

ORDINANCE NO. 176

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF LAKE FOREST, CALIFORNIA,
AMENDING, RESTATING, AND RECODIFYING
TITLE 9 OF THE LAKE FOREST MUNICIPAL
CODE**

WHEREAS, upon the incorporation of the City of Lake Forest on December 20, 1991, the City adopted the Orange County Code as the City's Municipal Code, as required by law; and

WHEREAS, in the fifteen years since incorporation, the City Council has adopted numerous ordinances to meet the needs of the community and address issues not addressed by the County Code; and

WHEREAS, as the City Council has continued to adopt ordinances and the needs of the community have continued to evolve, the Municipal Code has become a hybrid of true City ordinances and inherited County ordinances; and

WHEREAS, many of the inherited County ordinances in the Municipal Code are quite old and no longer reflective of best practices, and some have since been amended or repealed by the County, which updates are not reflected in the Municipal Code; and

WHEREAS, in order to make the Municipal Code clearer, easier to use and understand, incorporate current best practices, and replace old County ordinances with ordinances meeting the needs of the Lake Forest community, the City Council finds that it is necessary to amend, restate, and re-codify in phases the entire Municipal Code; and

WHEREAS, City staff have carefully reviewed every existing provision of the Municipal Code, have made numerous recommendations for amendments and updates to Title 9, and have summarized these recommendations in the staff report presented to the City Council with this ordinance; and

WHEREAS, the City Council has considered the staff report, recommendations by staff, and public testimony concerning the Municipal Code; and

THE CITY COUNCIL OF THE CITY OF LAKE FOREST DOES
ORDAIN AS FOLLOWS:

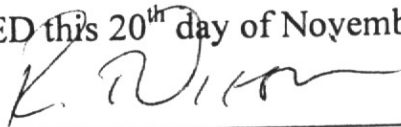
SECTION 1. Title 9 of the Lake Forest Municipal Code is hereby repealed in its entirety and the amended, restated, and re-codified version attached to this ordinance as Exhibit "A" is hereby adopted.

SECTION 2. Nothing in this ordinance is intended to, or shall act to, abrogate, nullify, or limit any contract or agreement awarded or entered into, license, permit, or other right granted to any person, or function of government or other action of the City (including, but not limited to, prosecutions and other enforcement actions) undertaken under the authority of, or in reliance upon, Title 9 prior to the effective date of this ordinance.

SECTION 3. Notwithstanding the repeal of Title 9, ordinances derived or taken from the Orange County Code that are contained within the repealed titles shall be deemed to remain in effect, without change to section, chapter, division, or article numbering or organization, to the extent that they are incorporated by reference or otherwise referred to or relied upon in the remaining titles of the Municipal Code, until such time as the remaining titles are repealed, restated, and re-codified.

SECTION 4. The City Clerk shall certify as to the adoption of this Ordinance and shall cause it, or a summary of it, to be published once within fifteen (15) days of adoption in a newspaper of general circulation printed and published within the City of Lake Forest, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with Government Code § 36933.

PASSED, APPROVED, AND ADOPTED this 20th day of November 2007.



RICHARD T. DIXON
MAYOR

ATTEST:



SHERRY A.F. WENTZ, CMC
CITY CLERK

Title 9

PLANNING AND ZONING

Chapters:

- 9.02 Planning Commission
- 9.04 General Provisions
- 9.08 Adult Business Zoning Regulations
- 9.10 A1 Agricultural District
- 9.12 (reserved)
- 9.16 OS Open Space District
- 9.24 (reserved)
- 9.28 (reserved)
- 9.30 (reserved; former Chapter 9.30 is now Chapter 9.150)
- 9.32 (reserved)
- 9.36 (reserved)
- 9.40 (reserved)
- 9.44 R1 Single-Family Residence District
- 9.48 RS Residential Single-Family District
- 9.52 (reserved)
- 9.56 R2 Multifamily Dwellings District
- 9.60 (reserved)
- 9.64 R4 Suburban Multifamily Residential District
- 9.68 RP Residential-Professional District
- 9.72 (reserved)
- 9.76 C2 General Business District
- 9.80 (reserved; former Chapter 9.80 is now Chapter 9.182)
- 9.84 (reserved)
- 9.86 M1 Light Industrial District Regulations
- 9.88 CC Commercial Community District
- 9.92 (reserved)
- 9.96 CN Commercial Neighborhood District
- 9.100 PA Professional and Administrative District
- 9.104 (reserved)
- 9.108 (reserved)
- 9.112 PC District
- 9.116 (reserved)
- 9.120 (reserved)
- 9.124 PD Planned Development District
- 9.128 (reserved)
- 9.132 (reserved)

- 9.136 (reserved)
- 9.140 Underground Utility Districts
- 9.142 El Toro Redevelopment Project Area Development Review
- 9.144 General Regulations
- 9.146 Special Regulations
- 9.148 Public Safety Radio System Coverage
- 9.150 Surface Mining and Land Reclamation Regulations
- 9.152 Affordable Housing Incentives and Density Bonus Provisions
- 9.156 Community Care Facilities
- 9.160 Facility Design Regulations
- 9.162 Wireless Communication Facilities
- 9.164 Signs
- 9.166 Cable System Power Supply Facilities Design and Placement
- 9.168 Off-Street Parking
- 9.170 Regulation of Perimeter Walls
- 9.172 Condominium Conversions
- 9.176 Mobilehome Regulations
- 9.180 (reserved)
- 9.182 Outdoor Vending on Private Property
- 9.184 Discretionary Permits
- 9.188 Nonconforming Uses
- 9.192 Certificates of Use and Occupancy
- 9.196 Amendments and Zone Changes
- 9.200 (reserved; former Chapter 9.200 is now Chapter 9.146)
- 9.204 Tie Votes
- 9.208 Enforcement Procedures
- 9.220 Covenants for Easements
- 9.224 Request for Reasonable Accommodation

Chapter 9.150

**SURFACE MINING AND LAND
RECLAMATION REGULATIONS**

Sections:

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 - 9.150.015 Definitions.
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Article I. General

9.150.010 Purpose of District.

Rock, sand, aggregate, gravel, earth, clay and similar materials are valuable natural resources whose recovery in a responsible manner is encouraged. These regulations are intended to provide for surface mining, and quarrying, and processing of these materials in a manner which is both environmentally sensitive and compatible with existing and future land uses. These regulations are also intended to implement the Surface Mining and Reclamation Act of 1975, Public Resources Code Section 2710 et seq., as amended, hereinafter referred to as "SMARA," and Public Resources Code Section 2207, and the California Code of Regulations adopted pursuant thereto (14 California Code of Regulations, Section 3500 et seq.) are intended to ensure that sites are excavated in a safe and reasonable manner with progressive reclamation to a natural appearing or otherwise useable condition compatible with adjacent areas.

Except as provided in this code, every site zoned SG sand and gravel extraction shall have a single comprehensive SG site permit which shall delineate all of the uses permitted on that particular site. An SG site permit shall consist of the plan of operations, the drainage and erosion control plan, the vehicular access plan, the reclamation plan, and financial assurances. Except as provided in Section 9.188.010 of this title, no uses shall be permitted in the SG district unless authorized by an SG site permit. Any request for a zone change to the SG district shall be accompanied by an application for SG site permit and neither shall be approved or become effective separately. (Ord. 38 § 2 (part), 1993)

9.150.015 Definitions.

For the purpose of this chapter, the following words and phrases shall be defined as follows:

“Commercial extraction operation” means the removal or displacement of sand, gravel, rock, aggregate, clay or similar materials conducted for financial gain.

“Development Services director” or “director” means the City’s Director of Development Services.

“Haul road” means a road along which material is transported from one area of the site to another.

“Idle” means to curtail for a period of one (1) year or more surface mining operations by more than ninety (90) percent of the operation’s previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date. (Public Resources Code, Section 2727.1)

“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, bituminous rock, but excluding geothermal resources, natural gas, and petroleum. (14 California Code of Regulations, Section 3501) For the purposes of this chapter, minerals shall also include, but not be limited to sand, gravel, aggregate, cinders, diatomaceous earth, shale, limestone, flagstone, decorative stone, and riprap.

“Mining” means the process of obtaining sand, gravel, rock, aggregate, clay, or similar materials from an open excavation in the earth for financial gain, but not including the removal of minerals extracted by underground methods.

“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.

“Overburden” means soil, rock or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations. (Public Resources Code, Section 2732)

“Owner” means a person who owns a site upon which is located mining, quarrying, and/or commercial extraction operations which are being conducted or may be conducted.

“Permit” means any permit or authorization issued pursuant to this chapter, together with the application for the same, the conditions upon which it was issued, and any plans, specifications, reports, and approved modifications thereto.

“Person” means any individual, firm, association, corporation, organization, or partnership, or any City, county, district, the state or any department or agency thereof. (14 California Code of Regulations, Section 3501)

“Quarrying” means the process of removing or extracting stone, rock, or similar materials from an open excavation for financial gain.

“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 mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a useable condition which is readily adaptable for alternative land uses and create 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. (Public Resources Code, Section 2733)

“Settling basin” means an area devoted to the storage of waste residue.

“SG (sand and gravel) site permit” means the land use permit obtained pursuant to Sections 9.150.030 to 9.150.045 and 9.150.060 of this chapter to operate a surface mine in the SG district of this City.

“Site” means a lot or parcel of land, or a series of contiguous or adjacent lots or parcels of land, described by a lease or similar document upon which a surface mine is located or upon which commercial extraction operations are being or may be conducted, and which is covered by a permit.

“Slope” means the exposed surface of an excavation or fill which forms an incline.

“State Director of Conservation” means the Director of the State of California, Department of Conservation.

“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 incidental to an underground mine. Surface mining operations shall include, but are not limited to:

1. In-place distillation or retorting or leaching;
2. The production and disposal of mining waste;
3. Prospecting and exploratory activities. (Public Resources Code, Section 2735)

Surface mining operations shall also include the creation of borrow pits, streambed skimming, segregation and stockpiling of mined materials (and recovery of same). (14 California Code of Regulations, Section 3501)

“Ultimate right-of-way” means the right-of-way shown as ultimate on an adopted precise plan of highway alignment, or a street right-of-way shown within the boundary of a recorded tract map, a recorded parcel map, or a recorded planned Development Services plan. The latest adopted or

recorded document in the above case shall take precedence. If none of these exist, the ultimate right-of-way shall be considered to be the right-of-way required by the highway classification as shown on the master plan of arterial highways. In all other instances, the ultimate right-of-way shall be considered to be the existing right-of-way in the case of a private street, and the existing right-of-way, but not less than sixty (60) feet in the case of a public street. (Ord. 38 § 2 (part), 1993)

9.150.020 Incorporation of SMARA and state regulations.

The provisions of the California Surface Mining and Reclamation Act of 1975 as amended (Public Resources Code, Sections 2710 et seq.), Public Resources Code Section 2207, and the California Code of Regulations implementing SMARA (14 California Code of Regulations, Sections 3500 et seq.), and (14 California Code of Regulations, Article 9, Chapter 8, Section 3700 et seq., reclamation standards), hereinafter also referred to as the "state regulations," as those provisions may be amended from time to time, are made a part of this chapter by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this chapter are more restrictive than conflicting state provisions, this chapter shall prevail. (Ord. 38 § 2 (part), 1993)

Article II. Land Use and Regulations

9.150.022 Existing permits.

Any surface mining operation lawfully existing at the time this chapter becomes effective and which operation has an SG site permit, extraction permit, abandonment permit, or grading permit for repair of SG site issued by the City of Lake Forest prior to the incorporation of the City of Lake Forest may continue to operate under such permits provided the operator complies with all of the following:

- A. Provides the City with evidence of such permits;
- B. Provides the City with evidence of an approved reclamation plan;
- C. Provides the City with the financial assurances as required by SMARA and Section 9.150.070 of this chapter; and
- D. Continues to comply with the conditions of the approved permits. (Ord. 38 § 2 (part), 1993)

9.150.025 Establishment of SG overlay district—Applicability.

A. There is established an overlay district to be known as the "sand and gravel extraction district" which may be abbreviated as "SG district" for the purposes and uses as set forth in this chapter. The SG district is the only zoning district in which surface mining is allowed.

B. Requirements for Site Approval. Unless exempted by provisions of this chapter, any person who proposes to engage in surface mining, or who proposes to permit another person to engage in surface mining on his/her property shall, prior to the commencement of said operations as defined in this section, obtain approval from the City for an SG (sand and gravel) site permit as provided in Sections 9.150.030 to 9.150.045 and 9.150.060 of this chapter; a reclamation plan in accordance with the provisions set forth in this chapter, as further provided in Section 2772 et seq. of the Public Resources Code, and 14 California Code of Regulations, Article 9, Chapter 8, Section 3700 et seq.; an extraction permit, or grading permit for repair of SG site as provided for in Section 9.150.150 et seq. of this chapter; and financial assurances for reclamation. An SG site permit shall be required for all surface mining operations in the SG district which is the only zoning district in which surface mining is allowed; and shall be required for the expansion or substantial change of operation of any surface mine for which such expansion or changes have not been previously approved, including any operation, change, or modification which meets the definition of a "nonconforming use" as provided in Section 9.188.010.

C. Requirements for Reclamation Plans. A reclamation plan shall be required for all surface mining operations in the SG district, which is the only zoning district in which surface mining is allowed, including those portions of existing surface mining operations which claim to have vested rights pursuant to Public Resources Code Section 2776, unless otherwise exempted from the requirements of SMARA or as set forth herein. (Public Resources Code, Section 2770 et seq.)

D. Exemptions. This chapter shall not apply to the following activities:

1. Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster. (Public Resources Code, Section 2714(a))
2. Prospecting 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 acre or less. (Public Resources Code, Section 2714(b))

3. Surface mining operations that are required by federal law in order to protect a mining claim, if such operations are conducted solely for that purpose. (Public Resources Code, Section 2714(c))

4. Such other surface mining operations which the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances. (Public Resources Code, 2714(d))

5. 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. (Public Resources Code, Section 2714(f))

6. Pre-construction activities. (Public Resources Code, Section 2772(b))

7. Construction or operation of sand and gravel processing facilities. (Public Resources Code, Section 2772(c))

8. Excavation for timbering. (Public Resources Code, Section 2772(j))

9. Excavation for oil and gas extraction. (Public Resources Code, Section 2772(k))

10.a. Surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained by, the department of water resources for the purpose of the State Water Resources Development System or flood control, and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the reclamation board for the purpose of flood control, if the department of water resources adopts, after submission to and consultation with, the department of conservation, a reclamation plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulations of the board adopted pursuant to this chapter. (Public Resources Code, Section 2714(g)(1))

b. Nothing in this subdivision shall require the department of water resources or the reclamation board to obtain a permit or secure approval of a reclamation plan from the City in order to conduct surface mining operations specified in subdivision (1) of this subsection. Nothing in this subdivision shall preclude the bringing of an enforcement action pursuant to Public Resources Code Section 2774.1 if it is determined that a surface mine operator acting under contract with the department of water resources or the reclamation board on lands other than those owned or leased, or upon which easements or rights-of-way have been obtained, by the department of water resources or the reclamation board, is otherwise not in compliance with Public Resources Code Section 2710 et seq. (Public Resources Code, Section 2714(g)(2))

An exemption under this chapter does not automatically 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 the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.), the requirement of site permit(s), plan(s), or approval(s) or other permit(s), or the payment of development impact fees or the imposition of other dedications and exactions as may be permitted under the law. (Ord. 38 § 2 (part), 1993)

9.150.030 Applications for SG site permit for surface mining operations and reclamation plans—Contents.

A. Applications for an SG site permit or reclamation plan for surface mining or land reclamation projects shall be made on forms provided by the Development Services department. Said applications shall be filed in accordance with this chapter and procedures to be established by the Development Services director. As many copies of the SG site permit application as may be required by the Development Services director shall be submitted to the Development Services department. Applications for SG site permits shall include all the information required by Public Resources Code Section 2772 and all of the following:

1. Plan of operations:
 - a. Recent (within six months) aerial photograph of the site,
 - b. Property lines and lease lines, including a legal description of the site,
 - c. The existing topography of the site and land within five hundred (500) feet of the site and any existing structures, watercourses, levees, drainage facilities, utility easements and facilities, roads and driveways existing within said areas. Contours at five-foot intervals unless otherwise specified by the Development Services director,
 - d. The location and condition of any abandoned pits and previously mined areas on the site,
 - e. The area or areas to be excavated and typical cross sections of slopes to be formed or modified,
 - f. The depth of all proposed excavations,
 - g. The proposed sequence and approximate time frames within which the areas shown are proposed to be excavated and otherwise used,
 - h. The location of all proposed structures, including processing plants and appurtenant equipment and fences. Where such facilities are proposed to be relocated over the course of the life of the SG site permit, their various proposed locations shall be shown,
 - i. Existing vegetation,

j. A report of a comprehensive soils engineering and engineering geological investigation prepared by a registered civil engineer and a certified engineering geologist, relative to the setbacks, slopes, and excavations proposed,

k. Landscaping, if any, proposed to be planted in addition to that indicated on the reclamation plan,

l. Details of areas for the storage of overburden and waste material,

m. Roads, driveways and parking areas on the site for all equipment and employee cars,

n. Proposed days and hours of operation,

o. Details of areas for any proposed berms;

2. Drainage and erosion control plan:

a. The location and approximate depth of proposed settling basins, desilting ponds, recycling ponds and other bodies of water. Where such facilities are proposed to be relocated over the course of the life of the SG site permit, their various proposed locations shall be shown,

b. The existing groundwater level and annual fluctuation of all areas to be excavated where appropriate,

c. Methods to be taken for the disposition of drainage and for the control of erosion, erosion cutback, and sedimentation,

d. If applicable, provisions to be taken for the conservation and protection of groundwater. Approvals obtained or required from the appropriate regional water quality control board shall be indicated;

3. A vehicular access plan describing:

a. The points of ingress and egress to the site,

b. The streets and highways to be used by vehicles going to and coming from the site,

c. Haul roads,

d. Driveways and parking areas,

e. The type, size, and quantity of vehicles anticipated.

This plan shall be designed in a manner so as to minimize sand and gravel related vehicular traffic over local residential streets;

4. A reclamation plan consisting of a map or maps and appurtenant notes which fully illustrate and set forth how and when each portion of the site will be restored to a natural appearing or otherwise usable condition. In addition, the plans shall include a landscaping plan prepared by a licensed landscape architect. The landscaping plans shall take into account the nature of the soil on the site.

B. As many copies of a reclamation plan application as may be required shall be submitted in conjunction with all applications for SG site permits. For surface mining operations that are exempt from a SG site permit pursuant to this chapter, the reclamation plan application shall include information concerning the mining operation that is required for processing the reclamation plan.

C. Applications shall include all required environmental review forms and information prescribed by the Development Services director.

D. Upon completion of the environmental review procedure and filing of all documents required by the Development Services director, consideration of the SG site permit and/or reclamation plan for the proposed or existing surface mine shall be conducted at a public hearing before the Planning Commission, pursuant to Public Resources Code Section 2774. When applications for multiple permits, i.e., SG site permit, reclamation plan, and/or an extraction permit or grading permit for repair of SG site, are on file, every effort shall be made to consolidate and coordinate the approval process. (Ord. 38 § 2 (part), 1993)

9.150.035 Processing.

A. Within thirty (30) days of acceptance of an application for an SG site permit and/or a reclamation plan as complete, the Development Services department shall notify the State Director of Conservation of the filing of the application(s). (Public Resources Code, Section 2774(e)). Whenever mining operations are proposed in the one hundred (100) year floodplain for 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 Development Services department shall also notify the State Department of Transportation and its Environmental Planning Branch that the application has been received. (Public Resources Code, Section 2770.5)

B. The Development Services department shall process the application(s) through environmental review pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) and the City's local guidelines for implementing the California Environmental Quality Act.

C. Subsequent to the appropriate environmental review, the Development Services department shall prepare a staff report with recommendations for consideration by the Planning Commission.

D. The Planning Commission shall hold at least one noticed public hearing on the SG site permit and/or reclamation plan.

E. 1. Prior to final approval of a reclamation plan, financial assurances (as provided in this chapter), or any amendments to the reclamation plan or existing financial assurances, the Planning Commission shall certify to the State Director of Conservation that the reclamation plan and/or financial assurance complies with the applicable requirements of the state regulations and submit the plan, assur-

ances or amendments to the State Director of Conservation for review (Public Resources Code, Section 2774(c)). The Planning Commission may conceptually approve the reclamation plan and financial assurance before submittal to the State Director of Conservation. If an SG site permit is being processed concurrently with a reclamation plan, and/or an extraction permit or grading permit for repair of SG site, the Planning Commission may simultaneously also conceptually approve the SG site permit and related permits. However, the Planning Commission may defer action on the SG site permit and related permits until taking final action on the reclamation plan and financial assurance. If necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve the SG site permit with the condition that the Development Services department shall not issue the SG site permit for the mining operation until financial assurances have been reviewed by the State Director of Conservation and final action has been taken on the reclamation plan and financial assurances.

2. The State Director of Conservation shall have forty-five (45) days to prepare written comments on the reclamation plan and financial assurance, if the State Director of Conservation so chooses (Public Resources Code, Section 2774(d)). The Planning Commission shall evaluate written comments received from the State Director of Conservation during the forty-five (45) day comment period. Staff shall prepare a written response describing the disposition of the major issues raised by the state for the Planning Commission's approval. In particular, when the Planning Commission's position is at variance with the recommendations and objections raised in the State Director of Conservation's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted (Public Resources Code, Section 2774(d)). Copies of any written comments received and responses prepared by the Planning Commission shall be promptly forwarded to the operator/applicant.

F. The Planning Commission shall then take action to approve, conditionally approve, or deny the SG site permit and/or reclamation plan, and pursuant to Public Resources Code Section 2774, and to approve the financial assurances pursuant to Public Resources Code Section 2770(d).

G. The Development Services department shall forward a copy of each approved SG site permit and/or approved reclamation plan, and a copy of the financial assurances to the State Director of Conservation. By July 1 of each year, the Development Services department shall submit to the State Director of Conservation for each active or idle mining operation a copy of the SG site permit or reclamation plan amendments, as applicable, or a statement that

there have been no changes during the previous year. (Public Resources Code, Section 2774(e))

H. Annual Reports. Surface mining operators shall forward an annual status report to the State Director of Conservation and the City's Development Services department on a date established by the State Director of Conservation upon forms furnished by the State Mining and Geology Board. (Public Resources Code, Section 2207 (a)—(g)). (Ord. 38 § 2 (part), 1993)

9.150.040 Findings for approval.

A. Approval of an SG Site Permit. SG site permits shall include a finding that the project complies with the provisions of state regulations and the following:

1. General Plan. The SG site permit is consistent with the General Plan.

2. Zoning Code. The SG site permit by the application is consistent with the provisions of the Zoning Code.

3. CEQA. The approval of the permit application is in compliance with the requirements of the California Environmental Quality Act.

4. Compatibility. The location, size, design and operating characteristics of the proposed use will not create significant noise, traffic, or other conditions or situations that may be objectionable, detrimental, or incompatible with other permitted uses in the vicinity.

5. General Welfare. The issuance of the SG site permit will not result in conditions or circumstances contrary to the public health, safety, or the general welfare.

6. Development Fees for Provision of Public Facilities. One of the following findings shall be made:

a. The property to which the permit applies is not located in a fee area;

b. The permit would not allow development of a project which would contribute to the need for the facility for which a fee is required.

B. Approval of Reclamation Plans. For reclamation plans, the following findings shall be required:

1. That the reclamation plan complies with Sections 2772, 2773, and 2773.1 of the Public Resources Code and any other applicable provisions;

2. That the reclamation plan complies with applicable requirements of the state regulations (14 California Code of Regulations, Section 3500 et seq., and 14 California Code of Regulations, Section 3700 et seq.);

3. That the reclamation plan and potential use of reclaimed land pursuant to the plan are consistent with this chapter and the City's general plan and any applicable resource plan or element;

4. That the reclamation plan has been reviewed and approved pursuant to the California Environmental Quality Act (CEQA, Public Resources Code Section 21000 et seq.) and the City's local guidelines for implementing the California Environmental Quality Act, and significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible;

5. That the reclamation plan will restore the mined lands to a usable condition which is readily adaptable for alternative land uses consistent with the General Plan and applicable resource plan;

6. That a written response to the State Director of Conservation has been prepared, describing the disposition of major issues raised by the State Director of Conservation. Where the City's position is at variance with the recommendations and objections raised by the State Director of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted. (Public Resources Code, Section 2772(d)). (Ord. 71 § 10, 1996; Ord. 38 § 2 (part), 1993)

9.150.045 Approval of SG site permit applications.

A. SG site permits shall be processed for approval in the same manner as feature plans per Chapter 9.184.

B. Prior to the approval of an SG site permit application, the State Director of Conservation shall be notified of the application by the Development Services director.

C. The Development Services director or the Planning Commission may approve operations which deviate from an SG site permit for a period of up to one hundred-twenty (120) days, provided that changed circumstances necessitate such a deviation and that the public health, safety or welfare are not endangered by such a deviation. If the Development Services director approves the temporary deviation, he/she shall notify the Planning Commission, who may then revoke or modify the approval. There may not be an extension beyond the initial one hundred-twenty (120) day period of the deviation. (Ord. 38 § 2 (part), 1993)

9.150.050 Uses permitted subject to an SG site permit.

The following uses may be permitted with an SG site permit:

A. Surface mining and quarrying of rock, sand, gravel, aggregate, earth, clay, and similar materials;

B. Storage, stockpiling, distribution, and sale of rock, sand, gravel, aggregate, earth, clay, and similar materials;

C. The installation and operation of plants or apparatus for rock or aggregate crushing or cement treatment of base materials, and appurtenant screening, blending, washing, loading, and conveyor facilities;

D. Concrete batching plants and mixing plants for either portland cement or asphaltic concrete;

E. The manufacture of concrete and clay products and prestressed structural units in conjunction and concurrent with excavation on the site;

F. Sanitary landfilling, including inert materials disposal sites;

G. Shops, garages, and warehouses for the repair, maintenance, and storage of equipment and supplies necessary for the conduct of the uses permitted;

H. Offices for the conduct of the uses permitted;

I. Not more than two single-family dwelling units for employees engaged in guarding or carrying on the uses permitted;

J. Public and private parks and recreation areas and appurtenant buildings and improvements when they are compatible with all other authorized uses on the site and the reclamation of the site;

K. Agricultural and other types of open space uses;

L. Storage of equipment, trucks and construction materials related to on-site mining operations;

M. Other uses necessary or incidental to surface mining and quarrying operations on the site. (Ord. 38 § 2 (part), 1993)

9.150.055 Performance standards, SG site permits.

The establishment, operation and maintenance of the uses permitted by Section 9.150.040 of this chapter shall be in compliance with the following standards unless otherwise provided by an SG site permit approved by the City Council.

A. Dust Control. Roads, driveways and parking areas on the site shall be maintained so as to control dust.

B. Setbacks. Structures and accessory use setbacks per Sections 9.144.030, 9.144.040, 9.144.080, and 9.150.205.

C. Screening. Extracting and processing operations shall be screened in such a manner that they are not readily visible from any public street. Screening shall be set back at least twenty (20) feet from any intersection of driveways, streets or sidewalks.

D. Depth. In no event shall excavation in any pit-type of mining operation be permitted in excess of one hundred fifty (150) feet in depth as measured from existing grade. For purposes of this subsection only, a "pit-type" of mining operation shall mean a man-made hole, trench, ditch, or

similar depression in the surface made for the purpose of extracting sand, gravel, rock, aggregate, clay, or similar materials and which does not drain. An "excavation" is similar except that the excavation may be made to an ultimate depth of an approved grade for a particular site.

E. Drainage and Erosion Control. Surface drainage shall be controlled to prevent the addition of silt or loose material above that naturally occurring in any existing drainage course or encroaching upon adjoining property and improvements. All provisions to control watercourses shall be designed to prevent overflow or diversion of water away from the natural point of discharge. Adequate provisions for conveyance of water across and from the site and for long-term retention of water shall be accomplished in a manner so as to minimize potential damages from landslide and erosion.

F. Signs per Chapter 9.164 of this title.

G. Reclamation Schedule. Except as provided in this section, reclamation of each area shall commence as soon as excavation operations or other SG related operations have been completed within an area, and continue in a diligent manner prior to or concurrently with the extension of excavation operations to a new area.

H. Removal of Buildings and Equipment. Buildings and equipment used in surface mining and quarrying operations shall be removed within six months of the termination of surface mining and quarrying operations. (Ord. 38 § 2 (part), 1993)

9.150.060 Performance standards for reclamation plans.

A. All new or revised reclamation plans shall conform to minimum statewide performance standards required pursuant to Public Resources Code Section 2773(b) and 14 California Code of Regulations, Article 9, Chapter 8, Section 3700 et seq., as adopted by the State Mining and Geology Board, including but not limited to wildlife habitat, backfilling, revegetation, drainage, agricultural land reclamation, equipment removal, stream protection, topsoil salvage, and waste management.

B. The City may impose additional performance standards developed either in review of individual projects, as warranted, or through the formulation and adoption of additional City-wide performance standards. (Ord. 38 § 2 (part), 1993)

9.150.065 Phasing of reclamation.

Reclamation activities shall be phased with respect to the mining operation and shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance (Public Resources Code, Section 2772(c)(6)) (see also, interim management plans for idle mining operations, hereinbelow). Interim reclamation may also be required for mined lands that have been disturbed and that may be disturbed again in future operations. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill as approved by the City. Each phase of reclamation shall be specifically described in the reclamation plan and shall include:

- A. The beginning and expected ending dates for each phase;
- B. All reclamation activities required;
- C. Criteria for measuring completion of specific reclamation activities; and
- D. Estimated costs as provided under financial assurances hereinbelow. (Ord. 38 § 2 (part), 1993)

9.150.070 Financial assurances for reclamation plans.

A. In order to ensure that reclamation will proceed in accordance with the approved reclamation plan, the City shall require as a condition of approval security which will be released upon satisfactory performance. The applicant may post security in a form and from a financial institution that are acceptable to the City, such as a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, trust funds, or other method acceptable to the City and the mining and geology board (the "board") as specified in statewide regulations adopted by the board, and which the City reasonably determines as adequate to perform reclamation in accordance with the surface mining operation's approved reclamation plan. Financial assurances shall be made payable to the City of Lake Forest and the department of conservation. (Public Resources Code, Section 2773.1(a)(4))

B. Financial assurances will be required to ensure compliance with all elements of the 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 mitigation measures. Financial assurances for such elements of the reclamation plan shall be monitored by the Development Services department.

- C. The amount of the financial assurances shall:

1. Be based upon the estimated costs of reclamation for the years or phases required by the approved reclamation plan;

2. Include any maintenance of the reclaimed areas as may be required;

3. Be subject to adjustment for the actual amount required to reclaim new lands to be disturbed by surface mining activities in the upcoming year as provided in subsection (F) of this section;

4. Be subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities since January 1, 1976. (14 California Code of Regulations, Section 3501)

Cost estimates shall be prepared by a licensed engineer and/or other qualified professionals retained by the operator and approved by the Development Services director. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved reclamation plan, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs. Financial assurances to ensure compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved reclamation plan shall be based upon cost estimates that include, but may not be limited to, labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator other than the operator.

D. In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, the City or state may need to contract with a third party commercial company for reclamation of the site.

E.1. The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed, including any maintenance required. (Public Resources Code, Section 2773.1(a)(2))

2. If a mining operation is sold or ownership or operation is transferred to another person, the existing financial assurances shall remain in force and shall not be released by the City until new financial assurances are secured from the new owner or operator and have been approved by the City in accordance with Public Resources Code Section 2770. (Public Resources Code, Section 2773.1(c))

3. Financial assurances shall no longer be required and shall be released once reclamation has been completed in accordance with the approved reclamation plan. Notice of the completion of the reclamation and the release of financial assurances shall be sent to the owner, operator, and

State Director of Conservation. (Public Resources Code, Section 2773.1(c))

F. The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan (Public Resources Code, Section 2773.1(a)(3)). The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the operator may not claim credit for reclamation scheduled for completion during the coming year.

G. Revisions to financial assurances shall be submitted to the Development Services director each year prior to the anniversary date for approval of the financial assurances. The financial assurance shall cover the cost of existing disturbance and anticipated activities for the next calendar year, including any required interim reclamation. If revisions to the financial assurances are not required, the operator shall explain, in writing, why revisions are not required.

H. An operator may choose to supply financial assurances for the entire site rather than on an annual basis. However, City shall review the financial assurances on an annual basis to determine compliance with Public Resources Code Section 2773.1 and shall require upward adjustment of said assurances if necessary. (Ord. 38 § 2 (part), 1993)

9.150.075 Inspections.

The Development Services department shall arrange for inspection of a surface mining operation within six months of receipt of the annual report required in Section 9.150.035(H), to determine whether the surface mining operation is in compliance with the approved SG site permit and/or reclamation plan, approved financial assurances, and the state regulations (Public Resources Code, Section 2774(b)). In no event shall less than one inspection be conducted in any calendar year. Said inspections may be made by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, state-registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous twelve (12) months, or other qualified specialists, as selected by the Development Services director and as retained by the City Council. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board. The Development Services department shall notify the State Director of Conservation within thirty (30) days of completion of the inspection that the said inspection has been conducted and shall forward a

copy of said inspection notice and any supporting documentation to the mining operator. The operator shall be solely responsible for the reasonable cost of such inspection and shall advance the necessary funds to cover estimated costs of such inspections if requested by the Development Services director. (Ord. 38 § 2 (part), 1993)

9.150.080 Interim management plans.

A. Within ninety (90) days of a surface mining operation becoming idle, as defined in this chapter, the operator shall submit to the Development Services department a proposed interim management plan (Public Resources Code, Section 2770(h)) (the "IMP"). The proposed IMP shall fully comply with the requirements of Public Resources Code Section 2770(h) and shall provide measures the operator will implement to maintain the site in compliance with SMARA, including, but not limited to, all conditions of the site permit and/or reclamation plan. The proposed IMP shall be processed as an amendment to the reclamation plan and shall not be considered a project for the purposes of environmental review (Public Resources Code, Section 2770(h)).

B. Financial assurances for idle operations shall be continued as addressed in the reclamation plan or as otherwise approved through the idle mine's IMP.

C. Upon receipt of a complete proposed IMP, the Development Services department shall forward the IMP to the department of conservation for review. The IMP shall be submitted to the department of conservation at least forty-five (45) days prior to approval by the Planning Commission.

D. Within sixty (60) days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Development Services director and the operator, the Planning Commission shall review and approve, conditionally approve, or deny the IMP in accordance with this chapter. If necessary because of a denial of an IMP or conditions imposed by the Planning Commission, the operator shall have thirty (30) days or a longer period mutually agreed upon by the operator and the Development Services director to submit a revised IMP. The Planning Commission shall approve, conditionally approve, or deny the revised IMP within sixty (60) days of receipt. If the Planning Commission denies the revised IMP, the operator may appeal that action to the City Council in accordance with Section 2.04.100 et seq. of this code.

E. The IMP may remain in effect for a period not to exceed five years, at which time the Planning Commission may renew the IMP for another period not to exceed five years or require the surface mining operator to commence

reclamation in accordance with its approved reclamation plan. (Ord. 38 § 2 (part), 1993)

9.150.085 Periodic review.

As a condition of approval for either the site permit or the reclamation plan, a periodic review schedule shall be established to evaluate the compliance with said reclamation plan. (Ord. 38 § 2 (part), 1993)

9.150.090 Time limit for commencement of use of permits for surface mining operations.

The time limit for commencing a surface mining operation that is permitted pursuant to this section shall be as provided in Chapter 9.184. (Ord. 38 § 2 (part), 1993)

9.150.095 Reservation of right to review permits—Changed circumstances.

A. Any permit granted or approved hereunder shall be granted or approved with the City and its City Council and Planning Commission retaining and reserving the right and jurisdiction to review and to modify the permit, including the conditions of approval, based on changed circumstances on site of a substantial nature. Changed circumstances include, but are not limited to, the modification of the business, a change in scope, emphasis, size, or nature of the business, and the expansion, alteration, reconfiguration, or change of use. The reservation of right to review any permit granted or approved hereunder by the City, the City Council, and the Planning Commission is in addition to, and not in lieu of, the right of the City, City Council, and Planning Commission to review and revoke or modify any permit granted or approved hereunder for any violations of the conditions imposed on such permit.

B. Any permit granted hereunder shall contain a condition of approval in substantially the following form:

The City and its Planning Commission and City Council retain the right and the jurisdiction to review this permit based on changed circumstances on site of a substantive nature. Changed circumstances include, but are not limited to, the operations are modified, changed in scope, or the owner or operator seeks to expand, alter, reconfigure, or change the use. This reservation of the right to review of the permit issued hereunder is in addition to, and not in lieu of, the right of the City, its Planning Commission and City Council

cil to review and revoke the permit or to modify the permit for any violations of the conditions imposed. (Ord. 38 § 2 (part), 1993)

9.150.100 Violations and penalties.

A. If the Development Services director, based upon an annual or other inspection of the mining operation, determines that a surface mining operation or reclamation is not in compliance with this chapter, the applicable site permit, any required permit, the reclamation plan, and/or that the financial assurances have ceased to be adequate for any reason, the City shall follow the procedures set forth in Public Resources Code Sections 2774.1 and 2774.2 concerning violations and penalties, as well as those provisions of this code for revocation and/or abandonment of an SG site permit and related permits.

B. The failure to undertake or cause to be undertaken reclamation work required by this chapter, a reclamation plan, or state law in a timely manner shall be, and the same is hereby declared to be, unlawful and a public nuisance endangering the health, safety, and general welfare of the public and a detriment to the surrounding community. There shall be a hearing held by the City Council on due notice to the owner, operator, and surety or other party providing the financial assurances to determine the fact of noncompliance with subsection (A) of this section and the extent of the public nuisance.

C. In addition to any other remedy provided by law for the abatement, removal, and enjoinder of such public nuisance, the City Council after notice and hearing as per subsection (B) of this section, and within the period of time set forth in subsection (D) of this section for the owner, operator, and surety or other party providing the financial assurances to abate said nuisance, may cause the necessary remedial and reclamation work to be done, and the cost thereof shall be assessed against the owners of the property. The notice shall be in writing and mailed to all persons whose names appear on the latest equalized assessment roll as owners of the real property at the addresses shown on said assessment roll, or as otherwise known by the City Council to be the owners or operators of the property involved. The Director of Development Services shall also cause at least one copy of such notice to be posted in a conspicuous place on the premises. No assessment shall be held invalid for failure to post or to mail or correctly address any notice if this section has been substantially complied with by the City.

D. At the hearing the City Council shall make findings which specify the unlawful condition and the corrective work required to be done, and if said corrective work is not

commenced thirty (30) days after receipt of such order and diligently prosecuted to completion, the City may cause such work to be done in which case the cost and expense of such work, including the incidental expenses incurred by the City will be assessed first against the operator, then the surety or other party providing the financial assurances, and finally against the owners of the property and become a lien upon such property unless paid in full.

E. If upon the expiration of the thirty (30) day period provided for in this section, the work has not been done or commenced, and is not being prosecuted with diligence, the City shall proceed to do such work or cause such work to be done. Upon completion of such work, the Development Services director shall file a written report with the City Council setting forth the fact that the work has been completed and the cost to be assessed. The City Council shall thereupon fix a time and place for hearing protests against the assessment of the cost of such work. The City clerk, directed by the City Council, shall thereafter give notice in writing to the owners, operators, and surety or other party providing the financial assurances, of the hour and place that the City Council will pass upon said report and will hear protests against said assessments. Such notice shall also set forth the amount of the proposed assessment. Upon the date and hour set for the hearing of protests, the City Council will hear and consider the report from the Director of Development Services and all protests, if there be any, and then proceed to confirm, modify, or reject the assessments.

F. A list of assessments as finally confirmed by the City Council shall be sent to the tax collector for collection. If any assessment is not paid within ten days after its confirmation by the City Council, the City clerk shall cause a notice of lien to be filed in the office of the county recorder of the County of Orange.

G. From and after the date of recordation of such notice of lien, the amount of the unpaid assessment shall be a lien on the property against which the assessment is made, and such assessment shall bear interest at the legal rate of interest until paid in full. Such lien shall continue until the amount of the assessment and all interest thereon shall have been paid. The lien shall be subordinate to tax liens and all fixed special assessment liens previously imposed upon the same property, but shall have priority over all contractual liens which may thereafter be created against the property. From and after the date of recordation of such notice of lien, all persons shall be deemed to have notice of the content thereof.

H. It shall be unlawful and a misdemeanor subject to punishment in accordance with Section 1.01.200 et seq. of this code for any person to violate any provision of this chapter. (Ord. 38 § 2 (part), 1993)

9.150.105 Fees.

The City shall establish by resolution of the City Council such fees and/or deposits as it deems necessary to cover the reasonable costs incurred in implementing this chapter and the state regulations, including but not limited to, processing of applications, annual reports, inspections, monitoring, enforcement, compliance, and such experts and consultants as the City deems necessary to carry out the provisions of this chapter and state law. Such fees shall be paid by the operator of the surface mine and/or reclamation plan, as required by the City, at the time of filing of the site permit application, other permit applications, reclamation plan application, and at such other times as are determined by the City to be appropriate in order to ensure that all reasonable costs of implementing this chapter are borne by the mining operator. (Ord. 38 § 2 (part), 1993)

9.150.110 Appeals.

Any person aggrieved by an act or determination of the Development Services director or Planning Commission may appeal the same in accordance with Section 2.04.100 et seq. of this code. (Ord. 38 § 2 (part), 1993)

Article III. Mining and Extraction Regulations and Permits

9.150.150 Permits required to operate.

No person shall maintain a pit, mine, surface mine, commercial extraction operation, or commence or perform any operations or activities within the scope of this chapter without first obtaining the appropriate permit(s) to do so as specified below:

A. Reserved.

B. Extraction Permit. No person shall maintain a pit, mine, surface mine, or commercial extraction operation, from which materials have been extracted since the enactment of this chapter or perform any extraction operations or activities without first obtaining an extraction permit.

An extraction permit may be issued by the Development Services director for the maintenance of pits, mines, surface mines, or commercial extraction operations, from which no materials have been extracted since the enactment of this chapter, provided the pit, mine, surface mine or commercial extraction operation is found to comply with Section 9.150.205 or 9.150.210 and all other applicable requirements of this chapter have been met.

C. Grading Permit for Repair of SG Site. Except as provided in Section 9.150.175, repair work required in order to bring a pit, mine, surface mine, or commercial extraction

operation, into compliance with the provisions of Section 9.150.205 shall be accomplished only after a grading permit for repair of SG site has been obtained and the work shall be performed in compliance with the terms of said permit.

The Development Services director may waive the sections of this chapter related to permit procedure as he/she deems appropriate. (Ord. 38 § 2 (part), 1993)

9.150.155 Permit procedures.

An application for a permit pursuant to this chapter shall be signed by the owner or his/her legally authorized agent. The application shall be accompanied by a description of the site and such fees, plans, reports, financial assurances, and engineering data as outlined in Sections 9.150.030, 9.150.070 and 9.150.105 of this chapter. (Ord. 38 § 2 (part), 1993)

9.150.160 Additional reports and engineering data.

Reports and engineering data, prepared by a registered civil engineer or a registered engineering geologist which are pertinent to the pit, mine, surface mine, or commercial extraction operation shall accompany the application where the operator or applicant proposes to establish operational or mining setbacks less than or slopes steeper than those specified in Sections 9.150.205 and 9.150.210, or where required pursuant to Sections 9.150.205 and 9.150.210 due to close proximity to a watercourse or groundwater. (Ord. 38 § 2 (part), 1993)

9.150.165 Compliance with standards.

The permit application, plans, reports and engineering data shall indicate compliance with the standards specified in Sections 9.150.205 and 9.150.210. (Ord. 38 § 2 (part), 1993)

9.150.170 Site inspections.

A. Prior to approval of any plans or the issuance of a permit, the Development Services director may inspect the site to determine that the plans, reports or other data are accurate and sufficient.

B. The Development Services director shall inspect each site regulated by this chapter for the purpose of ascertaining whether the operations are being conducted and the site maintained in conformity with the minimum standards of this chapter and applicable permits.

C. Whenever the Development Services director determines that the work does not comply with the terms of the permit, or the requirements of this chapter, or that the soil or other conditions are not as stated on the permit, he/she shall notify the operator of such fact in writing demanding compliance within thirty (30) days from the date of such notice. If the operator has not, within the stated time, complied with the terms of the permit, or requirements of this chapter, or given reasonable assurances that steps are being taken to comply, the Development Services director may order the cessation of all work or any portion thereof, and such work shall cease until the requirements of the permit and of this chapter have been met. (Ord. 38 § 2 (part), 1993)

9.150.175 Term and expiration.

A. Each extraction permit issued for an existing or proposed commercial extraction operation shall continue in effect only as long as none of the provisions of this chapter are violated.

B. The extraction permit shall expire on the first day of July unless the annual permit and inspection fees as set by resolution of the City Council for the subsequent fiscal year have been paid by that date. No operations other than such corrective work as may be designated by the Development Services director shall be conducted after said date unless a new permit has been approved by the Development Services director. In the case of existing pits, this corrective work shall include compliance with all the provisions of Section 9.150.205. (Ord. 38 § 2 (part), 1993)

9.150.180 Renewal.

Any extraction permit that has expired or been revoked may be renewed by making application to the Development Services department, upon the following conditions:

A. Submission of an application, up-to-date plans, reports and other data specified by this chapter or required by the Development Services director;

B. The site is in compliance with all applicable provisions of this code;

C. Payment of the fees required by this chapter. (Ord. 38 § 2 (part), 1993)

9.150.185 Revocation.

The Development Services director may revoke any permit in whole or in part, if after notification and demand as provided in Section 9.150.170 of this chapter, the pit, mine, surface mine, or commercial extraction operation, or work covered by the permit has been materially extended beyond the limits of the permit, or if any fences, walls, or other protective devices required by this chapter have not been constructed or maintained in good repair, or if other provisions of this code have been violated by operator, owner or permittee. (Ord. 38 § 2 (part), 1993)

9.150.190 Permit not a permit to violate law.

The issuance, granting, or renewal of a permit shall not be deemed or construed to be a permit for or an approval of any violation of the provisions of this code or any other code or law, rule, regulation, or ordinance; and no permit appearing or presuming to give authority to violate or cancel the provisions of this code shall be valid except insofar as the work or use which is authorized by the issuance, granting, or renewal of the permit is lawful. (Ord. 38 § 2 (part), 1993)

9.150.195 Conformity to plans.

Upon issuance of a permit, the plans submitted by the applicant shall be approved and so stamped by the Development Services department. The pit, mine, surface mine, or commercial extraction operation, and all work pertinent thereto shall be maintained in conformity with the approved plans unless authorization to modify the pit, mine, surface mine, or commercial extraction operation is obtained from the Development Services director and the plans and records are so changed and noted. (Ord. 38 § 2 (part), 1993)

9.150.205 Standards for inoperative pits, mines, etc.

Each pit, mine, surface mine, or commercial extraction operation not currently in use for commercial extraction operations shall be maintained in accordance with the following minimum standards:

A. Setbacks and Slopes.

1. The finished perimeter slope shall not be steeper than one and one-half feet horizontal to one foot vertical projecting into the pit from a fifty (50) foot setback adjacent to the perimeter of the property.

2. In addition, where the Development Services director determines there is a possibility of potentially hazardous seepage or flow into a pit from a flood control channel, res-

ervoir, conservation or flood retarding basin, or natural watercourse, he/she shall establish the setback and slope requirements based on the preservation of the integrity of existing flood control channel, reservoir, conservation or flood retarding basin, or natural watercourse, so that the subject property shall continue to receive and carry off waters in a manner equal to that experienced prior to any excavation. Setback requirements imposed under this subsection may exceed the fifty (50) foot requirement set forth hereinabove, in the discretion of the Development Services director, but such setbacks may not be less than fifty (50) feet, as set forth in subdivision (1) of this subsection. Slope requirements may be greater or less than that set forth in subdivision (1) of this subsection, in the discretion of the Development Services director. The applicant may be required to furnish reports and engineering data, as set forth in Section 9.150.165, to justify the setback and slope requirement requested in such a case. The Development Services director may require such reports in any case.

3. Where the Development Services director determines that the pit, mine, mine surface, or commercial extraction operation extends below, or in the future may extend below, groundwater elevations, the slopes shall not be steeper than the safe values as determined by the Development Services director, based on the reports described in Section 9.150.165, which reports may be required by the Development Services director in such a case.

These requirements may be modified by the Development Services director in cases where safety conditions and engineering and geological data submitted to the Development Services director for approval indicate that a less restrictive setback or slope may be permitted.

B. Diversions. No pit shall be maintained in or adjacent to the floodplain of any watercourse which by reason of the excavation's shape, location, berm elevations, or area, in the opinion of the Development Services director, is likely to produce a diversion of the natural watercourse away from the pit, mine, mine surface, or commercial extraction operation, and outside the natural watercourse in the event that flow from the watercourse enters the excavation.

C. Drainage. Adequate provisions for conveyance of water across and from the site and for long-term retention of water shall be accomplished so as to minimize potential dangers from landslide and erosion.

D. Fencing. Other than in cases where data is submitted to the Development Services director for approval and which data indicate to the Development Services director that no safety hazards exist, a fence shall be constructed enclosing the area of each existing pit. Said fence shall be of a steel, chain link type, and a minimum of six feet in height above the existing grade of property outside the fenced area.

The bottom of said fence shall conform to the ground surface so as to prevent any opening between it and the ground surface exceeding four 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. Said fence, gates, and locks shall be maintained in good condition and repair.

E. Protective Devices, Correction, and Repair. Whenever the Development Services director determines that maintenance of protective devices or structures, or the correction of potentially unsafe conditions may be necessary for the protection of adjacent properties or the general public, he/she shall notify in writing the owner or other responsible person, who shall take such corrective action as necessary and shall post a surety bond or other financial security in an amount sufficient to insure the continued maintenance of the protective devices for such potentially unsafe conditions. A grading permit will be required for any repair work. (Ord. 38 § 2 (part), 1993)

9.150.210 Standards for active and future operations.

The mining, quarrying, and commercial extraction of sand, gravel, rock, aggregate, clay or similar products shall be performed in accordance with the following minimum standards:

A. Setbacks.

1. No excavation activities shall be carried on within fifty (50) feet of:

- a. The common property line of any parcel of land not used for the same purpose;
- b. The ultimate right-of-way of any public street, either existing or whose precise alignment has been adopted.

2. In addition where the Development Services director determines there is a possibility of potentially hazardous seepage or flow into a pit, mine, mine surface, or commercial extraction operation from a flood control channel, reservoir, conservation or flood retarding basin, or natural watercourse, he/she 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 watercourse, so that the subject property shall continue to receive and carry off waters in a manner equal to that experienced prior to any excavation.

3. Setback requirements imposed under this section may exceed the fifty (50) foot requirement set forth hereinabove, in the discretion of the Development Services director, but such setbacks may not be less than fifty (50) feet, as

set forth in Section 9.150.205. The applicant may be required to furnish reports and engineering data, as set forth in Section 9.150.165, to justify the setback requirement requested in such a case. The Development Services director may require such reports in any case.

B. Slopes.

1. Where the Development Services director determines there is a potentially hazardous seepage into a pit from a flood channel, reservoir, conservation or flood retarding basin, or natural watercourse; or where the Development Services director determines that the pit, mine, mine surface, or commercial extraction operation extends below or in the future may extend below groundwater elevations; the finished perimeter slope shall not be steeper than two and one-half feet horizontal to one foot vertical, except as provided in subdivision (3) of this subsection.

2. The finished perimeter slope shall not be steeper than one and one-half feet horizontal to one foot vertical projecting into the pit, mine, mine surface, or commercial extraction operation from the required setback line adjacent to the perimeter of the property.

3. Subdivisions (1) and (2) of this subsection notwithstanding, the slope requirement may be modified by the Development Services director in cases where the Development Services director determines that the proposed excavation operations present a potential hazard to adjacent property or where other safety conditions and engineering or geological data, as described in Section 9.150.165, submitted to the Development Services director for approval, or as may be required by him/her, indicate that less restrictive slopes may be permitted or more restricted slopes may be required.

C. Diversions. No excavation shall be made or pit, mine, surface mine, or commercial extraction operation maintained in or adjacent to the floodplain of any watercourse which by reason of the excavation's shape, location, berm elevations, or area, in the opinion of the Development Services director is likely to produce a diversion of a natural watercourse away from the pit, mine, surface mine, or commercial operation, and outside the natural watercourse in the event that flow from the watercourse enters the excavation.

D. Drainage. Adequate provisions for conveyance of water across and from the site and for long-term retention of water shall be accomplished in a manner meeting the approval of the Development Services director so as to minimize potential dangers from landslide and erosion.

E. 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 said proposed or existing ex-

cavation or settling basin, or the entire site, other than in cases where data are submitted to the Development Services director for approval and which data indicate to the Development Services director that no substantial safety hazards exist. Said fence shall be of a steel, chain link type, and a minimum of six feet in height above the existing grade of property outside the fenced area. The bottom of said fence shall conform to the ground surface so as to prevent any opening between it and the ground surface exceeding four 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. Said fence, gates and locks shall be maintained in good condition and repair.

F. Boundary Markers. The site shall be surveyed by a registered civil engineer or licensed surveyor and shall be defined by a series of poles, (two-and-one-half-inch pipe) six feet in height measured from the ground level and painted a bright color which shall be installed and maintained at each change of direction and along the entire length of the subject 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 Development Services director may waive or modify this requirement for any extraction operations that are proposed to result in finished elevations that are not below the average natural ground elevations at the perimeter of the site, or for any extraction operations proposed to be located more than one thousand (1,000) feet from any property line.

G. Posting of Signs. Within ninety (90) days after a permit has been issued pursuant to the provisions of this chapter, the outer boundaries of the site shall be continuously posted with signs not less than five hundred (500) feet apart and at each change of direction of said boundary line in such a manner as will reasonably give notice to passersby of matters contained in such notice, stating in letters not less than four inches in height: "PUBLIC NOTICE" and stating in letters not less than one inch in height: "THIS PROPERTY MAY BE USED FOR THE MINING, QUARRYING, OR COMMERCIAL EXTRACTION OF SAND, GRAVEL, ROCK, AGGREGATE, CLAY, AND SIMILAR MATERIALS SUBJECT TO PERMITS WHICH HAVE BEEN ISSUED BY THE DIRECTOR OF DEVELOPMENT SERVICES, CITY OF LAKE FOREST." Said signs shall be of wood or metal and shall be maintained in legible condition at all times. Signs posted in compliance with the SG district regulations of the Orange County Zoning Code as the same was incorporated by reference into this code by City Ordinances Nos. 1 and 15 shall be considered as satisfying this section. The Development

Services director may waive this requirement for good cause shown.

H. Ingress, Egress and Traffic Safety. Roads providing vehicular access to public highways which are used for transporting materials shall be located only at points designated on plans as approved by the City engineer. Adequate sight distance shall be maintained for traffic safety and a distance of not less than eighty (80) feet from the intersection of the drive or access road with the right-of-way line of the public highway shall be paved for 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 highway shall be constructed in accordance with the terms of an encroachment permit issued by the City engineer, or in the case of state highways, issued by the State Division of Highways. (Ord. 38 § 2 (part), 1993)

9.150.215 Responsibility.

A. The permittee, operator, property owner, and their authorized agents, and any other person in control of the property, individually and collectively, are responsible for the observation and compliance with all the provisions of this chapter. Such responsibility shall include the correction of any unsafe condition and the construction and continued maintenance of all fences and other protective devices required by this code or as deemed necessary by the Development Services director to protect the general public or adjacent properties.

B. In case the owner or other responsible person shall fail, neglect, or refuse to perform the required corrections, maintenance, or repairs within the time specified in Section 9.150.170 after being notified in writing to do so by the Development Services director, the Development Services director shall cause the required corrections, repairs, or maintenance to be done, and the cost thereof shall be a charge and expense against the owner, operator, and the land until satisfied. (Ord. 38 § 2 (part), 1993)

9.150.220 Enforcement.

It shall be the duty of the Development Services director to enforce the provisions of this chapter. If at any time the Development Services director finds any owner, permittee, or operator is violating any of the provisions of this chapter, he/she may order compliance in the manner provided in Section 9.150.170. If compliance does not proceed, the director may, at the end of thirty (30) days, or in the absence of reasonable assurance given as provided in Section 9.150.170, order immediate cessation of operations.

However, if in the opinion of the Development Services Director, an immediate and substantial hazard exists to adjacent property or the general public, the Director may order immediate cessation of that portion of the operation which may contribute to such a hazard within the thirty (30) day period provided in Section 9.150.170, and which cessation shall continue until correction of the hazardous condition. (Ord. 38 § 2 (part), 1993)

9.150.225 Penalty.

It is unlawful and a misdemeanor subject to punishment in accordance with Section 1.01.200 et seq. of this Code for any person to violate any provision of this chapter. (Ord. 38 § 2 (part), 1993)

9.150.230 Appeals.

Any person aggrieved by an act or determination of the Development Services Director or Planning Commission may appeal the same in accordance with Section 2.04.100 et seq. of this Code. (Ord. 38 § 2 (part), 1993)