ARTICLE III. REVIEW AND ENFORCEMENT

Sec. 29-30. Enforcement

(a) Alleged violations of this chapter shall be heard by the planning commission of the County of Solano in order for the commission to determine and recommend proper remedies.

(b) If the lead agency determines that the operator is not in compliance with statutory provisions or the provisions of this ordinance, the lead agency may notify the operator of that violation by personal service or certified mail. If the violation extends beyond 30 days after the date of the lead agency's notification, the lead agency may issue an order by personal service or certified mail requiring the operator to comply with this chapter or, if the operator does not have an approved reclamation plan, cease all further mining activities.

(c) An order issued under subdivision (b) shall not take effect until the operator has been provided a hearing before the lead agency concerning the alleged violation. Any order issued under subdivision (a) shall specify which aspects of the surface mine's activities or operations are inconsistent with this chapter, shall specify a time for compliance which the lead agency determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements, and shall set a date for the hearing, which shall not be sooner than 30 days after the date of the order.

(d) The conducting of any surface mining operation which requires a reclamation plan and/or use permit pursuant to this chapter without such an approved reclamation plan and/or use permit shall be unlawful and constitute a public nuisance, and an action or proceeding for abatement, removal or injunction may be commenced as set forth in section 28-66 of this Code.

(e) Notwithstanding the foregoing, a violation of this chapter may be enforced by the County of Solano by the use of any legal or equitable remedy; such county may have.

(Ord. No. 1036, §1; Ord. No. 1415, §1)

Sec. 29-31. Penalties

Any operator who violates or fails to comply with an order issued under the enforcement provisions of this ordinance after the order's effective date, as provided for herein, or who fails to submit a report to the State Geologist or lead agency as required by Public Resources Code § 2207, shall be subject to an order by the lead agency imposing an administrative penalty of not more than five thousand dollars ($5,000) per day, assessed from the original date of noncompliance. The penalty may be imposed administratively by the lead agency. In determining the amount of the administrative penalty, the lead agency shall take into consideration the nature, circumstances, extent, and gravity of the violation or

violations, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and any other matters justice may require. Orders setting administrative penalties shall become effective upon issuance thereof and payment shall be made to the lead agency within 30 days, unless the operator petitions the board of supervisors or the superior court for review. Any order shall be served by personal service or by certified mail upon the operator.

(Ord. No. 1415, §1)

Sec. 29-32. Appeal

Any person aggrieved by an act or determination of the zoning administrator or planning commission in the exercise of the authority granted herein shall have the right to appeal to the planning commission or the board of supervisors, whichever is the next higher authority. Any appeal must be filed, in writing, within ten days of the decision creating the grievance. Any operator who is aggrieved by an order of the board of supervisors may obtain review of the order by filing in the superior court a petition for writ of mandate within 30 days following the issuance of the decision, pursuant to Public Resources Code § 2774.2(e).

(Ord. No. 1036, §1; Ord. No. 1415, §1)

Sec. 29-33. 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 the chapter.

(Ord. No. 1036, §1; Ord. No. 1415, §1)