoiling shall be accomplished in the following manner: coarse, hard material shall be graded and covered with a layer of finer material or weathered waste and a soil layer then placed on this prepared surface. Where quantities of available soils are inadequate to provide cover, native materials should be upgraded to the extent feasible for this purpose.
- H. Revegetation. All permanently exposed lands that have been denuded by mining operations shall be revegetated unless any such revegetation is determined by the planning commission to be technically infeasible or not beneficial with respect to the intent of this chapter. Revegetation methods and plant materials utilized shall be appropriate for the topographical, soil and eliminate conditions present at the site. Native species shall be used wherever practical.
- I. Ponds, lakes or bodies of water created as a feature of the reclamation plan shall be approved by the county flood control and water conservation district, the health care services agency and the mosquito abatement district.
- J. Additional Requirements. The county may impose additional performance standards as developed either in review of individual projects, as warranted, or through the formulation and adoption of county-wide performance standards.

(Ord. 2003-61 (part); Ord. 99-60 (part): prior gen. code § 8-119.3)

6.80.241 - Financial assurances.

- A. General. As a condition of each approved surface mining permit, the county shall require financial assurances security that which that reclamation will precede in accordance with the approved reclamation plan. All financial assurances will be released upon satisfactory performance. The applicant may propose financial assurances 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 Department of Conservation 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 reclamation plan. Financial assurances shall be made payable to the county of Alameda and the State Department of Conservation.
- B. Requirement. Prior to the commencement of the surface mining operation, the operator shall post with the director of community development a financial assurance. Financial assurances shall be required to ensure compliance with elements of the reclamation plan, including but not limited to, revegetation and landscaping requirements, tailing and mine waste management, restoration of aquatic or wildlife habitat, stream protection and 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 Estimate Review. Cost estimates for the financial assurance shall be submitted to the community development agency for review and approval prior to the operator securing financial assurances. The director of community development or the deputy director designee 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 forty-five (45) days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the county has reason to determine that additional costs may be incurred. The director of community development shall have the discretion to approve the financial assurance if it meets the requirements of this chapter, SMARA, and state regulations.

- D. Calculation of Cost Estimates. The amount of the financial assurance shall be based upon the estimated costs of reclamation for the years or phases stipulated in the approved reclamation plan, including any maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities since January 1, 1976, and new lands to be disturbed by surface mining activities in the upcoming year. Cost estimates shall be prepared by a state registered and licensed professional engineer and/or other similarly licensed and qualified professionals retained by the operator and approved by the director of community development or the deputy director designee. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved reclamation plan, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs. Financial assurances to ensure compliance with revegetation, stream protection and restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved reclamation plan shall be based upon cost estimates that include but may not be limited to labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator other than the permittee. A contingency factor of ten percent shall be added to the cost of financial assurances.
- E. Abandonment. 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/or permittee and, consequently, the county or the State Department of Conservation may need to contract with a third party commercial company for reclamation of the site.
- F. Term of Financial Assurance. 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). Financial assurance shall be maintained for idle surface mining operations as though the operations were active.
- G. Annual Adjustment. 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 and/or operator may not claim credit for reclamation scheduled for completion during the coming year. Said adjustment shall be based upon an independent estimate derived from a survey by a qualified professional paid for by the operator.
- H. Revisions. Revisions to financial assurances shall be submitted to the director of community development 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.
- I. Forfeiture procedures—County. If the planning commission, following a public hearing in accordance with the procedures set forth in Section 6.80.094 of this chapter, determines that the permittee is financially incapable of performing reclamation in accordance with its approved reclamation plan or has abandoned its surface mining operation without commencing reclamation, the director of community development shall:
 - 1. Notify the operator by personal service or certified mail that the county intends to take appropriate action to forfeit the financial assurance and specify the reasons for so doing.

2. Allow the operator sixty (60) days after notification to commence or cause the commencement of reclamation in accordance with its approved reclamation plan and require that reclamation be completed within the time limits specified in the approved reclamation plan or some other time mutually agreed upon by the director of community development and the operator.
 3. Proceed to take appropriate action to require forfeiture of the financial assurance if the operator does not comply with the provisions of subsection 2.
 4. Use the proceeds from the forfeited financial assurance to conduct and complete reclamation in accordance with the approved reclamation plan. The operator shall be responsible for the costs of conducting and completing reclamation in accordance with the approved reclamation plan which are in excess of the proceeds from the forfeited financial assurance.
 5. Upon completion of reclamation in accordance with the approved reclamation plan, the financial assurance shall be released. Written notification of the release shall be provided to the operator and director of the department of conservation.
- J. Credit for Reclamation Completed—Owner Transfers. Financial assurances shall no longer be required of a surface mining operation, and shall be released, upon written notification by the community development agency, which shall be forwarded to the operator and the director of the department of conservation, that reclamation has been completed in accordance with the approved reclamation plan.

If a 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 county until new financial assurances are secured from the new owner and have been approved by the director of community development in accordance with this chapter, SMARA, and state regulations.

- K. Forfeiture of Financial Assurance—Procedures by the State Mining and Geology Board. The community development agency shall have primary responsibility to seek forfeiture of financial assurances and to reclaim mine sites. Where the State Mining and Geology Board (SMGB) is not the lead agency pursuant to SMARA Section 2774.4, the SMGB director may act to seek forfeiture of financial assurances and reclaim mine sites only if both of the following occurs:
1. The financial incapability of the operator or the abandonment of the mining operation has come to the attention of the director.
 2. The county has been notified in writing by the director of the financial incapability of the operator or the abandonment of the mining operation for at least fifteen (15) days, and has not taken appropriate measures to seek forfeiture of the financial assurances and reclaim the mine site; provided one or more provisions in subsections 3, 4 or 5 has occurred.
 3. The county has been notified in writing by the director that failure to take appropriate measures to seek forfeiture of the financial assurances or to reclaim the mine site shall result in actions being taken against the county under SMARA Section 2774.4.
 4. The director determines that there is a violation that amounts to an imminent and substantial endangerment to the public health, safety, or to the environment.
 5. The county notifies the director in writing that its good faith attempts to seek forfeiture of the financial assurances have not been successful.

(Ord. 99-60 (part))

[\(Ord. No. 2012-4, § 23, 1-10-12\)](#)

6.80.242 - Administrative fees.

- A. Each operator of a permitted surface mine in Alameda County shall pay an administrative fee of \$0.045 per ton beginning January 1, 2003, \$0.06 per ton beginning January 1, 2004, and \$0.075 per ton beginning January 1, 2005, for aggregate material sold, including gravel, sorted and/or crushed rock, sand, crushed shale or dirt, and also including any component mass of asphalt and concrete products consisting of these materials to the community development agency to help cover the agency's costs in administering Alameda County's surface mining, reclamation and associated programs. This administrative fee shall begin to accrue as provided above on the 31st day of following approval of this section, and shall be paid into an agency account annually on January 31 of each year, beginning 2003, and no specific initial balance shall be required. The quantity of aggregate on which the administrative fee is based shall be the total volume (tonnage) of material sold from January 1 through December 31 of the previous year. The amount of the administrative fee may be renegotiated with the Alameda County quarry operators group every five years commencing in 2008.
- B. This administrative fee shall, upon commencement of accrual, supersede and replace any and all community development agency and public works agency administrative fees required as conditions of approval for specific active surface mining permits, and the conditions of approval that require any such fees or surcharges shall be voided and deleted. Prior to that time, all fees accrued under all existing programs as prescribed for individual permits shall still be paid to the community development agency.

(Ord. 2003-61 (part))

[\(Ord. No. 2012-4, § 24, 1-10-12; Ord. No. 2014-21, § 2, 5-6-14\)](#)

6.80.243 - Appeal to board of supervisors.

An appeal may be taken to the board of supervisors within ten days after the date of any order made by the planning commission following a public hearing in accordance with the procedures set forth in Section 6.80.094 of this chapter; otherwise all planning commission decisions are final.

[\(Ord. No. 2012-4, § 25, 1-10-12\)](#)

Article V - Compliance

6.80.250 - Responsibility to comply.

In case the owner or other responsible person shall fail, neglect or refuse to perform the required corrections, maintenance or repairs after being notified in writing to do so by the director, the director of community development or the deputy director designee shall have recourse to all remedies permitted by law to secure compliance.

(Ord. 2003-61 (part); Ord. 99-60 (part): prior gen. code § 8-121.0)

[\(Ord. No. 2012-4, § 26, 1-10-12\)](#)

6.80.260 - Enforcement.

- A. Duty of Director. It is the duty of the director of community development of Alameda County or the deputy director designee to enforce the provisions of this chapter. For such purpose, he/she shall have the powers of a police officer.
- B. Periodic Inspection of Operations. As a condition of issuing a surface mining permit and approving a reclamation plan, the planning commission shall establish a schedule for periodic inspection by the director of community development or his agent of the mining operations and reclamation to determine and assure continuing compliance with these regulations. The interval between inspections shall not be greater than one year. The director of community development or the deputy director designee may require the operator to submit such information to him/her as necessary to determine compliance.

Whenever the director of community development or the deputy director designee determines, in the course of periodic inspections carried out under subsection B, that the mining operations are not in compliance with the terms of the surface mining permit or the approved reclamation plan, or that the soil or other conditions are not as stated on the permit, he/she shall notify the permittee and/or operator of such fact in writing demanding compliance within a reasonable time from the date of such notice. If the permittee and/or operator has not, within the stated time, complied with the terms of the permit or the approved reclamation plan or the requirements of this chapter, or given reasonable assurances that such steps are being taken to comply, the director of community development or the deputy director designee may order the cessation of all work or any portion thereof, and such work shall cease until the requirements of the permit or reclamation plan or this chapter are met. The director of community development or the deputy director designee also shall have recourse to any other remedy permitted by law to secure compliance.

- C. Inspection Fee. The cost of inspection shall be covered fully by the administrative fee set forth in Section 6.80.242 of this code.

(Ord. 2003-61 (part); Ord. 99-60 (part): prior gen. code § 8-121.1)

[\(Ord. No. 2012-4, § 27, 1-10-12\)](#)

6.80.270 - Revocation or suspension of surface mining permit.

Any surface mining permit granted under the provisions of this chapter shall be subject to revocation or suspension by the planning commission, for cause, and in the following manner:

- A. Notice. The matter of revocation or suspension shall be set for a public hearing not less than ten days nor more than thirty (30) days thereafter, notice of which shall be posted on said property and a copy thereof shall be served upon the operator/permittee, either personally or by certified mail to its last known address, not less than ten days prior to the said hearing, which said notice shall specify wherein the permittee has failed to comply with this chapter or conditions specified in the surface mining permit or the approved reclamation plan, and shall require the operator/permittee to appear at said hearing on the date and hour specified at which time evidence both for and against the revocation of said permit may be offered and shall be considered by the commission.
- B. Hearing. Upon the date set for hearing, the planning commission shall hear all charges against said operator/permittee. At the hearing, the operator/permittee shall have the right to appear in person or by counsel and to introduce evidence in opposition to such revocation or suspension.
- C. Action by Planning Commission and Board of Supervisors. After said hearing, the planning commission shall report in writing to the board of supervisors that it has held the hearing; said report shall contain a statement of any and all findings and recommendations made by the commission. The board of supervisors shall set the matter for hearing and shall give written notice thereof to the permittee. After the conclusion of its hearing, the board may affirm, modify, or reject the recommendation of the planning commission. Any action of the board shall be

based upon the commission's report and any other evidence produced at the board's hearing. Where appropriate, a further appeal may be taken by the permittee to the State Mining and Geology Board as specified by Section 6.80.200 of this chapter.

(Ord. 99-60 (part): prior gen. code § 8-121.2)

6.80.280 - Violation—Penalty.

- A. If the director of community development or the deputy director designee, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this chapter, the applicable surface mining permit, any required permit and/or the reclamation plan, the county shall follow the procedures set forth in Public Resources Code, Sections 2774.1 and 2774.2 as amended concerning violations and penalties, as well as provisions of this chapter for revocation and/or abandonment of a surface mining permit which are not preempted by SMARA.
- B. In addition to the penalties provided in this chapter, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance, and the county may act to summarily abate such conditions as specified in Section 6.80.290 of this chapter.
- C. The director of community development or the deputy director designee shall have the power to designate by written order that particular officers or employees shall be authorized to enforce particular provisions of this chapter; these authorized employees or officers shall be known as enforcement officers. Enforcement officers shall have the authority to arrest persons who violate any of said provisions and to enforce abatement regulations of the county as described in Sections 6.80.290 and 6.80.300 of this chapter.
- D. The planning director shall have the power to designate by written order that particular officers or employees shall be authorized to enforce particular provisions of this chapter; these authorized employees or officers shall be known as enforcement officers. Enforcement officers shall have the authority to arrest persons who violate any of said provisions and to enforce abatement regulations of the county as described in Sections 6.80.290 and 6.80.300 of this chapter.

(Ord. 2003-61 (part); Ord. 99-60 (part): prior gen. code § 8-123.0)

[\(Ord. No. 2012-4, §§ 28, 29, 1-10-12\)](#)

6.80.290 - Abatement by county.

If such nuisance as defined in Section 6.80.280B is not abated as ordered within said abatement period, the enforcement officer shall cause the same to be abated by county employees or private contract. The enforcement officer, county employees or private contractor are expressly authorized to enter upon said property for such purposes. The cost, including incidental expenses, of abating the nuisance shall be billed to the owner and shall become due and payable to the enforcement agency thirty (30) calendar days thereafter. The term "incidental expenses" shall include, but not be limited to, personnel costs, both direct and indirect, including attorney's fees; costs incurred in documenting the nuisance; the actual expenses and costs of the county in the preparation of notices, specifications and contracts, and in inspecting the work; and the costs of printing and mailing notices required herein. No person(s) shall obstruct, impede, or interfere with the enforcement officer, or designated representative, or with any person who owns or holds any interest or estate in any property in the performance of any necessary act, preliminary to or incidental, carrying out an abatement order issued pursuant to this chapter.

(Ord. 99-60 (part))

