

ORDINANCE NO. 2386

AN ORDINANCE OF THE CITY OF CORONA, CALIFORNIA TO COMPREHENSIVELY AMEND TITLE 19 OF THE CORONA MUNICIPAL CODE RELATING TO STANDARDS AND REQUIREMENTS FOR SURFACE MINING OPERATIONS AND THE RECLAMATION THEREOF IN ACCORDANCE WITH THE STATE OF CALIFORNIA SURFACE MINING AND RECLAMATION ACT OF 1975 (SMARA).

THIS DOCUMENT, CONSISTING OF 25 PAGES, IS A TRUE COPY OF THE PERMANENT RECORD ON FILE IN THIS OFFICE.  
4-22-99  
ATTEST  
Victoria J. Wasko  
City Clerk of the City of Corona, California  
Cindy Robertson, Secretary

WHEREAS, pursuant to the State of California Surface Mining and Reclamation Act of 1975 ("SMARA") (Public Resources Code sections 2710 et seq.) the City Council of the City of Corona ("City") is required to adopt an ordinance for the review and approval of surface mining and reclamation operations within the City's jurisdiction;

WHEREAS, Title 19 of the Corona Municipal Code ("Code") contains the City's current ordinance adopted under SMARA;

WHEREAS, SMARA has been substantially revised during the past several years and the City has drafted substantial amendments to Title 19 of the Code to incorporate such changes ("Draft Amendments"); and

WHEREAS, on February 10, 1999 the City received approval from the State Mining and Geology Board ("SMGB") that its Draft Amendments complied with SMARA and that upon adoption by the City of an ordinance containing the Draft Amendments the SMGB would certify the City's ordinance.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CORONA DOES ORDAIN AS FOLLOWS:**

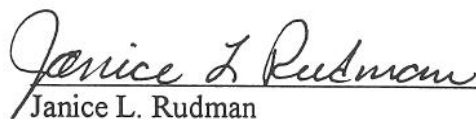
**SECTION 1.** Title 19 of the Corona Municipal Code is amended and replaced in its

entirety as set forth in Exhibit "A," attached hereto and incorporated herein by this reference.

**SECTION 2.** Based on the entire record before the City Council and all written and oral evidence presented to the City Council, the City Council finds this Ordinance promotes the public health, safety, and welfare of the community because it provides for the establishment of surface mining operations standards, the review and approval of mining operations in accordance with such standards and state law, the monitoring of mining operations for continued compliance, and the means to ensure discontinued mining operations sites are reclaimed in accordance with City and State standards.

**SECTION 3.** The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it, or a summary of it, to be published in the Press Enterprise, a newspaper published and circulated in the City of Corona; and thereupon and thereafter this Ordinance shall take effect and be in force according to law.

**ADOPTED** this 21st day of April, 1999.



Janice L. Rudman

Mayor

City of Corona, California

ATTEST:



Victoria J. Wasko

City Clerk

City of Corona, California

## CERTIFICATION

I, VICTORIA J. WASKO, City Clerk of the City of Corona, California, do hereby certify that the foregoing Ordinance was regularly introduced at a regular meeting of the City Council of the City of Corona, California, duly held the 7th day of April 1999, and thereafter at an adjourned regular meeting thereof held on the 21st day of April 1999, it was duly passed and adopted by the following vote of the Council:

**AYES:** BENNETT, PUGA, RUDMAN, TALBERT, STEIN

**NOES:** NONE

**ABSENT:** NONE

**ABSTAINED:** NONE

**IN WITNESS WHEREOF,** I have hereunto set my hand and affixed the official seal of the City of Corona, California, this 21st day of April 1999.

  
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City Clerk of the City of Corona, California

## SUMMARY

On April 21, 1999, the Corona City Council will consider adopting an ordinance to comprehensively amend Title 19 of the Corona Municipal Code to make certain changes to the requirements for surface mining and reclamation operations in accordance with the State of California Surface Mining and Reclamation Act of 1975. A certified copy of the full text of this proposed ordinance is posted in the City Clerk's office.

The City Council meets at 6:00 p.m. in the Council Chambers located at 815 West Sixth Street. The City Clerk's office is located next door.

## Chapter 19.04

### GENERAL PROVISIONS

#### Sections:

19.04.010	Purpose.
19.04.020	Definitions.
19.04.030	Incorporation by reference.
19.04.040	Scope.
19.04.050	Prohibition; requirements for surface mining operations.
19.04.060	Vested rights.
19.04.070	Transfer of mining operation.
19.04.080	Fees.
19.04.090	Construction with other laws.
19.04.100	Severability.
19.04.110	Periodic review.

#### 19.04.010 Purpose.

- A. The city recognizes the extraction of minerals is essential to the continued economic well-being of the city, and to the needs of society, and that reclamation of the mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health, safety, or welfare. The city 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.
- B. The purpose and intent of this Chapter is to regulate, in accordance with SMARA, surface mining operations and the reclamation thereof for protection of the public health, safety, or welfare to ensure that:
1. Subsequent beneficial uses of mined and reclaimed land are promoted and the land is returned to a usable condition.
  2. Values relating to groundwater supply, recreation, watershed, wildlife, range and forage, and aesthetic enjoyment are given appropriate consideration in the planning process.
  3. Production and conservation of minerals is encouraged.

#### 19.04.020 Definitions.

For the purposes of this title, the following words and terms shall have the meanings set forth herein unless a different meaning is clearly intended from the usage and context.

- A. "Borrow pits" means excavations created by the surface mining of rock, unconsolidated geologic deposits, or soil to provide material (borrow) for fill elsewhere.
- B. "CEQA" means the California Environmental Quality Act (Public Resources Code, Division 13, §21000 *et seq.*).
- C. "City" means the City of Corona.
- D. "Commission" means the Planning Commission of the City of Corona.
- E. "Council" means the City Council of the City of Corona.
- F. "Department of Conservation" means the Department of Conservation, State of California.
- G. "Exploration" means the search for minerals by geological, geophysical, geochemical or other techniques, including, but not limited to, prospecting, sampling, assaying, drilling, or any surface or

underground works needed to determine the type, extent or quantity of minerals present.

- H. "Mined lands" means the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, overburden, 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.
- I. "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.
- J. "Mining waste" means the residual of soil, rock, minerals, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations.
- K. "Operator" means any person who is engaged in surface mining operations, or who contracts with others to conduct operations on his/her behalf, except a person who is engaged in surface mining operations as an employee with wages as his/her sole compensation.
- L. "Overburden" means soil, rock or other materials that lie above a natural mineral deposit or in between deposits, both before and after removal of the materials by surface mining operations.
- M. "Person" means any individual, firm, association, corporation, organization, or partnership, or any city, county, or district, or the State or any department or agency thereof.
- N. "Planning director" means the Planning Director of the City of Corona.
- O. "Reclamation" means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and creates no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.
- P. "Reclamation plan" means the plan for reclamation of mined lands required for all surface mining operations which must be filed and approved by the city in accordance with Chapter 19.12 of this Code.
- Q. "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.
- R. "Surface 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 and quarrying, or surface work incident to an underground mine. Surface mining operations include, but are not limited to, in place distillation or retorting or leaching, the production and disposal of mining waste, exploration activities, borrow pitting, stream bed skimming, and segregation and stockpiling of mined materials (and recovery of same).
- S. "Surface mining permit" means the permit required for all surface mining operations which must be filed and issued by the city in accordance with Chapter 19.08 of this Code.
- T. "SMARA" means California's Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710 et seq.)
- U. "State board" means the State Mining and Geology Board of the Department of Conservation, State of California.
- V. "State regulations" means the state board regulations for surface mining and reclamation practice (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.)

#### 19.04.030 Incorporation by reference.

The provisions of SMARA and the state regulations, as amended from time-to-time, are made a part of

this title by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, except that where the provisions of this title are more restrictive, this title shall prevail.

**19.04.040 Scope.**

The provisions of this title shall apply to all lands within the city, public and private. This title shall not apply to the following activities:

- A. Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.
- B. Onsite excavation and onsite earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:
  - 1. All required permits for the construction, landscaping, or related land improvements have been issued by the appropriate public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, CEQA and Title 17 of this Code.
  - 2. The city's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to CEQA and Chapter 15.36 of this Code.
  - 3. The approved construction project is consistent with the general plan or zoning of the site.
  - 4. 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.
- C. 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, subject to all of the following conditions:
  - 1. The plant site is located on lands contained within a general plan and zoning designation which allows mineral processing or similarly related uses, and the plant operator has applied for and received all required permits and approvals for the construction and operation of the mineral processing facility.
  - 2. None of the minerals being processed are being extracted onsite.
  - 3. All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.
- D. Exploration for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than one thousand (1,000) cubic yards in any one location of one (1) acre or less.
- E. Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.
- F. Any other surface mining operations that the state board determines to be of an infrequent nature and which involve only minor surface disturbances.
- G. The solar evaporation of sea water or bay water for the production of salt and related minerals.
- H. 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.
- I. 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 state board regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and post-closure uses in consultation with the Department of Forestry and Fire

Protection. This exemption does not apply to onsite excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavations for materials that are, or have been, sold for commercial purposes.

**19.04.050 Prohibition; requirements for surface mining operations.**

Except as provided in this Chapter, no person who owns, leases, or otherwise controls or operates on all, or any portion of, mined lands, shall conduct or expand any surface mining operation on such lands unless and until a surface mining permit is issued, a reclamation plan is approved, and acceptable reclamation security is posted in accordance with this title. Any applicable exemption from this requirement does not exempt a project or activity from the application of other regulations, ordinances or policies of the city, including but not limited to, the application of CEQA, the requirement of site approvals or other permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be required by the city. The operator of any existing surface mining operation in an area annexed to the city shall, within a reasonable time after such annexation, comply with this section, and until such compliance, all existing permits and reclamation plans for the surface mining operation shall remain in effect and all operations shall be conducted pursuant to the provisions therein.

**19.04.060 Vested rights.**

- A. No person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a surface mining permit pursuant to the provisions of this title so long as such vested right continues and no substantial change is made in the operations, except as permitted by SMARA, the state regulations, and this title. A person shall be deemed to have such vested rights if, prior to January 1, 1976, he has, in good faith and in reliance upon any valid and required permit or other authorization, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefor. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials. Any substantial change in the surface mining operation subsequent to the enactment of this title shall require the obtaining of a surface mining permit pursuant to the provisions of this title.
- B. In those cases where an overlap exists (in the horizontal and/or vertical sense) between operations conducted before and after January 1, 1976, the reclamation plan shall call for reclamation proportional to the disturbance caused by mining operations conducted after January 1, 1976. Nothing in this title shall be construed as requiring the filing of a reclamation plan for, or the reclamation of, mined lands on which surface mining operations were conducted prior to, but not after, the effective date of this title.

**19.04.070 Transfer of mining operation.**

Whenever any surface mining operation or portion thereof which is subject to this title is sold, assigned, exchanged, or otherwise transferred, the successor in interest shall be bound by the provisions of this title and any surface mining permit and reclamation plan applicable to the surface mining operation.

**19.04.080 Fees.**

The city shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this title and the state regulations, including but not limited to, processing of applications, annual reports, inspections, monitoring, enforcement, and compliance. Such fees shall be paid by the operator at such times as determined by the city to be appropriate in order to ensure that all reasonable costs of implementing this title and the state regulations are borne by the operator.

**19.04.090 Construction with other laws.**

Whenever the provisions of this title conflict with any other provisions of the Code, the provisions of



this title shall prevail.

**19.04.100 Severability.**

If any section, subsection, paragraph, sentence, clause or phrase of this title is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this title, it being expressly declared that this title or any chapter, section, subsection, paragraph, sentence, clause or phrase thereof would have been adopted, irrespective of the fact that one or more other chapters, sections, subsections, paragraphs, sentences, clauses or phrases might be declared invalid or unconstitutional.

**19.04.110 Periodic review.**

This title shall be periodically reviewed and revised, as necessary, in order to ensure that it is in accordance with state policy regarding the reclamation of mined lands.

## Chapter 19.08

### SURFACE MINING PERMITS AND RECLAMATION PLANS

#### Sections:

19.08.010	Application required.
19.08.020	Application form and content.
19.08.030	Surface mining permit.
19.08.040	Reclamation plan.
19.08.050	Reclamation security--Cost estimate.
19.08.060	Application procedure and review.
19.08.070	Public hearing--Date and notice.
19.08.080	Public hearing--Procedure.
19.08.090	Decision of commission.
19.08.100	Required findings.
19.08.110	Conditions of approval; provision of reclamation security.
19.08.120	Effective date of permit.
19.08.130	Appeal and review.
19.08.140	Reapplication.
19.08.150	Time limitations on use of permit.
19.08.160	Amendment to surface mining permit or reclamation plan.
19.08.170	Public records; city record keeping.
19.08.180	Statement of responsibility.
19.08.190	Idle operations; interim management plan.
19.08.200	Abandonment; reclamation.

#### 19.08.010 Application required.

Any person who owns, leases, or otherwise controls or operates on all, or any portion of, mined lands, and who plans to commence or expand any surface mining operations on such lands, and is required to comply with this chapter, shall, prior to the commencement or expansion of such operations, submit an application in compliance with this chapter to obtain a surface mining permit and approval of a reclamation plan.

#### 19.08.020 Application form and content.

- A. The application for a surface mining permit and approval of a reclamation plan shall be on forms provided by the planning director.
- B. The application shall include, at a minimum, the following:
  1. The name and address of the applicant, and if different, the surface mining operator, and the names and addresses of any persons designated by the operator as an agent for the service of process.
  2. The names and addresses of the owners of all surface interests and mineral interests in the lands that will be directly affected by the surface mining operations.
  3. The information for a surface mining permit as set forth in Section 19.08.030.
  4. A reclamation plan for the mined lands as set forth in Section 19.08.040.
  5. Cost estimates for the reclamation security as set forth in Section 19.08.050.
  6. A statement of responsibility as set forth in Section 19.08.180.
  7. Any other information the planning director determines is necessary for the city's review of the

activities proposed in the application.

**19.08.030 Surface mining permit.**

When required by this chapter, an application for a surface mining permit shall provide, at a minimum, the following information:

- A. The size and legal description of the lands that will be directly affected by the surface mining operations, and a map or maps showing the boundaries and topographic details of such lands, the location of all streams, roads, railroads, sewage disposal systems, groundwater basins, water wells, and utility facilities within 500 feet of the site, and the location of all proposed access roads to be constructed for the surface mining operation.
- B. A description of the general geology of the surrounding area and a detailed description of the geology of the area in which surface mining operation is to be conducted, including a description of depth to groundwater on the site and the quality of the groundwater.
- C. The anticipated progression of the surface mining operations, including the proposed dates for the initiation and termination of the operations, and a time frame for each phase of operations.
- D. A description of and plan for the type of surface mining operation to be employed, including the complexity of the operation and the manner and degree to which the mined lands will be disturbed.
- E. A time schedule for completion of surface mining operations on each segment of the mined lands so that reclamation can be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operations.
- F. The maximum anticipated depth of the surface mining operations.
- G. The location of equipment, stockpiles, settling ponds, interim drainage systems, machinery, and waste dumps in the areas to be mined and the nature, quantity, and location of any explosives to be stored at the site.
- H. The nature and extent of any discharge of liquid waste that may occur at the site, including, where applicable, the direction of flow, methods of containment, and potential risk of water groundwater contamination.
- I. The method of handling simultaneous excavation and reclamation if applicable.
- J. The anticipated type and amount of minerals to be removed from the site and the truck routes to be used, the amount of mining waste to be retained on the site, and the amount of mining waste to be disposed off-site, including the method and location of disposal and the truck routes to be used.
- K. The anticipated hours of operation, the maximum anticipated noise levels during operating hours, and the location and intensity of any lights to be used at the site.
- L. The methods of dust control and noise suppression to be employed at the site.
- M. The location and design of any structures to be erected at the site.

**19.08.040 Reclamation plan.**

When required by this chapter, a reclamation plan for mined lands shall include, at a minimum, the following information, taking into account the particular characteristics of the mined lands and the surrounding area, including the type of overburden, soil stability, topography, geology, climate, stream characteristics, groundwater resources, and principal mineral commodities:

- A. All information required by state regulations Sections 3500 through 3505.
- B. All information required by state guidelines Sections 3700 through 3713 for any reclamation approved after January 15, 1993, or reclamation plan for a proposed new mining operation, or for any substantial amendment to a previously approved reclamation plans.
- C. The environmental setting of the operation site and the effect that possible alternate reclaimed site conditions may have upon the existing and future uses of surrounding lands.
- D. A description of the proposed or potential uses of the mined lands after reclamation, and evidence that

- all owners of a possessory interest in the mined lands have been notified of the proposed or potential uses.
- E. The methods to be used to reclaim the land including a detailed schedule of the sequence and timing of all stages of the reclamation.
  - F. The manner in which derelict machinery, mining waste and scrap will be removed from the reclaimed site and how contaminants will be controlled.
  - G. The manner in which affected stream bed channels and stream banks will be rehabilitated to a condition minimizing erosion and sedimentation.
  - H. The methods to be used to ensure that the site will contain stable waste piles and slopes.
  - I. The anticipated physical condition of the site upon the completion of all reclamation, and the proposed use or potential uses of the reclaimed site.
  - J. A map or maps which will delineate through the use of cross-sections and elevations the physical characteristics of the land upon the conclusion of reclamation, including a topographic map showing the location of the reclaimed land.
  - K. An explanation of how reclamation of the site may affect the future use of the area for mining purposes, including the effect the proposed reclamation may have upon the site's remaining resources.
  - L. An explanation of how the reclaimed site shall be, to the extent reasonable and practicable, revegetated for soil stabilization, made free of drainage and erosion problems, coordinated with present and anticipated future land use, and rendered compatible with the topography and general environment of surrounding property.
  - M. A statement of how the public health and safety will be protected for the duration of the mining operations, giving consideration to the degree and type of present and probable future exposure of the public to the site.
  - N. A statement that the applicant accepts responsibility for reclaiming the mined lands in accordance with the reclamation plan.

**19.08.050 Reclamation security--Cost estimate.**

When required by this chapter, a cost estimate for security that shall be posted to ensure complete performance of the approved reclamation plan, shall be submitted in accordance with the following procedures:

- A. The estimated security shall be based on the following factors:
  - 1. The costs estimates of reclamation for the years or phases in the 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 operations in the upcoming year.
  - 2. An analysis of physical activities necessary to implement the reclamation plan, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs.
  - 3. Cost estimates to ensure compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved reclamation plan, including, but not limited to, costs for labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator other than the operator.
- B. Cost estimates should be prepared by a California registered Professional Engineer and/or other similarly licensed and qualified professionals retained by the applicant and approved by the planning director.
- C. A contingency factor of ten percent (10%) shall be added to the estimated security.
- D. In projecting the estimated security, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, the city or Department of Conservation may need to contract with a third party commercial company for reclamation of the site.

**19.08.060 Application procedure and review.**

- A. Applicants must file with the planning director a completed application, accompanied by the filing fee then in effect. Any application which is incomplete shall not be accepted for processing. No application shall be deemed complete unless and until the applicant has provided, in adequate detail, all information required under Section 19.08.020. It is the duty of the applicant to supplement an incomplete application.
- B. Upon receipt of an application or any supplement thereto, the planning director shall promptly determine whether the application is complete and shall, within thirty (30) days of receipt thereof, inform the applicant in writing of the determination. The written notice shall specify which parts of the application are incomplete. The time limitations for processing a permit shall not begin to run until the application is accepted as complete by the planning director.
- C. An applicant may appeal from the planning director's decision regarding the completeness of an application by filing his application and a copy of the planning director's written determination with the city clerk, and requesting a hearing before the council. The council shall set the appeal for hearing by the council at its next regular meeting. Upon such appeal, the council may reverse, affirm, or modify in any regard the planning director's determination. There shall be a final written determination by the council on the appeal not later than sixty (60) calendar days after receipt of the applicant's written appeal.
- D. Within thirty (30) days of the planning director's determination that an application is complete, the planning director shall notify the Department of Conservation of the filing of the application.
- E. If the proposed surface mining operation is located 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 director shall also notify the State Department of Transportation that a completed application has been filed.
- F. Upon completing an environmental review of the application in accordance with CEQA, or if no CEQA review is required then upon the planning director's determination the application is complete, the planning director shall certify to the Department of Conservation that the information in the application complies with the requirements of State law, and shall submit the application and any information related to a CEQA review of the application to the Department of Conservation. The Department of Conservation shall have thirty (30) days to review and comment on the surface mining permit and the reclamation plan, and forty-five (45) days to review and comment on the reclamation security. The planning director shall evaluate any written comments received from the Department of Conservation during the comment period, and shall prepare a written response describing the disposition of the major issues raised in the comments. If the disposition is at variance with the recommendations and objections raised in the 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 director shall be promptly forwarded to the applicant.
- G. Upon completion of all procedures for review of a completed application, including all required notification and review by other public agencies, a public hearing shall be held before the planning commission as hereinafter provided.
- H. Nothing in this section shall preclude the applicant and the city from mutually agreeing to an extension of any time limit provided by this section.

**19.08.070 Public hearing--Date and notice.**

The public hearing to consider the granting of the application shall be conducted in accordance with the following provisions:

- A. The hearing date shall be set by the planning director for not less than ten (10) days, nor more than forty-five (45) days, after the period for comments on the application from the Department of

- Conservation has expired under Section 19.08.060(F).
- B. Notice of the public hearing shall contain the time and place of the hearing and the location and proposed use of the subject property. The notice shall be published at least once in a newspaper of general circulation in the city not less than ten (10) days before the hearing date.
  - C. In addition to the published notice, written notice shall be either (i) mailed, postage prepaid, not less than ten (10) days before the hearing date, to the owners of all property within a radius of five hundred (500) feet of the exterior boundaries of the subject property, or (2) posted in front of the subject property not less than ten (10) days prior to the date of the hearing. Any such posted notice shall include the words "NOTICE OF PROPOSED SURFACE MINING PERMIT" printed in plain type with letters of not less than one (1) inch in height, and shall contain a statement in legible characters setting forth a description of the subject property, the nature of the proposed surface mining permit, and the time and place at which the public hearing on the matter will be held before the commission. Such notice may also be posted at intervals of not more than one hundred fifty (150) feet along each street or public way within five hundred (500) feet of the external boundaries of the subject property.
  - D. Not less than ten (10) days nor more than thirty (30) days after publication of the legal notice of a public hearing on the application, the commission shall hold said public hearing.

**19.08.080 Public hearing--Procedure.**

- A. The public hearing shall be conducted before the planning commission, which may for any reason, when it deems such action necessary or desirable, continue the hearing to a time and place certain.
- B. The names and addresses of all persons testifying at the public hearing, copies of all notices, affidavits, postings, and publications, and a record of the action taken shall be part of the permanent files of the case.

**19.08.090 Decision of commission.**

The commission shall make its findings and determination within thirty-five (35) days from the date of completion of the final public hearing on an application, and shall forthwith transmit copies thereof to the applicant and to the city clerk. Said decision shall be final unless appealed to the council in accordance with Section 19.08.130.

**19.08.100 Required findings.**

- A. Neither the commission nor the council may grant an application unless it has first found from the evidence admitted during the hearing before the commission or council all of the following:
  - 1. The proposed surface mining operations and reclamation plan will not be detrimental to the public health, safety or general welfare and will be in harmony with various elements and objects in the city's general plan.
  - 2. The surface mining operations will be located in a zone in which such operations are a permitted use.
  - 3. The site for the surface mining operations is adequate in size and shape to accommodate those operations and the intended reclamation of the mined lands.
  - 4. The site for the surface mining operations relates properly to streets and highways that are designed to carry the type and quality of traffic that will be generated by those operations.
  - 5. The surface mining operations will not pose a threat to the city's groundwater resources, or have any adverse impact upon the city's ability to utilize those resources.
  - 6. The reclamation plan submitted by the applicant is sufficient in all respects to prevent or mitigate any adverse effects on the environment caused by the mining operations, and gives adequate consideration to values relating to groundwater supply, recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.

7. The reclamation plan will adequately provide for the protection and subsequent beneficial use of the mined lands, by (i) ensuring that the land is returned to a usable condition which is readily adaptable for alternative land uses, and (ii) the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends with, the surrounding natural environment, topography, and other resources, or suitable off-site development will compensate for related disturbances to resource values.
  8. The reclamation plan complies with SMARA and the state regulations.
  9. All procedures required by CEQA have been completed, and all other laws have been complied with.
- B. In any hearing or proceeding held for the purpose of considering the issuance of a surface mining permit, the applicant shall bear the burden of producing sufficient evidence to enable the commission or council to make the findings required by this section.

**19.08.110 Conditions of approval; provision of reclamation security.**

- A. In granting an application, the Commission or Council may impose such conditions as are reasonably deemed necessary and desirable to protect the public health, safety, and general welfare. Any such conditions shall be in addition to the condition required by Section 19.16.040, and any other conditions required by this title. Each application approval shall be conditioned upon the applicant's completion of the work outlined in the applicant's reclamation plan within the time limits specified in the plan. The commission or council may, in its discretion, impose different time limits, in which case the applicant shall agree to complete the reclamation work within the time limits specified by the commission or council.
- B. To ensure the applicant will comply with all terms of the approved reclamation plan, including but not limited to, revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures if necessary, the Commission or Council shall require, and the applicant shall post, security in an amount and in the manner set forth herein.
1. The amount of security shall be based on the estimate provided in the application but shall be an amount which the city reasonably determines is adequate to perform reclamation in accordance with the approved reclamation plan.
  2. The applicant may post 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 city and the state board as specified in state regulations. The security shall be made payable to the city and the Department of Conservation.
  3. The security shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required).
  4. The amount of security 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 security shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.
  5. All revisions to the security shall be submitted to the planning director each year prior to the anniversary date for approval of the security. The security 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 applicant shall explain, in writing, why revisions are not required.

**19.08.120 Effective date of permit.**

No surface mining permit granted by the commission or council pursuant to this chapter shall become effective until ten (10) days after the date of the commission or council resolution approving the application, or until the effective date specified in the permit; provided that any date so specified shall be at least ten (10) days after the date of the resolution.

**19.08.130 Appeal and review.**

- A. Each decision made by the commission with respect to an application shall be final unless appealed within the time period prescribed in this section or unless the council initiates a review of the decision pursuant to the provisions of this section.
- B. Any person aggrieved or affected by any final determination made by the commission in considering an application, including any condition imposed thereon, may no later than ten (10) days from the date of the decision file a written notice of appeal therefrom. The notice of appeal shall be filed in triplicate with the city clerk and shall state therein the grounds for the appeal and the specific factual or legal errors it is alleged were committed by the commission in its consideration of the application. The city clerk shall forthwith transmit one copy of the notice of appeal to the planning director and one copy to the commission by delivering it to the commission's secretary.
- C. The council may itself initiate a review of the commission's decision or determination by a majority vote of those council members voting on the issue at or before the next regular council meeting following the commission's determination. The council order may be by motion. No error need be cited in that motion. The commission's secretary shall present to the council at or before its next meeting following the commission's determination, a certified copy of the commission's resolution of determination.
- D. On the date a notice of appeal is filed pursuant to this section, or on the date the council orders a review of the commission's determination or condition, all proceedings in furtherance of the determination or condition appealed from or ordered to be reviewed by the council, including the effective date of the permit in question, shall be stayed until the final determination by the council of the appeal or council-initiated review.
- E. In the case of any appeal or council-initiated review of a decision of or condition imposed by the commission, the council shall order the matter set for a public hearing, and the hearing shall be noticed as provided in Section 19.08.070. At the hearing before the council, the council shall hear the matter de novo; however, the documents and minutes of the hearing before the commission shall be a part of the council's record at its hearing on the matter. The council may continue the hearing for any reasonable and proper purpose. Within a reasonable time after the close of the hearing, the council shall make its decision sustaining, reversing, or modifying the decision of the commission. The council shall adopt its decision by resolution. The council shall forthwith transmit copies of its findings and determination to the applicant and to the city clerk.
- F. Any person aggrieved by a decision of the council under this section concerning a proposed surface mining operation in an area of statewide or regional significance, as defined in Sections 2726 and 2727 of the Public Resources Code, may, within fifteen (15) days of the decision, appeal the decision to the state board pursuant to Section 2775 of the Public Resources Code.

**19.08.140 Reapplication.**

No person shall reapply for a permit for surface mining operations on the same land within a period of one (1) year from the date of the final decision on any previous application unless such decision is a denial without prejudice.

**19.08.150 Time limitations on use of permit.**

Any surface mining permit granted pursuant to this title shall become null and void if the surface mining



operations authorized by the permit are not commenced within three (3) years from the effective date of the permit, or within the time limit set in the conditions of approval; provided that such time limit shall not exceed three (3) years. Once commenced, all authorized surface mining operations shall be pursued diligently to completion.

**19.08.160 Amendment to surface mining permit or reclamation plan.**

Subject to city approval, a surface mining permit or an approved reclamation plan may be amended at any time. All proposed amendments shall be submitted on forms provided by the planning director. The proposed amendment may be approved by the planning director if such amendment will not substantially alter the terms of the current reclamation plan, will not delay the operator's completion of the reclamation plan, and will not have an adverse on impact environment or the public health or safety; all other amendments shall be heard and processed in the same manner as an application under this chapter.

**19.08.170 Public records; city record keeping.**

- A. Reclamation plans, reports, applications and other documents submitted pursuant to this title shall be public records unless it can be demonstrated to the satisfaction of the city that the release of such information, or a part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The city shall identify such proprietary information as a separate part of each application.
- B. The planning director shall forward a copy of each application approved under this chapter to the Department of Conservation. By July 1st of each year, the planning director shall submit to the Department of Conservation, for each active or idle mining operation, a copy of any amendments to any surface mining permit or reclamation plan, or a statement that there have been no changes during the previous year.

**19.08.180 Statement of responsibility.**

Any person submitting a reclamation plan or an amendment thereof for approval under this chapter shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the reclamation plan. Said statement shall be kept by the planning director in the surface mining operation's permanent record. Upon sale or transfer of the surface mining operation or the mined lands, the new operator or owner shall submit a signed statement of responsibility to the planning director for placement in the permanent record.

**19.08.190 Idle operations; interim management plan.**

- A. Within ninety (90) days of a surface mining operation becoming idle, the operator shall submit to the planning director a proposed Interim Management Plan ("IMP"). The proposed IMP shall fully comply with the requirements of SMARA and this chapter, including but not limited to all conditions of approval for the applicable surface mining permit and the reclamation plan, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the planning director, and shall be processed as an amendment to the reclamation plan for the idle surface mining operations. Pursuant to Section 2770(h) of the Public Resources Code, IMPs shall not be considered a project for the purposes of environmental review under CEQA.
- B. All reclamation security for the idle surface mining operations shall be maintained as though the operation were active.
- C. Upon receipt of a complete proposed IMP, the planning director shall forward the IMP to the Department of Conservation review. The IMP shall be submitted to the Department of Conservation at least thirty (30) days prior to approval by the commission.
- D. Within sixty (60) days of receipt of the proposed IMP, or longer if mutually agreed upon by the planning

director and the operator, the commission shall review and approve or deny the IMP in accordance with procedures set forth in this chapter. If the IMP is denied, the operator shall have thirty (30) days, or longer if mutually agreed upon by the planning director and the operator, to submit a revised IMP. The commission shall approve or deny the revised IMP within sixty (60) days of receipt. If the commission denies the revised IMP, the operator may appeal that action to the city council in accordance with the procedures in this chapter.

- E. The IMP may remain in effect for a period not to exceed five (5) years, at which time the commission may renew the IMP for another period not to exceed five (5) years, or require the operator to commence reclamation in accordance with its approved reclamation plan.
- F. For purposes of this section, the term "idle" means to curtail for a period of one (1) year or more surface mining operations by more than ninety percent (90%) of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.

**19.08.200 Abandonment; reclamation.**

Unless review of an IMP or an appeal of an IMP decision is pending before the city, a surface mining operation which remains idle for over one (1) year without obtaining approval of an IMP shall be considered abandoned and the operator shall commence and complete reclamation in accordance with the approved reclamation plan for the abandoned surface mining operation.

## Chapter 19.12

### STANDARDS FOR SURFACE MINING AND RECLAMATION OPERATIONS

#### Sections:

- 19.12.010      **Applicability.**
- 19.12.020      **Structures.**
- 19.12.030      **Roads.**
- 19.12.040      **Ingress, egress and traffic safety.**
- 19.12.050      **Transportation of materials.**
- 19.12.060      **Setbacks.**
- 19.12.070      **Slope gradients.**
- 19.12.080      **Fencing.**
- 19.12.090      **Boundary markers.**
- 19.12.100      **Soil erosion control.**
- 19.12.110      **Water quality and watershed control.**
- 19.12.120      **Disposal of mining waste rock and overburden.**
- 19.12.130      **Backfilling and grading.**
- 19.12.140      **Resoiling.**
- 19.12.150      **Revegetation.**
- 19.12.160      **Additional performance standards.**

#### 19.12.010      **Applicability.**

The minimum standards and requirements set forth in this chapter shall apply to all surface mining and reclamation operations conducted under a surface mining permit.

#### 19.12.020      **Structures.**

All buildings and structures shall be painted a neutral color so as to blend with the natural surroundings.

#### 19.12.030      **Roads.**

All private roads used for access to any mined lands and surface mining operations shall be surfaced by clean, crushed rock, gravel or decomposed granite, or oiled and maintained to prevent dust and mud. The requirements of this subsection may be modified by the commission or council after consideration of the circumstances surrounding the particular site or road in question. Such circumstances include but are not limited to distance from public streets and highways, distance from adjoining and nearby property owners, the use of the adjoining and nearby properties, topographical features, soil characteristics, and wind exposure.

#### 19.12.040      **Ingress, egress and traffic safety.**

Roads providing vehicular access to public streets and highways which are used for transporting materials shall be located only at points designated on plans as approved by the city's traffic engineer. Adequate site distance shall be maintained for traffic safety and a distance of not less than eighty (80) feet from the intersection of the access road with the right-of-way line of the public street or highway shall be paved to a width of not less than twelve (12) feet. In addition, that portion of the access road lying between the right-of-way line and the existing pavement of the public street or highway shall be constructed in accordance with the terms of a permit issued by the city's street superintendent, as set forth in Sections 12.12.010 through 12.12.140, or in the case of state highways, issued by the State Division of Highways.

**19.12.050 Transportation of materials.**

All materials transported to and from any mined lands or surface mining operation shall be transported in accordance with the provisions of Chapter 12.20.

**19.12.060 Setbacks.**

- A. No excavation activity shall be carried on within fifty feet (50) of either:
  - 1. The common property line of any parcel of land not used for the same purpose; or
  - 2. The ultimate right-of-way of any public street, either existing or whose precise alignment has been adopted by the council.
- B. In addition, where the planning director determines there is a possibility of potentially hazardous seepage or flow into a pit from a flood control channel, reservoir, conservation or flood retarding basin, or natural water course, the planning director shall establish the setback requirements based on the preservation of the integrity of the existing flood control channel, reservoir, conservation or flood retarding basin, or natural water course, so the subject property shall continue to receive and carry off waters in a manner equal to that experienced prior to any excavation.
- C. Any setback requirements imposed under this section may, in the discretion of the planning director, exceed the fifty (50) foot requirement set forth herein, but in no circumstance shall the setbacks be less than fifty (50) feet.

**19.12.070 Slope gradients.**

- A. In cases where the planning director determines the surface mining operations present a potential hazard to adjacent property, or where other hazardous conditions exist, the planning director may establish such interim slope requirements as are reasonably deemed necessary.
- B. The designed steepness and proposed treatment of the mined lands' final slopes shall take into consideration the physical properties of the slope material, its probable maximum water content, landscaping requirements, and other relevant factors. In all cases, reclamation plans shall specify slope angles flatter than the critical gradient for the type of material involved. Whenever final slopes approach the critical gradient for the type of material involved, the planning director shall require an engineering analysis of the slope stability.

**19.12.080 Fencing.**

Prior to the commencement or continuation of any excavation or extraction operations or the construction or use of any settling basin, a fence shall be constructed enclosing the area of the proposed or existing excavation or settling basin or the entire site, unless data submitted to the planning director for approval indicates that no substantial safety hazards exist. The fence shall be of a steel, chain link type, and a minimum of six (6) feet in height above the existing grade of property outside the fenced area. The bottom of the fence shall conform to the ground surface so as to prevent any opening between it and the ground surface exceeding four (4) inches. Gates of the same material and height as the fence shall be installed at all points of vehicular or pedestrian ingress and egress. Said gates shall be equipped with keyed locks and shall be kept locked at all times when not in regular use. The fence, gates, and locks shall be maintained in good working condition and repair.

**19.12.090 Boundary markers.**

The site of any surface mining operation shall be surveyed by a registered civil engineer or licensed surveyor and shall be defined by a series of poles. The poles shall consist of two and one-half inch pipe and shall be six feet in height measured from the ground level and painted a bright color. The poles shall be installed and maintained at each change of direction along the entire length of the site in such a manner that an individual standing at one such pole can clearly see the next pole in either direction. For good cause shown, the planning director may waive or modify this requirement for any mining operations that are proposed to result in finished

elevations that are not below the natural ground elevations at the perimeter of the site, or for any extraction operations proposed to be located more than one thousand feet from any property lines.

**19.12.100 Soil erosion control.**

- A. The removal of vegetation and overburden in advance of surface mining operations shall be kept to a minimum.
- B. Stockpiles of overburden and minerals shall be managed to minimize water and wind erosion.
- C. Erosion control facilities such as retarding basins, settling ponds, ditches, stream bank stabilization, and diking shall be constructed and maintained where necessary to control erosion.
- D. Grading and revegetation shall be designed to both prevent excessive erosion and to convey surface runoff to natural drainage courses or interior basins designed for water storage. Basins that will store water during periods of surface runoff shall be designed to prevent downward erosion of spillways when these basins have an outlet to lower ground.

**19.12.110 Water quality and watershed control.**

- A. Settling ponds or basins shall be constructed downstream from areas of potential erosion where such location will provide a significant benefit to water quality.
- B. Temporary stream or watershed diversion shall be restored in final reclamation wherever practicable.
- C. At sites where groundwater recharge is a significant consideration, operations shall be conducted to substantially prevent siltation of recharge areas.
- D. Groundwater resources shall be protected from adverse water quality impacts.

**19.12.120 Disposal of mining waste rock and overburden.**

Permanent piles or dumps of mining waste and overburden shall be stable and shall not restrict the natural drainage without suitable provisions for diversion. Stable slopes at angle of repose shall be permitted as a final slope. Old equipment and other similar inert mining waste shall be removed or buried. Toxic material shall be removed or protected to minimize leaching. Where reasonable choices exist, dumps shall be located in the least visible locations.

**19.12.130 Backfilling and grading.**

- A. Any area mined to produce additional materials for backfilling and grading shall be included in the approved reclamation plan.
- B. Settlement of filled areas shall be considered in all reclamation plans. Where probable ultimate site uses include roads, building sites, or other improvements sensitive to settlement, the reclamation plan shall include compaction of the filled materials in conformance with good engineering practice to avoid settlement.

**19.12.140 Resoiling.**

When the reclamation plan calls for resoiling, coarse and hard mining waste shall be leveled and covered with a layer of finer material or weathered waste. A soil layer shall then be placed on this prepared surface. Surface mines that did not salvage soil during their initial operations shall attempt, where feasible, to upgrade remaining native materials. The use of soil conditioners, mulches, or imported topsoil shall be considered where revegetation is part of the reclamation plan and where such measures appear necessary. Areas adjacent to mined lands shall not be stripped of their topsoil for purposes of reclaiming mined lands. No usable groundwater aquifer shall be reclaimed with nonporous materials such as clay, but the aquifer shall be restored with materials suitable for water retention.

**19.12.150 Revegetation.**

Before final revegetation is undertaken, the operator shall make use of the available research addressing revegetation methods and the selection of species having good survival characteristics for the topography, resoiling characteristics, and climate of the area. Native species shall be used wherever practicable.

**19.12.160 Additional performance standards.**

All surface mining operations conducted under a surface mining permit shall comply with the performance standards set forth in Chapter 17.84, unless such standards are otherwise amended by conditions to the surface mining permit.

## Chapter 19.16

### ENFORCEMENT

#### Sections:

- 19.16.010 Operator's annual report.
- 19.16.020 Annual inspection and report.
- 19.16.030 Violations; penalties; remedies.
- 19.16.040 Revocation or suspension of surface mining permit.
- 19.16.050 Forfeiture of reclamation security.

#### 19.16.010 Operator's annual report.

Pursuant to Section 2207 of the Public Resources Code, surface mining operators shall annually prepare and file, with all applicable filing fees, a surface mining report with the Department of Conservation and the planning director on a date established by the Department of Conservation, upon forms furnished by the state board. New surface mining operations shall file an initial report, with all applicable fees, to the Department of Conservation within thirty (30) days of approval of its surface mining permit, or before commencement of operations, whichever is sooner.

#### 19.16.020 Annual inspection and report.

As a condition to a surface mining permit issued under this title, an annual inspection and report on the permitted surface mining operations and reclamation plan shall be required of the operator as follows:

- A. Within thirty (30) days of filing its annual report pursuant to Section 19.16.030, the operator shall submit an application to the planning director for an inspection permit, together with the established fee for all reasonable anticipated costs of the inspection. The application shall include a copy of the operator's annual report and a brief written statement specifying how reclamation at the site of the surface mining operations conforms or deviates from the approved reclamation plan.
- B. Within thirty (30) days of receiving a completed application an inspection of the site of the surface mining operation shall be conducted by the planning director or a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months, or other qualified specialists, as selected by the planning director to inspect the site of the surface mining operations. The inspection shall be conducted using the form approved and provided by the state board. Any failure to inspect shall not affect the duty of the operator to maintain compliance with all conditions of its surface mining permit, its approved reclamation plan, and all provisions of this ordinance and the state regulations.
- C. Within thirty (30) days of completion of the inspection, the planning director shall submit to the Department of Conservation the completed inspection form with a notice indicating the operator's compliance with this title, the state regulations, and SMARA. The planning director shall also forward of copy of said inspection form and notice to the operator.
- D. This section shall not prohibit or restrict the city from performing any other authorized inspection of any surface mining operations, nor pursuing the enforcement of any other local, state, or federal law through any legal means available to the city.

#### 19.16.030 Violations; penalties; remedies.

- A. Any person who violates any of the provisions or fails to comply with any of the requirements of this

title is guilty of a misdemeanor, and shall be punishable under the penalty provisions of Section 1.08.020.

- B. Any condition caused or permitted to exist in violation of any of the provisions of this title is a public nuisance and may be, by this city, summarily abated as such. Each day such condition continues shall be regarded as a new and separate offense.
- C. If the planning director, based on the annual inspection required by Section 19.16.040 or any other inspection conducted by the city, determines a surface mining operation is in violation of its surface mining permit, approved reclamation plan, this title, the state regulations, or SMARA, the planning director shall notify the operator of such violation(s) and demand such violation(s) be remedied to the planning director's satisfaction within thirty (30) days. The notice of violation shall be served either personally or by registered mail, postage prepaid, return receipt requested.
- D. If an operator, after receiving a notice of violation, fails to remedy such violation(s) within the time and in manner prescribed in the notice of violation, the city may take one or more of following actions where applicable:
  - 1. Revoke or suspend the surface mining permit pursuant to Section 19.16.040.
  - 2. Impose penalties pursuant to Sections 2774.1 and 2774.2 of the Public Resources Code.
  - 3. Obtain forfeiture of the reclamation security pursuant to Section 19.16.050.
  - 4. Take any other enforcement action or remedy authorized under this Code or state law.

**19.16.040 Revocation or suspension of surface mining permit.**

- A. The commission on its own motion may, and upon the direction of the council shall, hold a hearing upon the question of the revocation or suspension of a surface mining permit.
- B. Written notice of said public hearing shall be served on the person to whom the surface mining permit was issued, at least ten (10) days before the hearing date. The notice shall be served either personally or by registered mail, postage prepaid, return receipt requested.
- C. After holding public hearing on the revocation, suspension, or modification of a surface mining permit, the commission shall report its findings of fact and recommendations to the council. The council shall make the final determination whether to revoke, suspend, modify, or take no action with respect to the surface mining permit in question.
- D. A surface mining permit may be revoked, suspended, or modified if both the commission and council make one or more of the following findings:
  - 1. The surface mining operations authorized by the permit are detrimental to the public health, safety or general welfare, or are a nuisance.
  - 2. The surface mining permit was obtained by fraud.
  - 3. The surface mining operations have not been commenced within three (3) years of the effective date of the permit or within the time set in the conditions of approval, or such operations have ceased for one (1) year or more.
  - 4. The surface mining operations pose a significant threat to the city's groundwater resources or are likely to have a significant adverse impact on those resources if allowed to continue.
  - 5. The surface mining operations have been materially extended beyond the limits of the permit.
  - 6. The operator has violated or failed to satisfy any of the requirements imposed as conditions of surface mining permit approval.
  - 7. Any of the provisions of this Code, the state regulations, or SMARA have been violated by the operator, and the operator has, after a notice violation, failed to correct or cease such violations within a reasonable time.

**19.16.050 Forfeiture of reclamation security.**

If the city, following notice to the operator and a public hearing, determines an operator is financially



incapable of performing reclamation in accordance with its approved reclamation plan, or the operator has abandoned its surface mining operation without commencing reclamation, the city shall do all of the following:

- A. Notify the operator the city intends to take appropriate action to forfeit the reclamation security provided under Section 19.08.110 and the specific reasons for such action. Such notice shall be served either personally or by registered mail, postage prepaid, return receipt requested.
- B. Allow the operator sixty (60) days 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 period mutually agreed upon by the city.
- C. Proceed to take appropriate action to require forfeiture of the reclamation security if the operator does not substantially comply with paragraph (B).
- D. Use the proceeds from the forfeited reclamation security to conduct and complete reclamation in accordance with the approved reclamation plan. In no event shall the reclamation security be used for any other purpose. The operator shall be liable for all costs of conducting and completing reclamation in accordance with the approved reclamation plan which are in excess of the proceeds from the forfeited reclamation security.