

ATTACHMENT A  
(Proposed Ordinance)

CITY OF PALMDALE  
COUNTY OF LOS ANGELES, CALIFORNIA

ORDINANCE NO. 1023

AN ORDINANCE OF THE CITY OF PALMDALE AMENDING  
ORDINANCE 140 (THE PALMDALE ZONING ORDINANCE)  
RELATING TO SURFACE MINING AND RECLAMATION.

THE CITY COUNCIL OF THE CITY OF PALMDALE DOES HEREBY  
ORDAIN AS FOLLOWS:

Section 1. Paragraph (a) of Subsection 77.07.011 of Article 77 of Chapter 7 of Ordinance No. 140 (The Palmdale Zoning Ordinance) relating to the Purpose and Intent of Section 77.07 Surface Mining and Reclamation is hereby amended to read as follows:

"(a) This Ordinance is adopted to regulate surface mining operations as authorized by California's Surface Mining and Reclamation Act (SMARA) of 1975 (P.R.C. Sec. 2710 et seq.), as amended, hereinafter referred to as SMARA; and Title 14, Chapter 8, Section 3500 et seq. of the California Code of Regulations."

Section 2. Subsection 77.07.012 of Article 77, Chapter 7 of Ordinance No. 140 (The Palmdale Zoning Ordinance) is hereby amended by adding the following definitions in alphabetical order and relettering the paragraphs accordingly:

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

"Idle." To curtail for a period of one year or more surface mining operations by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date. (SMARA, Sec. 2727.1)"

Section 3. Paragraph (c) of Subsection 77.07.012 of Article 77 of Chapter 7 of Ordinance No. 140 (The Palmdale Zoning Ordinance) is hereby amended by adding the following sentence at the end of the paragraph:

"For the purpose of this chapter, minerals shall also include but not be limited to sand, gravel, cinders, diatomaceous earth, shale, limestone, flagstone, decorative stone, and rip-rap."

Section 4. Paragraph (e) of Subsection 77.07.012 of Article 77 of Chapter 7 of Ordinance No. 140 (The Palmdale Zoning Ordinance) relating to the definition of "Operator" is hereby amended to read as follows:

"Any person who is engaged in surface mining operations or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface mining operations as an employee with wages as his sole compensation."

Section 5. Paragraph (1) of Subsection 77.07.012 of Article 77 of Chapter 7 of Ordinance No. 140 (The Palmdale Zoning Ordinance) is hereby amended by adding the following operations to the end of the listing:

- (4) borrow pitting
- (5) streambed skimming
- (6) segregation and stockpiling of mined materials  
(and recovery of the same)

Section 6. Subsections 77.07.013, 77.07.014, 77.07.015, 77.07.016, 77.07.017, 77.07.018, 77.07.019, 77.07.020, 77.07.021, 77.07.022 and 77.07.023 of Article 77, Chapter 7 of Ordinance No. 140 (The Palmdale Zoning Ordinance) are hereby amended to read as follows:

**\*.013. Incorporation of SMARA and State Regulations.**

The provisions of the California Surface Mining and Reclamation Act of 1975 (P.R.C. Sec. 2710 et seq.), P.R.C. Section 2207, and Title 14, Chapter 8, Section 3500 et seq. of the California Code of Regulations implementing the Act, hereinafter referred to as the State Regulations, as either 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.

**.014. Applicability.**

(a) Requirements for Site Plan Review/Conditional Use Permits. Unless exempted by provisions of this chapter, an approved site plan or conditional use permit as provided under paragraph B of sub-sections 77.02 and 77.05 of this Chapter shall be required for

all surface mining operations in all zoning districts 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 thereby approved, including any operation which meets the definition of a "non-conforming use" pursuant to Chapter 10, Article 106 of the Palmdale Zoning Ordinance.

(b) Requirements for Reclamation Plans. A Reclamation Plan shall be required for all surface mining operations in all zoning districts in which surface mining is allowed, as well as for those portions of existing surface mining operations conducted after January 1, 1976, unless a Reclamation Plan was approved by the City prior to that date and the person submitting that plan has accepted responsibility for carrying out the plan. Nothing in this chapter 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 legally and in compliance with all applicable City regulations prior to January 1, 1976.

(c) Exemptions. A Reclamation Plan shall not be required for any of the following activities:

1) Excavations or grading conducted for farming or onsite construction or for the purpose of restoring land following a flood or natural disaster. (SMARA, Sec. 2714(a)).

2) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less. (SMARA, Sec. 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. (SMARA, Sec. 2714(c)).

4) Emergency excavations or grading conducted by the Department of Water Resources (DWR) or the Reclamation Board for flood control purposes.

5) 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. (SMARA, Section 2714(d)).

**.015. Contents of Applications for Site Plan Review/Conditional Use Permit for Surface Mining Operations and Reclamation Plans.**

(a) In addition to the Site Plan Review (SPR) or Conditional Use Permit (CUP) application required in Chapter 10, Article 102 and Article 105 of the Palmdale Zoning Ordinance, all applications for SPR/CUPs for surface mining operations shall contain the Surface Mining and Reclamation Application Supplement required by the Planning Department. As many copies of the SPR/CUP and Surface Mining and Reclamation Application Supplement may be required shall be submitted to the Planning Department.

(b) As many copies of a Reclamation Plan Application as may be required shall be submitted in conjunction with all applications for SPR/CUPs for Surface Mining Operations. For surface mining operations that are exempt from a SPR/CUP 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 the necessary environmental review information prescribed by the Planning Department.

(d) The Planning Department will review the application package for completeness and shall, within 30 days after receipt, either accept the application as complete for the purpose of initiating permit processing or return the application as incomplete with an explanation of where the application is deficient. Resubmittal of the revised application shall start a new review timeframe.

**.016. Processing**

(a) Within thirty (30) days of acceptance of an application for a SPR/CUP for surface mining operations and/or a Reclamation Plan as complete, the Planning Department shall notify the Director of the Department of Conservation of the filing of the application(s) (SMARA, Sec. 2774(e)). Whenever mining operations are proposed in the 100-year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the Planning Department shall also notify the State Department of Transportation that an application has been received (SMARA, Sec. 2770.5).

(b) The Planning Department shall process the application(s) through environmental review pursuant to the California Environmental Quality Act (CEQA) and the City's Local CEQA Guidelines.

(c) Subsequent to the appropriate environmental review, the Planning Department shall prepare a staff report with recommendations for consideration by the Planning Director/Commission. The Development Advisory Board shall assist the Planning Department in developing appropriate recommendations for the Director/Commission.

(d) The Planning Director/Commission shall hold at least one noticed public hearing on the Site Plan Review/Conditional Use Permit and/or Reclamation Plan.

(e) Prior to final approval of a Reclamation Plan, financial assurance (as provided in this chapter), or any amendments to a Reclamation Plan, the Planning Director/Commission shall certify to the Director of the Department of Conservation that the Reclamation Plan complies with the applicable requirements of the State Regulations and submit the plan, assurances, or amendment to the Director for review (SMARA, Sec. 2774(c)). The Planning Director/Commission may conceptually approve the Reclamation Plan before submittal to the Director of the Department of Conservation.

If a Site Plan Review/Conditional Use Permit is being processed concurrently with the Reclamation Plan, the Planning Director/Commission may also conceptually approve the SPR/CUP at this time. However, the Planning Director/Commission may defer action on the SPR/CUP until taking final action on the Reclamation Plan. If necessary to comply with permit processing deadlines, the Planning Director/Commission may conditionally approve the SPR/CUP with the condition that the Planning Department shall not release the mining operation for occupancy until financial assurances have been reviewed by the Director of the Department of Conservation and final action has been taken on the Reclamation Plan.

The Director of the Department of Conservation shall have 45 days to prepare written comments on the Reclamation Plan (SMARA, Sec. 2774(d)). The Planning Director/Commission shall evaluate written comments received from the State during the 45-day comment period. Staff shall prepare a written response describing the disposition of the major issues raised by the State for the Planning Director/Commission's approval. In particular, when the City's position is

at variance with the recommendations and objections raised in the State's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted (SMARA, Sec. 2774(d)). Copies of any written comments received and responses prepared by the Planning Director/Commission shall be promptly forwarded to the operator.

(f) The Planning Director/Commission shall then take final action to approve, conditionally approve, or deny the Site Plan Review/Conditional Use Permit and/or Reclamation Plan. The Planning Director/Commission's action shall be final, subject to appeal as provided in the Palmdale Zoning Ordinance.

(g) The Planning Department shall forward a copy of each approved Site Plan Review/Conditional Use Permit for mining operations and/or approved Reclamation Plan to the Director of the Department of Conservation.

(h) Annual Reports - Surface mining operators shall forward an annual status report to the Director of the Department of Conservation and the City Planning Department on a date established by the Director of the Department of Conservation upon forms furnished by the State Mining and Geology Board (P.R.C. Sec. 2207 (a)-(g)).

(i) A copy of the final approved Reclamation Plan shall be kept on-site at all times.

**.017. Performance Standards for Reclamation Plans.**

(a) All new or revised Reclamation Plans shall conform to minimum statewide performance standards required pursuant to California Code of Regulations 3700 et. seq. (Reclamation Standards) and SMARA Sec. 2773, as adopted by the State Mining and Geology Board, including but not limited to wildlife habitat, backfilling, regrading, slope stability, recontouring, erosion control, revegetation, drainage, agricultural land reclamation, equipment removal, stream protection, topsoil salvage, tailing and mine waste management and maintenance.

(b) The City of Palmdale may impose additional performance standards developed either in review of individual projects, as warranted, or through the formulation and adoption of City-wide performance standards on any new reclamation plan or modification to a previously approved reclamation plan.

**.018. Phasing of Reclamation.**

Phasing of Reclamation - (See also, Sec. 77.07.022. Interim Management Plans) - Reclamation activities shall be phased with respect to the phasing of 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 (SMARA, Sec. 2772(f)).

Interim reclamation may also be required for mined lands that have been disturbed and will be disturbed again in future operations if it is determined to be necessary to ensure the success of final reclamation or for health and safety purposes. Reclamation may be done on an annual basis, or 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: the approximate length of time for completion of each phase; all reclamation activities required; criteria for measuring completion of specific reclamation activities; and estimated costs as provided in Sec. 77.07.020 (Financial Assurances For Reclamation Plans). The City shall approve the reclamation schedule.

**.019. Findings for Approval.**

In addition to the findings for approval of Site Plan Review/Conditional Use Permits contained in Chapter 10 of the Zoning Ordinance, approval for surface mining operations shall include a finding that the project complies with the provisions of State law and regulation.

For Reclamation Plans, the following findings shall be required:

- (a) That the Reclamation Plan complies with Sections 2772, 2773, and 2773.1 of SMARA and any other applicable provisions;
- (b) That the Reclamation Plan complies with applicable requirements of Title 14, Chapter 8, Section 3500 et seq. of the California Code of Regulations.
- (c) 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.
- (d) That, through implementation of the Reclamation Plan, all significant adverse impacts on lands to be reclaimed as a result of the surface mining operations are mitigated to the maximum extent feasible.

- (e) That the land and/or resources to be reclaimed will be restored to a condition that is compatible with the surrounding environment.
- (f) That the Reclamation Plan and potential use of reclaimed land pursuant to the Plan are consistent with any applicable air quality and/or water quality resource plan and/or that suitable off-site development will compensate for related disturbances to resource values existing after reclamation is completed.
- (g) That the Reclamation Plan will restore the mined lands to a usable condition which is adaptable for alternative land uses consistent with the General Plan and any other applicable plan or element.
- (h) That a written response to the Director of the Department of Conservation has been prepared, describing the disposition of major issues raised by the Director. Where the City's position is at variance with the recommendations and objections raised by the Director, said response shall address, in detail, why specific comments and suggestions were not accepted. (SMARA, Sec. 2772(d)).

.020. 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 one or more forms of security which will be released upon satisfactory performance. The applicant shall post security in the form of a corporate surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, a certificate of time deposit as part of an approved trust fund, or other method acceptable to the City and the Department of Conservation as specified in statewide regulations adopted by the Mining and Geology Board. Financial assurances shall be made payable to the City of Palmdale and the Department of Conservation (SMARA, Sec. 2773.1(a)(4)).

(b) Financial assurances shall be required to ensure compliance with elements of the Reclamation Plan including but not limited to revegetation and landscaping requirements; restoration of wildlife habitat; protection of archaeological sites; 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 Plan shall be monitored by the Planning Department.



(c) Financial assurances shall not be released until written notification has been made by the Planning Director to the mining operator and the Director of the Department of Conservation that reclamation has been completed in accordance with the approved reclamation plan (SMARA, Sec. 2773.1(c)).

(d) The amount of financial assurances shall be based upon the estimated costs of reclamation for each year or phase stipulated in the Reclamation Plan, including any irrigation and maintenance of reclaimed areas as may be required. Cost estimates shall be prepared by a licensed engineer and/or other qualified professionals retained by the operator; such estimates shall be approved by the Planning Director. Financial assurances may be based upon estimates including but not necessarily limited to the volume of earth moved (cubic yards) for each year or phase of reclamation. Financial assurances to ensure compliance with revegetation, restoration of wildlife habitat, and any other applicable element of the Reclamation Plan shall be based upon cost estimates that include but may not be limited to labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator other than the permittee.

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

(f) Where reclamation is accomplished in annual increments, the amount of financial assurances required for any one year shall be adjusted annually and shall be adequate to cover the full estimated costs for reclamation of any land projected to be in a disturbed condition from mining operations by the end of the following year. The estimated costs shall be the amount required to complete the reclamation on all areas that will not be subject to further disturbance, and to provide interim reclamation, as necessary, for any partially excavated areas in accordance with the Reclamation Plan.

Financial assurances for each year shall be released upon successful completion of reclamation (including any maintenance required) of all areas that will not be subject to further disturbance and upon the operator filing additional financial assurances for the succeeding year. Financial assurances for all subsequent years of the operation shall be handled in the same manner.

(g) Financial assurances for reclamation that is accomplished in multiple-year phases shall be handled in the same manner as described for annual reclamation.

(h) If a change of ownership occurs, the existing financial assurance remains in force until a replacement financial assurance is approved by the lead agency.

**.021. Inspections.**

The Planning Department shall arrange for inspection of a surface mining operation within six months of receipt of the annual report required in Sec. 77.07.016(h), to determine whether the surface mining operation is in compliance with the Reclamation Plan and the State Regulations (SMARA, Sec. 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, or other qualified specialist who has not been employed by the mining operation in any capacity during the previous 12 months, as selected by the Planning Department. All inspections shall be conducted using a form provided by the State Mining and Geology Board. The Planning Department shall notify the Director of the Department of Conservation within thirty (30) days of completion of the inspection that the 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.

**.022. Interim Management Plans.**

(See also, Sec. 77.07.018. Phasing of Reclamation)

(a) Within 90 days of a surface mining operation becoming idle, as defined in this chapter, the operator shall submit to the Planning Department an interim management plan (SMARA, Sec. 2770(h)). The interim management plan shall fully comply with the requirements of SMARA, Sec. 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 Plan Review/Conditional Use Permit and/or Reclamation Plan approval. The interim management plan shall be processed as a minor amendment to the Reclamation Plan and shall not be considered a project for the purposes of environmental review (SMARA, Sec. 2770(h)).

(b) The Director of the Department of Conservation shall have 45 days to prepare written comments on the Interim Management Plan, if she/he so chooses.

(c) Financial assurances for idle operations shall be continued as addressed in the reclamation plan or as otherwise approved through the idle mine's interim management plan.

(d) Within 60 days of receipt of the interim management plan, or a longer period mutually agreed upon by the Planning Department and the operator, the Planning Director shall review and approve or deny the plan in accordance with this chapter. The operator shall have thirty (30) days or a longer period mutually agreed upon by the operator and the Planning Director to submit a revised plan. The Planning Director shall approve or deny the revised interim management plan within sixty (60) days of receipt. If the Planning Director denies the revised interim management plan, the operator may appeal that action to the Planning Commission.

(e) The interim management plan may remain in effect for a period not to exceed five years, at which time the Planning Commission may renew the plan for another period not to exceed five years or require the surface mining operator to commence reclamation in accordance with its approved Reclamation Plan.

**.023. Time Limit for Commencement of a Conditional Use Permit/Site Plan Review for Surface Mining Operations.**

The time limit for commencing a surface mining operation that is permitted pursuant to this Section shall be as specified in the Conditions of Approval for the Conditional Use Permit/Site Plan Review unless the outer boundaries of the surface mining operation, rock crushing plant or other apparatus for the manufacture or production of quarried material are fenced and posted with signs as previously specified in this chapter.

Section 7. Sections 77.07.024, 77.07.025 and 77.07.026 of Article 77 of Chapter 7 of Ordinance No. 140 (The Palmdale Zoning Ordinance) are hereby added to read as follows:

**°.024. Modifications to Reclamation Plans.**

Requests for modifications of approved Reclamation Plans shall be processed in the same manner as original applications for Reclamation Plan reviews unless they are determined to be Minor Modifications. Applications for Minor Modifications may be submitted in connection with the following, as long as it is not incompatible with existing conditions and/or plans:

- (a) To allow the minor recontouring of final topography, providing slope stability is maintained and substantiated; effecting no more than 10% of the site.
- (b) To allow minor modification or addition of site access.
- (c) To allow a minor substitution in the Reclamation Plan, provided it does not substantially alter the intended end use described in the approved Reclamation Plan.
- (d) To allow minor technological and/or administrative changes in methods used to achieve reclamation.
- (e) To allow measures to be taken which will ensure and/or maintain public safety (e.g. fences, gates, signs, or hazard removal) provided it does not substantially alter the intended end use described in the approved Reclamation Plan.
- (f) To allow minor modifications to a previously approved phasing plan.
- (g) To allow interim management plans.

**.025. Violations and Penalties.**

If the Planning Department, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this chapter, the applicable permit/site plan and/or the Reclamation Plan, the City shall follow the procedures set forth in SMARA, Sections 2774.1 and 2774.2 concerning violations and penalties, including penalties assessed for late reporting pursuant to P.R.C. Section 2207.

.026. Fees.

The City shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this chapter and the State Regulations, including but not limited to processing of applications, annual reports, inspections, monitoring, enforcement and compliance."

Section 8. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, or otherwise invalid, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses or phrases of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases may be declared unconstitutional.

Section 9. The City Clerk shall certify to the passage of this Ordinance and shall cause this Ordinance to be published or posted as required by law.

PASSED, APPROVED AND ADOPTED, THIS \_\_\_\_\_ day of \_\_\_\_\_, 1993.

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_

\_\_\_\_\_  
James C. Ledford, Mayor

ATTEST:

\_\_\_\_\_  
Victoria L. Denham, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney