

## Chapter 11

### GRAVEL MINING FEE ORDINANCE

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#### Sections:

- 10-11.01 Establishment of fees.
- 10-11.02 Purpose and use of fees.
- 10-11.03 Determination of reasonable relationship.
- 10-11.04 Applicability of ordinance.
- 10-11.05 Calculation and verification of fees.
- 10-11.06 Payment.
- 10-11.07 Deleted.
- 10-11.08 Minimum annual fee payment.
- 10-11.09 Credits for in-lieu work.
- 10-11.10 Late charge (penalties).
- 10-11.11 Accounting procedures.
- 10-11.12 Reimbursement.
- 10-11.13 Update.
- 10-11.14 Exemptions.

#### **Section 10-11.01. Establishment of fees.**

(a) There are hereby adopted and established the following five Yolo County aggregate mining fees which shall be imposed and administered in accordance with this chapter:

- (1) The CCRMP Implementation (Creek Stabilization) Fee of \$0.25 per ton of aggregate material sold.
- (2) The Maintenance and Remediation Fee of \$0.02 per ton of aggregate material sold.
- (3) The OCMP Administration Fee of \$0.08 per ton of aggregate material sold.
- (4) The Cache Creek Conservancy Contribution (Habitat Restoration) Fee of \$0.10 per ton of aggregate material sold.
- (5) The Twenty Percent Production Exception Surcharge of \$0.20 per ton of aggregate material sold in excess of the approved annual permitted production.

(b) The fees identified in items (1) through (4) above are mandatory fees totaling \$0.45 per ton that apply as described herein to all aggregate materials sold after January 1, 2007 in the unincorporated areas of Yolo County along Cache Creek. These fees shall collectively be known as the Gravel Mining Fees. The fee identified in item (5) is also mandatory but only applies to mining over a specified limit as described in Section 10-11.02(e).

(c) The fees described in items (1) through (4) above shall be adjusted annually on January 1 as follows, distributed proportionally among the four fees based on the 2007 ratio. The fee described in item (5) shall remain a flat fee.

January 1, 2007	\$0.450 cents per ton (beginning April 1 for 2007 only)
January 1, 2008	\$0.468 cents per ton
January 1, 2009	\$0.487 cents per ton
January 1, 2010	\$0.506 cents per ton
January 1, 2011	\$0.526 cents per ton
January 1, 2012	No adjustment (fees remain at \$0.526 cents per ton)
January 1, 2013	\$0.470 cents per ton

Commencing on January 1, 2014, and each year thereafter through and including a final adjustment on January 1, 2026, the fees applicable to gravel sold during that calendar year shall increase at a rate of four percent. For example, this means that the fees shall rise on January 1, 2014 by four percent to \$0.489 cents per ton for gravel sold during the calendar year, and an additional four percent to \$0.508 cents per ton on January 1, 2015 for gravel sold during the 2015 calendar year.

January 1, 2014	\$0.489 per ton
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January 1, 2015	\$0.508 per ton
January 1, 2016	\$0.529 per ton
January 1, 2017	\$0.550 per ton
January 1, 2018	\$0.572 per ton
January 1, 2019	\$0.595 per ton
January 1, 2020	\$0.618 per ton
January 1, 2021	\$0.643 per ton
January 1, 2022	\$0.669 per ton
January 1, 2023	\$0.696 per ton
January 1, 2024	\$0.724 per ton
January 1, 2025	\$0.752 per ton
January 1, 2026	\$0.783 per ton

(§ 1, Ord. 1196, eff. January 1, 1997, as amended by § 2, Ord. 1430, eff. July 4, 2013, § 2, Ord. 1437, eff. January 2, 2014, § 2, Ord. 1445, eff. August 14, 2014, Ord. 1518, eff. February 13, 2020, and § 2, Ord. 1527, eff. November 5, 2020)

**Sec. 10-11.02. Purpose and use of fees.**

(a) The purpose of the CCRMP Implementation Fee is to fund implementation of the CCRMP and CCIP, including but not limited to:

- (1) Design and construction of projects for channel stabilization and bridge protection.
- (2) Design and construction/ implementation of channel maintenance projects and activities.
- (3) Monitoring, modeling, and flood watch as described in the CCIP.
- (4) Compensation of the Technical Advisory Committee.

(b) The purpose of the Maintenance and Remediation Fee is to fund a long-term, interest-bearing account for the following future activities (as identified in Section 10-4.803 [Mining Ordinance] of the County Code ):

- (1) Remediation of problems related to mercury bioaccumulation in wildlife, should they occur.
- (2) Remediation of hazardous materials contamination, should it occur.
- (3) Environmental monitoring including data gathering and groundwater modeling beyond, or as an extension of, that required by the operators under the CCAP and permits issued or extended under the CCAP, should it be necessary.
- (4) Ongoing site maintenance of publicly held reclaimed lakes including but not limited to fencing, berms, drainage, and levees.

No expenditures may be drawn from the Maintenance and Remediation fund for thirty (30) years. Starting in January 2027, the fund shall be made available for the activities identified above under 10-11.02(b). In January 2047, the County shall determine whether the fund is still merited. If it is determined that supplemental monitoring, maintenance, and/or remediation is no longer required or merited, then the entire fund shall be made available for implementation of the goals of the CCAP, such as the creation of long-term habitat restoration, the creation of open space and passive recreation opportunities, and restoration and stabilization of Cache Creek.

Any disbursement of money from the maintenance and remediation fund shall require approval by the Board of Supervisors. Use of this fund for any purpose other than those specified herein is expressly prohibited.

(c) The purpose of the OCMP Administration Fee is to:

- (1) Implement the OCMP.
- (2) Administer long-term mining permits.
- (3) Administer development agreements.
- (4) Inspect mining and reclamation operations. This applies to inspections required of all permitted operations, up to a set maximum value, beyond which operators will be billed directly at cost. Inspections specific to individual operations shall be billed directly at cost.

(d) The purpose of the Cache Creek Conservancy Contribution (Habitat Restoration) Fee is to fund activities that promote and facilitate the restoration, enhancement, conservation, and wise management of natural vegetation and wildlife habitat within the lower Cache Creek watershed (between Capay Dam and the Town of Yolo), consistent with the CCRMP and the Conservancy's mission to preserve, restore, and enhance the Cache Creek watershed.

(e) The purpose of the Twenty Percent Production Exception Surcharge fee is to offset additional costs anticipated with mining allowed in excess of approved annual permitted production, pursuant to Action 2.4-12 of the OCMP and Section 10-4.405 of the Off-Channel Mining Ordinance, to meet temporary increases in market demand. The revenue is to be directed as follows:

- (1) Fifty (50) percent to the CCRMP Implementation fund.
- (2) Fifty (50) percent to the Maintenance and Remediation Fund.

(f) The County shall review fee revenue and expenditures no less frequently than biennially, to verify that program activities and expenditures fall within the scope of this section, and to verify deposits into appropriate funds, as described herein. (§ 1, Ord. 1196, eff. January 1, 1999; as amended by § 2, Ord. 1357, eff. April 26, 2007; § 2, Ord. 1397, eff. April 15, 2010; § 2, Ord. 1445, eff. August 14, 2014; and Ord. 1518, eff. February 13, 2020)

#### **Sec. 10-11.03. Determination of reasonable relationship.**

In the course of adopting the various components that comprise the CCAP, the County has determined that there is a reasonable relationship between the fees identified herein, the use to which they are to be put, and the applicability of charging said fees of permit holders. These relationships can be generally summarized as follows:

(a) *CCRMP Implementation Fee and Cache Creek Conservancy Contribution.* The Streamway Influence Boundary (page 21 of Final OCMP; page 10 of Final CCRMP) defines the area which has historically been occupied by Cache Creek, and where land uses continue to have an effect on streamflow. Left to natural forces, the channel would attempt to reclaim the entire area shown within the Streamway Influence Boundary. The Streamway Influence Boundary, therefore, is that area adjoining the creek within which the active creek channel may have an influence, and within which land uses adjoining the creek may have an influence on the creek. There is a spatial, hydrologic, and geologic connection between these areas. The area designated for off-channel mining is located within or in relevant proximity to the Streamway Influence Boundary, thereby establishing the nexus for funding of programs by Permit Holders, to offset the potential for influence between the two.

(b) *Maintenance and remediation fee.* This “contingency” fund offsets the risk of encountering costs after reclamation, associated with remediation, monitoring, and/or maintenance of permanent lakes resulting from deep mining, thereby establishing the nexus for funding by Permit Holders mining within the groundwater table.

(c) *OCMP administration fee.* The OCMP is a mining plan prepared and adopted for the purpose of regulating off-channel aggregate resources. This fee reimburses the County for administrative costs of implementing the Plan, from which Permit Holders receive direct benefits, thereby establishing the nexus for funding by Permit Holders.

(d) *Twenty percent production exception surcharge fee.* Extraction within or adjacent to the Streamway Influence Boundary, in excess of approved annual permitted production, increases the potential for influence between off-channel mining and Cache Creek. This fund offsets that potential and therefore fifty (50%) percent would be used primarily to supplement the CCRMP Implementation fund. The increased extraction addressed by this fee also increases the potential risk of encountering costs after reclamation, associated with remediation, monitoring, and/or maintenance of permanent lakes resulting from deep mining. This fund offsets that potential and therefore the remaining fifty (50%) percent would be used to supplement the Maintenance and Remediation Fund. (§ 1, Ord. 1196, eff. January 1, 1997; as amended by § 2, Ord. 1357, eff. April 26, 2007, § 2, Ord. 1445, eff. August 14, 2014, and Ord. 1518, eff. February 13, 2020)

#### **Sec. 10-11.04. Applicability of Ordinance.**

This Ordinance and the fees established herein shall apply to all aggregate materials sold or transferred to affiliates or subsidiaries after December 31, 1996, pursuant to any permit granted, modified, or extended by the County for the commercial extraction or processing of aggregate materials within the planning boundaries established in the (§ 1, Ord. 1196, eff. January 1, 1997; as amended by § 2, Ord. 1357, eff. April 26, 2007, § 2, Ord. 1445, eff. August 14, 2014, and Ord. 1518, eff. February 13, 2020)

#### **Sec. 10-11.05. Calculation and Verification of Fees.**

(a) Fees shall be calculated based on sales in the previous calendar year as reported annually to the County Assessor by April 1. If an operator fails to report its sales to the County Assessor by April 1, the County may make a reasonable estimate of the sales of that company, which estimate shall be binding for the purposes of this Ordinance, unless it is later demonstrated that sales were underreported. In such case, fees shall be recalculated and the under-reported amount due and payable immediately with penalties of ten (10%) percent.

(b) The County shall audit the tonnage claims and revenue deposits no less frequently than biennially, to verify that the amount of revenue correctly reflects actual tonnages sold, and to verify deposits into appropriate funds, as described herein. (§ 1, Ord. 1196, eff. January 1, 1997; as amended by § 2, Ord. 1357, eff. April 26, 2007, § 2, Ord. 1445, eff. August 14, 2014, and Ord. 1518, eff. February 13, 2020)

#### **Sec. 10-11.06. Payment.**

(a) Fee payments are due and payable quarterly on the following dates: March 30, June 30, September 30, and December 30. The County shall send a statement of the amount owed under this agreement to each holder of a permit (Permit Holder) granted or extended by the County after November 1, 1996 for the commercial extraction of aggregate

materials within the planning boundaries of the CCAP, at least thirty (30) days prior to the payment due dates.

(b) Fee payments for the CCRMP Implementation Fee, the Maintenance and Remediation Fee, the OCMP Administration Fee, and the Exception Surcharge shall be made directly to the County Administrative Office for distribution as follows:

(1) The CCRMP Implementation Fee, the OCMP Administration Fee, and fifty (50%) percent of the Exception Surcharge may be deposited into the same account for use as described in Section 10-11.02.

(2) The Maintenance and Remediation Fee and the remaining fifty (50%) percent of the Exception Surcharge shall be deposited into a separate, long-term interest-bearing account, with restrictions on access and use that are consistent with the purpose of the fund as described in Section 10-11.02(b).

(3) The Cache Creek Conservancy Fee shall be paid directly to the Conservancy. If the Conservancy is not operating, the fee shall be paid to the County for expenditure by the County for the purposes identified in Section 10-11.02(d) of this Ordinance. (§ 1, Ord. 1196, eff. January 1, 1997; as amended by § 2, Ord. 1357, eff. April 26, 2007, § 2, Ord. 1445, eff. August 14, 2014, and Ord. 1518, eff. February 13, 2020)

**Sec. 10-11.07. Deleted.**

(deleted by Ord. 1518, eff. February 13, 2020)

**Sec. 10-11.08. Minimum annual fee payment.**

Notwithstanding the actual tonnage sold in any one year by a permit holder, or any of the provisions of this Ordinance, a minimum annual base fee amount of Fifty Thousand and no/100ths (\$50,000.00) Dollars per permitted operation that is authorized at the time to mine, is required by the County by June 30 of each year, in order to minimally administer the CCAP. This requirement applies whether a site is active or idle. Sites that are not being mined and are under active reclamation would not be subject to this minimum fee. The payment of this amount shall be invoiced to each permit holder based on approved annual permitted production. Each permit holder shall receive credit for this amount against their December payment.

Notwithstanding any other provision of this chapter, the first Fifty Thousand and no/100ths (\$50,000.00) Dollars in either the OCMP Administration Fund, the CCRMP Implementation Fund, or a combination of both funds, in a given calendar year, shall be counted as meeting this minimum annual base fee amount, and shall be available to the County for administrative purposes. (§ 1, Ord. 1196, eff. January 1, 1997; as amended by § 2, Ord. 1357, eff. April 26, 2007, § 2, Ord. 1445, eff. August 14, 2014, and Ord. 1518, eff. February 13, 2020)

**Sec. 10-11.09. Credits for in-lieu work.**

(a) The Director is authorized to grant credits against the CCRMP Implementation Fee of up to thirty-five (35%) percent of the amount that would otherwise be due from a Permit Holder, for contributions of labor, equipment or materials used to implement the CCRMP. The contributed labor, equipment, or materials must be beyond those required by conditions of approval associated with any permit, or those required by the CCAP, of Permit Holders.

(b) Prior to any contribution of equipment, labor or materials for which credits may be taken, the Director and the permit holder must first agree on the amount of the credit, the method used to calculate it, and the period in which it may be credited.

(c) The Director's determination regarding the use and amount of credits is appealable directly to the Board of Supervisors. (§ 1, Ord. 1196, eff. January 1, 1997; as amended by § 2, Ord. 1357, eff. April 26, 2007, § 2, Ord. 1445, eff. August 14, 2014, and Ord. 1518, eff. February 13, 2020)

**Sec. 10-11.10. Late charge (penalties).**

(a) Fees are required to be paid in a timely manner. Fees shall be considered to be paid in a timely manner if the payment is received no later than thirty (30) days from the day on which it was due.

(b) A late charge or penalty equal to ten (10%) percent of the amount due shall be assessed and payable for any fee payments received after the thirty (30) day grace period described above. The late charge shall increase to fifteen (15%) percent after sixty (60) days and twenty (20%) percent after ninety (90) days late. Late charges assessed hereunder are to be due and payable immediately.

(c) Notwithstanding item 10-11.10(b) above, if the payment of any fee is later than one hundred eighty (180) days from the date due, this shall be a violation of the permit and revocation proceedings shall be commenced in compliance with Sections 10-4.1105 through 10-4.1110 of the County Code (Off-Channel Surface Mining Ordinance, Violations).

(§ 1, Ord. 1196, eff. January 1, 1997; as amended by § 2, Ord. 1357, eff. April 26, 2007, § 2, Ord. 1445, eff. August 14, 2014, and Ord. 1518, eff. February 13, 2020)

**Sec. 10-11.11. Accounting procedures.**

The County Administrative Officer shall establish procedures by which permit holders will report and account for the sale and/or transfer of all aggregate materials for which fees are payable under this Ordinance. (§ 1, Ord. 1196, eff. January 1, 1997; as amended by § 2, Ord. 1357, eff. April 26, 2007, § 2, Ord. 1445, eff. August 14, 2014, and Ord. 1518, eff. February

13, 2020)

#### **Sec. 10-11.12. Reimbursement.**

(a) Each holder of a permit issued under the CCAP, prior to January 1, 1997 shall be responsible for reimbursement to the County on a proportional basis all outstanding actual costs incurred during development, environmental review, adoption, and early implementation of the CCAP and related ordinances and regulations, through December 31, 1996. The Permit Holder shall be fully responsible for reimbursement to the County all costs incurred during processing of the permit, through December 31, 1996. The County will invoice the Permit Holder for these reimbursements no later than January 1, 1997. The reimbursements shall be paid in four (4) equal installments due February 28, March 29, April 30, and May 30 of 1997.

(b) In addition to regular application fees as may be charged by the County, subsequent applicants for new, extended, or modified mining and reclamation permits shall at the time of filing of application, pay their proportionate share of the costs of development, environmental review, and adoption of the CCAP as calculated and documented by the County, starting with the cost of the report entitled "Technical Studies and Recommendations for the Lower Cache Creek Resource Management Plan" issued October 1995 and including all related costs through December 31, 1996.

(c) The proportional share of the reimbursement costs to be paid by a subsequent applicant shall be a percentage based on the requested total annual permitted production plus an imputed interest charge of seven (7%) percent per annum from January 1997, and an administrative fee of Five Hundred and no/100ths (\$500.00) Dollars to cover the costs of processing the reimbursement. The percentage owed shall be obtained by dividing the applicant's requested total annual permitted production by the total of all annual tonnage allocations in effect under the CCAP at the time.

(d) Reimbursements costs and imputed interest collected by the County under subsection (b) above shall be refunded to each holder of a permit issued under the CCAP prior to January 1, 1997 based on the unreimbursed costs incurred by that permit holder under the terms of the "Gravel Management and Oversight Costs Funding Agreement" dated December 6, 1994 and the "Agreement to Provide Funds for Environmental Studies, Cache Creek Resources Management Plan and Long-Term Off-Channel Ordinance Formulation" dated December 1995, as evidenced by County records. Refund payments shall be made by the County within sixty (60) days of receipt of a reimbursement from any subsequent applicant.

(e) The proportional share obligation for subsequent applicants shall terminate upon collection by the County of fifty (50%) percent, excluding imputed interest and the administrative fee, of the total costs of preparation of the CCAP as calculated pursuant to (b) above, or December 31, 2006, whichever occurs first. (§ 1, Ord. 1196, eff. January 1, 1997; as amended by § 2, Ord. 1357, eff. April 26, 2007, § 2, Ord. 1445, eff. August 14, 2014, and Ord. 1518, eff. February 13, 2020)

#### **Sec. 10-11.13. Update.**

A minimum of every ten (10) years, the County shall review the fees to ensure that they appropriately cover the intended costs and are otherwise reasonably set and structured for fulfilling their purpose, as described in Section 10-11.02. Pursuant to this review, a recommendation for appropriate modification shall be promptly brought forward for public hearing before the Planning Commission and Board of Supervisors and shall be referenced for the purposes of satisfying Section 10-4.605 of the Off-Channel Surface Mining Ordinance. (§ 1, Ord. 1196, eff. January 1, 1997, as amended by § 2, Ord. 1357, eff. April 26, 2007, § 2, Ord. 1445, eff. August 14, 2014, and Ord. 1518, eff. February 13, 2020)

#### **Sec. 10-11.14. Exemptions.**

Sales of recycled materials and sales of materials removed from the channel pursuant to the implementation of the CCAP, shall not be subject to this Ordinance. Records of such sales shall be submitted to the County by permit holders, and shall be included as a component of the audit referred to in Section 10-11.05(b) of this Ordinance. (§ 1, Ord. 1196, eff. January 1, 1997, as amended by § 2, Ord. 1357, eff. April 26, 2007, § 2, Ord. 1445, eff. August 14, 2014, and Ord. 1518, eff. February 13, 2020)