

JUL 22 2004

**CITY OF RANCHO CORDOVA**

**ORDINANCE NO. 22-2004**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA REPLACING EXISTING TITLE 20, CHAPTER 20.04 (SURFACE MINING AND RECLAMATION) WITH A NEW TITLE 20, CHAPTER 20.04 OF THE CITY OF RANCHO CORDOVA MUNICIPAL CODE FOR SURFACE MINING AND RECLAMATION**

THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DOES ORDAIN AS FOLLOWS:

SECTION 1: Purpose and Authority

The purpose of this Ordinance is to amend the City of Rancho Cordova Municipal Code to establish new Surface Mining and Reclamation Regulations.

SECTION 2: Findings

CEQA

Finding: The amendment to the City of Rancho Cordova Municipal Code Surface Mining and Reclamation Regulations is exempt from the California Environmental Quality Act under Section 15308 of the CEQA Guidelines.

Evidence: The proposed amendment to change the procedures for review and action on reclamation plans applications will not have the potential to degrade the quality of the environment. The adoption of the new Surface Mining and Reclamation Ordinance would not negatively impact the environment, because its purpose is to provide a planning tool for systematic mining, reclamation and reuse of particular land areas. The new Surface Mining and Reclamation Ordinance would be consistent with the current State Mines and Geology Board (SMGB) guidelines and certified by the Board.

Zoning Amendment

Finding: The proposed Code amendment is consistent with State law, the General Plan and the Rancho Cordova Community Plan. (Section 65860 of the Government Code)

Evidence: This ordinance is consistent with the State Mines and Geology Boards goals, objectives, policies, and implementation measures for the mining and reclamation of lands and will ensure mining operations are conducted in a manner consistent with planned land uses as identified in the City's General Plan. The new ordinance promotes the protection of natural resources and facilitates land reclamation, according to the goals and objective of the Conservation Element of the General Plan.



## Chapter 20.04 Surface Mining & Reclamation

### **20.04.010 Purpose and Intent**

The City of Rancho Cordova (hereinafter "City") recognizes that the extraction of minerals is essential to the continued economic being of the City and to the needs of society and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The City also realizes that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological and social conditions are significantly different and the reclamation operations and the specifications therefore may vary accordingly.

The purpose and intent of this Chapter is to ensure the continued availability of important mineral resources, while regulating surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (Public Resources Code sections 2710 et seq.), as amended, hereinafter referred to as "SMARA, Public Resources Code section 2207 (relating to annual reporting requirements), and State Mining and Geology Board regulations (hereinafter referred to as "State regulations") for surface mining and reclamation practice (California Code of Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.), to ensure that:

- (a) Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses;
- (b) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment; and
- (c) Residual hazards to the public health and safety are eliminated.

### **20.04.020 Definitions**

The definitions set forth in this section shall govern the construction of this chapter.

Area of Regional Significance, An area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.

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Area of Statewide Significance. An area designated by the Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the State and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.

Borrow Pits. Excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

Board. The State Mining and Geology Board.

Compatible Land Uses. Land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.

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. Surface mining operations curtailed for a period of one year or more, 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.

Incompatible Land Uses. Land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.

Mined Lands. The surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.

Minerals. Any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

Operator. 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

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engaged in surface mining operations as an employee with wages as his/her sole compensation.

Reclamation. The combined process of land treatment that maximizes post-mining land uses and minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed as rapidly as reasonably feasible to an unusable condition which is readily adaptable for alternate land uses and creates no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, re-soiling, re-vegetation, soil compaction, stabilization, or other measures.

Stream Bed Skimming. Excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.

Surface Mining Operation. All, or any part of, the process involved in the mining of mineral on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations include, but are not limited to, in place distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, streambed skimming, and segregation and stockpiling of mined materials (and recovery of same).

**20.04.030**     **Incorporation by Reference**

The provisions of SMARA (PRC § 2710 et seq.), PRC section 2207, and State regulations CCR § 3500 et seq., as those provisions and regulations 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 correlative State provisions, this Chapter shall prevail.

**20.04.040**     **Scope**

Except as provided in this Chapter, no person shall conduct surface mining operations unless a permit, reclamation plan, and financial assurances for reclamation have first been approved by the City. Any applicable exemption from this requirement 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 CEQA, the requirement of Site Approvals or other permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be permitted under the law. The provisions of this Chapter shall apply to all lands within the City, public and private.

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This Chapter shall not apply to the following activities, subject to the above-referenced exceptions:

- (a) Excavations or grading related to agricultural activities or on-site construction or for the purpose of restoring land following a flood or natural disaster.
- (b) Onsite excavation and onsite earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, and the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:
  - (1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act ("CEQA", Public Resources Code, Division 13, § 21000 et seq.).
  - (2) The City's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to CEQA.
  - (3) The approved construction project is consistent with the general plan or zoning of the site.
  - (4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.
- (c) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:
  - (1) The plant site is located on lands designated for industrial or commercial uses in the City's general plan.
  - (2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the City.
  - (3) None of the minerals being processed is being extracted onsite.

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- (4) All reclamation work has been completed pursuant to the approved Reclamation Plan for any mineral extraction activities that occurred onsite after January 1, 1976.
- (d) Prospecting for, or the extraction of, minerals for commercial purposes and removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.
- (e) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.
- (f) Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.
- (g) 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, or disasters, or other emergencies.
- (h) Road construction and maintenance for timber or forest operations if the land is owned by the same person or entity, and if the excavation is conducted adjacent to timber or forest operation roads. This exemption is only available if slope stability and erosion are controlled in accordance with Board regulations and, upon closure of the site, the person closing the site implements, where necessary, re-vegetation measures and post-closure uses in consultation with the Department of Forestry and Fire Protection. This exemption does not apply to onsite excavation and grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavations for materials that are, or to excavations for materials that are, or have been sold, for commercial purposes.
- (i) Excavations, grading, or other earthmoving activities in oil or gas field that are integral to, and necessary for, ongoing operations for the extraction of oil or gas that comply with all of the following conditions: (1) the operations are being conducted in accordance with Division 3 (commencing with Section 3000); (2) the operations are consistent with the City's General Plan and the zoning applicable to the site; (3) the earthmoving activities are within oil or gas field properties under a common owner or operator; and (4) no excavated materials are sold for commercial purposes.

**20.04.050**     **Vested Rights**

No person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit to mine, so long as the vested right continues and as long as no substantial changes have been made in the operation except in accordance with SMARA, state regulations, and this Chapter. Where a person with

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vested rights has continued surface mining operations in the same area subsequent to January 1, 1976, he shall obtain City approval of a Reclamation Plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-Act mining, the Reclamation Plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act (January 1, 1976).

All other requirements of State law and this Chapter shall apply to vested mining operations.

**20.04.060**     **Process**

- (a) Applications for a Site Approval or Reclamation Plan for surface mining or land reclamation projects shall be made on forms provided by the Planning Department. Said application shall be filed in accord with this Chapter and procedures to be established by the Planning Director. The forms for Reclamation Plan applications shall require, at a minimum, each of the elements required by SMARA (PRC §§ 2772-2773) and State regulations, and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed Reclamation Plan, to be established at the discretion of the Planning Director. As many copies of the Site Approval application as may be required by the Planning Director 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 Site Approvals for surface mining operations. For surface mining operations that are exempt from a Site Approval pursuant to this Chapter, the Reclamation Plan application shall include information concerning the mining operation that is required for processing the Reclamation Plan. All documentation for the Reclamation Plan shall be submitted to the City at one time.
- (c) Applications shall include all required environmental review forms and information prescribed by the Planning Director.
- (d) Upon completion of the environmental review procedure and filing of all documents required by the Planning Director, consideration of the Site Approval or Reclamation Plan for the proposed or existing surface mine shall be completed pursuant to this Section of this Chapter at a public hearing before the Planning Commission, and pursuant to Section 2774 of the Public Resources Code.
- (e) The reclamation plan shall be applicable to a specific property or properties and shall be based upon the character of the surrounding area and such characteristics of the property as the type of overburden, vegetation, soil stability, topography, geology, climate, stream characteristics and principal mineral commodities.



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- (f) All reclamation plans shall contain, at a minimum, the following information and documents:
1. The estimated time schedule for the beginning and completion of reclamation activities. If the mining operation is to be accomplished in phases, the time schedule shall indicate the estimated beginning and completion of reclamation activities for each phase;
  2. An estimate of the cost of completion of reclamation activities, computed at current cost at the time proposed in the time schedule submitted for completion of the reclamation plan;
  3. A description of the existing vegetation at and surrounding the site;
  4. A general description of the geology of the surrounding area and a detailed description of the geology at the reclamation site;
  5. A description of the proposed use or potential uses of land after reclamation, and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses;
  6. A description of the manner in which reclamation, adequate for the proposed use or potential uses, will be accomplished, including:
    - a. The manner in which mining wastes and related contaminants will be controlled and disposed of;
    - b. The manner in which affected streambed channels and stream banks will be rehabilitated to a condition minimizing erosion and sedimentation;
  7. An assessment of the effect of implementation of the reclamation plan on future mining in the area;
  8. A statement by the applicant that he accepts responsibility for reclaiming mined lands in accordance with the approved reclamation plan;
  9. A statement by the applicant that he accepts responsibility for all completed reclamation work for a period of two years or such greater period as deemed necessary by the Planning Commission to assure the permanency of all features of the reclamation plan. This subsection shall not apply to normal maintenance and repairs unrelated to the reclamation work on public facilities where dedicated to and accepted by the City of Rancho Cordova;
  10. Such other information as the Planning Department may require. The Planning Department may waive the filing of one or more of the above items where unnecessary to process the application, except for item 8.

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- (g) Additional information may be required per a planning department form. Where reclamation plans are not filed as a part of a surface mining permit, such plan shall be accompanied by an application for separate reclamation plan approval which contains the following information:
  - 1. The names and addresses of the applicant and the mining operator, if different, and of any persons designated by the applicant as his agents for service of process; and
  - 2. The names and addresses of all persons owning a possessory and/or mineral interest in any or all of the property to be used for mining operations.
- (h) The Planning Department may deny, without a public hearing, an application for a reclamation plan if such application or plan does not contain the information required in subsection (f) above. The Planning Department may permit the applicant to amend such application.
- (i) Within ten (10) days of acceptance of an application as complete for a Site Approval for surface mining operations and/or a Reclamation Plan, the Planning Department shall notify the State Department of Conservation of the filing of the application(s). 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 the application has been received.
- (j) The Planning Department shall process the application(s) through environmental review pursuant to California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the City's environmental review guidelines.
- (k) Subsequent to the appropriate environmental review, the Planning Department shall prepare a staff report with recommendations for consideration by the Planning Commission.
- (l) The Planning Commission shall hold at least one noticed public hearing on Site Approval and/or Reclamation Plan.
- (m) 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 Department of Conservation that the Reclamation Plan and/or financial assurance complies with the applicable requirements of State law, and submit the plan, assurance, or amendments to the State Department of Conservation for review. The Planning Commission may conceptually approve the Reclamation Plan and financial assurance before submittal to the State Department of Conservation. If a Site Approval is being processed concurrently with the Reclamation Plan, the

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Planning Commission may simultaneously also conceptually approve the Site Approval. However, the Planning Commission may defer action on the Site Approval until taking final action on the Reclamation Plan and financial assurances. If necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve the Site Approval with the Condition that the Planning Department shall not issue the Site Approval for the mining operations until cost estimates for financial assurances have been reviewed by the State Department of Conservation and final action has been taken on the Reclamation Plan and financial assurances.

Pursuant to PRC §2774(d), the state Department of Conservation shall be given 30 days to review and comment on the Reclamation Plan and 45 days to review and comment on the financial assurance. The Planning Commission shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. 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's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the Planning Commission shall be promptly forwarded to the operator/applicant.

- (n) The Planning Commission shall then take action to approve, conditionally approve, or deny the Site Approval and/or Reclamation Plan, and to approve the financial assurances pursuant to PRC §2770(d).
- (o) The Planning Department shall forward a copy of each approved Site Approval for mining operations and/or approved Reclamation Plan, and a copy of the approved financial assurances to the State Department of Conservation. By July 1 of each year, the Planning Department shall submit to the State Department of Conservation for each active or idle mining operation a copy of the Site Approval or Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year.

**20.040.070 Standards for Reclamation**

- (a) All Reclamation Plans shall comply with the provisions of SMARA (§2772 and §2773) and State regulations (CCR §3500-3505). Reclamation Plans approved after January 15, 1993, Reclamation Plans for proposed new mining operations, and any substantial amendments to previously approved Reclamation Plans, shall also comply with the requirements for reclamation performance standards (CCR §§3700-3713).
- (b) The City may impose additional performance standards, including without limitation standards beyond those cited to make the findings in Section 20.04.090,

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as developed either in review of individual projects, as warranted, or through the formulation and adoption of Citywide performance standards.

- (c) Reclamation activities shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that may be disturbed again in future operations or in connection with approved or proposed development. 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 for completion of each phase of reclamation.
- (d) Unless otherwise specified in the approved reclamation plan, the reclamation of mined lands shall be carried out in accordance with the following requirements:
  1. Reclamation Timing
    - a. The reclamation of mined lands shall occur as soon as practical following completion of mining operations at successive locations within the mining site as required by the schedule in the approved reclamation plan.
    - b. The reclamation of lands affected by surface mining operations shall be completed within one year of the completion of mining operations, except where the permanent reclaimed condition of mined lands cannot be achieved within one year due to the regulatory approvals (e.g., compliance with the California Environmental Quality Act) required for the ultimate land use contemplated or proposed for the property (e.g., urban development) In such case only interim reclamation, pursuant to section 20.040.070(c), need be accomplished within one year, and final reclamation shall be completed as soon as it is possible to complete the reclamation in compliance with the above regulatory approvals, but in no case, shall reclamation take more than three years,
  2. Disposal of Overburden and Mining Waste.
    - a. Permanent piles or dumps of overburden and waste rock placed on the land shall be made stable, shall not restrict natural drainage without provision for diversion, and shall have an overall smooth or even profile subject to the satisfaction of the City Engineer. Where practical, such permanent piles or dumps shall be located in the least visible location at the mining site.
    - b. Old equipment and inert mining wastes shall be removed or buried subject to the approval of the hearing officer.

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- c. Toxic materials shall be removed from the site or permanently protected to prevent leaching into the underlying groundwater, to the satisfaction of the Planning Department.
        - d. Overburden and mining waste placed beneath the existing or potential groundwater level which will reduce the transmissivity or area through which water may flow shall be confined to an area approved by the City Engineer.
3. Re-vegetation.
  - a. All permanently exposed lands that have been denuded by mining operations shall be re-vegetated to provide ground cover sufficient to control erosion from such lands.
  - b. All plantings shall be established and maintained in good horticultural condition. The re-vegetation shall be able to survive under natural conditions, with native species used whenever possible.
  - c. Re-vegetation methods shall take into account the topography and existing growth patterns and mixes of flora present at and adjacent to the site of mining operations in order to create a more natural appearance. Plantings shall avoid rigid, geometric patterns and shall utilize natural scatterings.
  - d. Where the ultimate intended or proposed use of mined lands would be a level of development inconsistent with extensive permanent vegetation, the amount of vegetation required for reclamation need not be more than is sufficient to prevent erosion.
4. Re-soiling.
  - a. Re-soiling measures shall take into consideration the quality of soils which may be required to sustain plant life pursuant to any re-vegetation that the hearing officer may require in its approval of the applicant's reclamation plan.
  - b. Coarse, hard material shall be graded and covered with a layer of finer material or weathered waste. A soil layer shall then be placed on this prepared surface. Where quantities of available soils are inadequate to provide cover, native materials shall be upgraded to the extent feasible for this purpose.
5. Final Slopes.
  - a. Final slopes shall be engineered and contoured so as to be geologically stable, to control the drainage therefrom, and to blend with the surrounding topography where practical. On the advice of the City Engineer, the Planning Department may require the establishment of terrace drains to control drainage and erosion.

b. Final slopes shall not be steeper than two feet horizontal to one foot vertical (2:1) unless the applicant can demonstrate to the Planning Department's satisfaction that a steeper slope will not:

(1) Reduce the effectiveness of re-vegetation and erosion control measures where they are necessary; and

(2) Be incompatible with the alternate future uses approved by the commission for the site; and

(3) Be hazardous to persons that may utilize the site under the alternate future uses approved for the site.

6. Drainage, Erosion and Sediment Control.

a. Any temporary stream or watershed diversion shall be restored to its state prior to any surface mining activities unless the Planning Department deems otherwise based on recommendations from the City Engineer.

b. Stream bed channels and stream banks affected by surface mining shall be rehabilitated to a condition which would minimize erosion and sedimentation, except that such rehabilitation need not attempt to restore or mimic natural conditions where the contemplated or proposed ultimate use of the reclaimed property would be inconsistent with the maintenance of restored or rehabilitated stream bed channels and stream banks.

c. Re-vegetation and re-grading techniques shall be designed and executed so as to minimize erosion and sedimentation. Drainage shall be provided to natural outlets or interior basins designed for water storage, with such basins subject to the approval of the City Engineer. In addition, final excavation shall eliminate potholes and similar catchments so as to prevent potential breeding areas for mosquitoes.

d. The final grading and drainage of the site shall be designed in a manner to prevent discharge of sediment above natural levels existent prior to mining operations.

e. Silt basins which will store water during periods of surface runoff shall be equipped with sediment control and removal facilities and protected spillways designed to minimize erosion when such basins have outlet to lower ground.

f. No condition shall remain after reclamation which will or could lead to degradation of groundwater quality below applicable standards to the Regional Water Quality Control Board or any other agency with jurisdiction over water quality.

7. Backfilling and Grading.
  - a. Subject to the approval of the City Engineer, backfilled and graded areas shall be compacted to avoid excessive settlement and to the degree necessary to accommodate anticipated future uses.
  - b. Materials used in the refilling shall be of a quality suitable to prevent contamination and/or pollution of groundwater. If materials for backfilling and grading are obtained from an area other than the site of surface mining operations, such materials shall be included and the approximate quantities identified in the applicant's reclamation plan.
8. Reservoirs, ponds, lakes or any body of water created as a feature of the reclamation plan shall be approved by the City Engineer and the Planning Department.
  - (e) The periodic review of the conditions contained in approved reclamation plans shall be conducted by the Planning Department in accordance with the schedule adopted at the time such plans were approved. At the time of approval of a permit to mine, the City shall determine whether future public hearings are necessary to consider such new or changed circumstances as physical development near the mining site and improved technological innovations in the field of reclamation which may significantly improve the reclamation process. The City may set a term for such reviews on a case by case basis as a condition of the permit if it deems such a review to be necessary. Should a permit be modified pursuant to such a review, the modified permit and/or reclamation plan shall be binding upon the operator and all successors, heirs and assigns of the applicant.

**20.04.080 Statement of Responsibility**

The person submitting the Reclamation Plan shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be kept by the Planning Department in the mining operation's permanent record. Upon sale or transfer of the operation, the new operator shall submit a signed statement of responsibility to the Planning Department for placement in the permanent record.

**20.04.090 Findings for Approval**

- (a) Site Approvals. In addition to any findings required by this Chapter, Site Approvals for surface mining operations shall include a finding that the project complies with the provisions of SMARA and State regulations.

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(b) Reclamation Plans. For Reclamation Plans, the following findings shall be required:

- (1) That the Reclamation Plan complies with SMARA §2772 and §2773, and any other applicable provisions;
- (2) That the Reclamation Plan complies with applicable requirements of State regulations (CCR §§3500-3505, and §§3700-3713).
- (3) That the Reclamation Plan will restore the mined lands to a usable condition that is readily adaptable for alternative land uses that are consistent with this Chapter and either (i) the City's General Plan and any applicable resource plan or element or (ii) probable future uses anticipated by the City to be adopted in future amendments to the City's General Plan which uses are identified in findings made on approval of the Reclamation Plan.
- (4) That the Reclamation Plan has been reviewed pursuant to CEQA and the City environmental review guidelines, and any significant adverse impacts from reclamation of the surface mining operations are mitigated to the extent feasible.
- (5) That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values.
- (6) That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that Department. Where the City's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

**20.04.100 Financial Assurances**

- (a) To ensure that the reclamation will proceed in accordance with the approved Reclamation Plan, the City shall require as a condition of approval security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to the City and the State Mining and Geology Board as specified in State regulations, and which the City reasonably determines are 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 Rancho Cordova and the State Department of Conservation.



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- (b) Financial assurance will be required to ensure compliance with elements of the Reclamation Plan, including but not limited to, re-vegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if necessary.
- (c) Cost estimates for the financial assurance shall be submitted to the Planning Department for review and approval prior to the operator securing financial assurances. The Planning Director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within 45 days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the City has reason to determine that additional costs may be incurred. The Planning Director shall have the discretion to approve the financial assurance, if it meets the requirements of this Chapter, SMARA and State regulations.
- (d) The amount of the financial assurance shall be based upon the estimated costs of reclamation for the years or phases stipulated in the approved Reclamation Plan, including any maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining 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 re-vegetation, 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 permittee. A contingency factor of ten percent (10%) shall be added to the cost of the financial assurance.
- (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 the operator and, consequently, the City or State Department of Conservation may need to contract with a third party commercial company for reclamation of the site.
- (f) 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).
- (g) 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 operation, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. The financial assurances shall include

estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.

- (h) Revisions to financial assurances shall be submitted to the Planning 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.

**20.04.110 Interim Management Plans**

- (a) Within 90 days of a surface mining operation becoming idle, the operator shall submit to the Planning Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all Site Approval conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the Planning Department and shall be processed as an amendment to the Reclamation Plan. IMPs shall not be considered a project for the purposes of environmental review.
- (b) Financial assurances for idle operations shall be maintained as though the operation were active.
- (c) Upon receipt of a complete proposed IMP, the Planning Department shall forward the IMP to the State Department of Conservation for review. The IMP shall be submitted to the State Department of Conservation at least 30 days prior to approval by the Planning Commission.
- (d) Within 60 days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Planning Director and the operator, the Planning Commission shall review and approve or deny the IMP 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 IMP. The Planning Commission shall approve or deny the revised IMP within (60) days of receipt. If the Planning Commission denies the revised IMP, the operator may appeal that action to the City Council.
- (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.

**20.04.120 Annual Report Requirements**

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Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the City Planning Department on a date established by the State Department of Conservation, upon forms furnished by the State Mining and Geology Board. New mining operations shall file an initial surface mining report and any applicable filing fees with the State Department of Conservation within 30 days of permit approval, or before commencement of operations, whichever is sooner. Any applicable fees, together with a copy of the annual inspection report, shall be forwarded to the State Department of Conservation at the time of filing the annual surface mining report.

**20.04.130     Inspections**

The Planning Department shall arrange for inspection of a surface mining operation within six months of receipt of the Annual Report required in Section 20.040.120, to determine whether the surface mining operation is in compliance with the approved Site Approval and/or Reclamation Plan, approved financial assurances, and State regulations. 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, or state-registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months, or other qualified specialists, as selected by the Planning Director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

The Planning Department shall notify the State Department of Conservation within thirty (30) days of completion of the inspection that 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.

**20.04.140     Violations and Penalties**

If the Planning Director, 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 Site Approval, any required permit and/or the Reclamation Plan, the City shall follow the procedures set forth in Public Resources Code, §2774.1 and §2774.2 concerning violations and penalties, as well as those provisions of the City Development Code for revocation and/or abandonment of Site Approval which are not preempted by SMARA.

**20.04.150     Appeals**

Any person aggrieved by an act or determination of the Planning Department in the exercise of the authority granted herein, shall have the right to appeal to the Planning Commission or the City Council, whichever is the next higher authority. An appeal shall

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be filed on forms provided, within fifteen (15) calendar days after the rendition, in writing, of the appealed decision.

**20.04.160**     **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. Such fees shall be paid by the operator, as required by the City, at the time of filing of the Site Approval application, 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.

**20.04.170**     **Mineral Resource Protection**

Mine development is encouraged in compatible areas before encroachment of conflicting uses. Except as provided by Public Resources Code section 2763, mineral resource areas that have been classified by the State Department of Conservation's Division of Mines and Geology or designated by the State Mining and Geology Board, as well as existing surface mining operations that remain in compliance with the provisions of this Chapter, shall be protected from the intrusion by incompatible land uses that may impede or preclude mineral extraction or processing, to the extent possible for consistency with the City's General Plan.

In accordance with PRC §2762, the City's General Plan and resource maps will be prepared to reflect mineral information (classification and/or designation reports) within 12 months of receipt from the State Mining and Geology Board of such information. Land use decisions within the City will be guided by information provided on the location of identified mineral resources of regional significance. Conservation and potential development of identified mineral resource areas will be considered and encouraged. Recordation on property titles of the presence of important mineral resources within the identified mineral resource areas may be encouraged as a condition of approval of any development project in the impacted area. Prior to approving a use that would otherwise be incompatible with mineral resource protection, conditions of approval may be applied to encroaching development projects to minimize potential conflicts.

**20.04.180**     **Severability**

If any section, subsection, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Chapter.

**20.04.190**     **Effective Date**

This Chapter shall take effect thirty (30) days following its adoption.

The City Council has determined that the adoption of this ordinance is categorically exempt from review under the California Environmental Quality Act (CEQA), subject to Section 15308 of the CEQA Guidelines. Due to the nature of the proposed code revisions, there is no evidence that any impact to the environment would occur as a result of adoption of the Ordinance. Any environmental affects associated with adoption and implementation of the Ordinance would be beneficial in nature.

Section 7: Effective Date and Publication

This Ordinance shall take effect thirty (30) days after its adoption and upon the certification of the State Mines and Geology Board. In lieu of publication of the full text of the ordinance within 15 days after its passage, a summary of the ordinance may be published at least five days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to Government Code 36933(c)(1).


**PASSED, APPROVED AND ADOPTED** this 21<sup>st</sup> day of June, 2004, by the following vote:

AYES: Skoglund, Sander, McGarvey, Budge  
NOES: None  
ABSENT: Cooley  
ABSTENTIONS: None

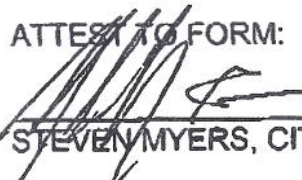
APPROVED:

  
LINDA BUDGE, MAYOR

ATTEST:

  
LILLIAN HARE, CITY CLERK

ATTEST TO FORM:

  
STEVEN MYERS, CITY ATTORNEY

