

FEB 05 1999

ORDINANCE NO. 1285

STATE MINING and GEOLOGY BOARD

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, AMENDING A PORTION OF TITLE 18 OF THE RIALTO MUNICIPAL CODE BY AMENDING CHAPTER 18.76 (SURFACE MINING AND LAND RECLAMATION) IN ITS ENTIRETY TO CONFORM WITH ALL REQUIREMENTS OF THE CURRENT STATE SURFACE MINING AND RECLAMATION ACT.

The City Council of the City of Rialto does hereby ordain as follows:

**SECTION 1 – AMENDMENT TO CHAPTER 18.76 (SURFACE MINING AND LAND RECLAMATION)**

Title 18 of the Rialto Municipal Code is hereby amended by amending Chapter 18.76, entitled "Surface Mining and Land Reclamation," in its entirety as follows:

**SURFACE MINING AND LAND RECLAMATION**

**Sections:**

- 18.76.010 Purpose and Intent.
- 18.76.020 Definitions.
- 18.76.030 Incorporation by Reference.
- 18.76.040 Scope.
- 18.76.050 Vested Rights.
- 18.76.060 Process.
- 18.76.070 Standards of Reclamation.
- 18.76.080 Statement of Responsibility.
- 18.76.090 Findings for Approval.
- 18.76.100 Financial Assurances.
- 18.76.110 Interim Management Plans.
- 18.76.120 Annual Report Requirements.
- 18.76.130 Inspections.
- 18.76.140 Violations and Penalties.
- 18.76.150 Notice of Decision and Appeals.
- 18.76.160 Fees.
- 18.76.170 Mineral Resource Protection.
- 18.76.180 Severability.

**18.76.010 Purpose and Intent.**

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

It is the purpose and intent of the city 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.),

1 as amended, hereinafter referred to as "SMARA," Public Resources Code (PRC) Section 2207  
2 (relating to annual reporting requirements), and State Mining and Geology Board regulations  
3 (hereinafter referred to as "State regulations") for surface mining and reclamation practice  
4 (California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1, Sections  
5 3500 et.seq.), to ensure that:

6 A. Adverse environmental effects are prevented or minimized and that mined lands are  
7 reclaimed to a usable condition which is readily adaptable for alternative land uses.

8 B. The production and conservation of minerals are encouraged, while giving  
9 consideration to values relating to recreation, watershed, wildlife, range and forage, and  
10 aesthetic enjoyment.

11 C. Residual hazards to the public health and safety are eliminated.

#### 12 **18.76.20 Definitions.**

13 A. "Area of regional significance" means an area designated by the State Mining and  
14 Geology Board which is known to contain a deposit of minerals, the extraction of which is  
15 judged to be of prime importance in meeting future need for minerals in a particular region of the  
16 State within which the minerals are located and which, if prematurely developed for alternate  
17 incompatible land uses, could result in the premature loss of minerals that are of more than local  
18 significance.

19 B. "Area of state-wide significance" means an area designated by the board which is  
20 known to contain a deposit of minerals, the extraction of which is judged to be of prime  
21 importance in meeting future needs for minerals in the state and which, if prematurely  
22 developed for alternate incompatible land uses, could result in the permanent loss of minerals  
23 that are of more than local or regional significance.

24 C. "Borrow pits" means excavations created by the surface mining of rock,  
25 unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

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

32 E. "Exploration" or "prospecting" means the search for minerals by geological,  
33 geophysical, geochemical, or other techniques, including, but not limited to sampling, assaying,  
34 drilling, or any surface or underground works needed to determine the type, extent, or quantity  
35 of mineral present.

36 F. "Hazardous excavation" means an unattended pit, shaft, portal or other surface  
37 opening which is not secured by covering, fencing, or having access restricted by gates, doors,  
38 or other reasonable means presents a threat to the physical safety of the public.

39 G. "Haul road" means a road along which material is transported from the area of  
40 excavation to the processing plant or stock pile area of the surface mining operation.

41 H. "Idle" means any surface mining operations curtailed for a period of one year or  
42 more, or by more than 90 percent of the operation's previous maximum annual mineral  
43 production, with the intent to resume those surface mining operations at a future date.

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

1 J. "Lead agency" means a city or county which has the principal responsibility for  
approving a surface mining operation pursuant to the California Public Resources Code.

2 K. "Mined lands" means the surface, subsurface and ground water of an area in which  
3 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  
4 in which structures, facilities, equipment, machines, tools, or other materials or property which  
result from, or are used in, surface mining operations are located.

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

7 M. "Mining waste" includes the residual of soil, rock, mineral, liquid, vegetation,  
equipment, machines, tools or other materials or property directly resulting from, or displaced  
8 by, surface mining operations.

9 N. "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.

10 O. "Overburden" means soil, rock, or other materials that lie above a natural mineral  
deposit or in between deposits, before or after their removal by surface mining operations.

11 P. "Person" means any individual, firm, association, corporation, organization, or  
partnership, or any city, county, district, or the state or any department or agency thereof.

12 Q. "Reclamation" means the combined process of land treatment that minimizes water  
degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other  
13 adverse effects from surface mining operations, including adverse surface effects incidental to  
underground mines, so that mined lands are reclaimed to a usable condition which is readily  
14 adaptable for alternate 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,  
15 resoiling, revegetation, soil compaction, stabilization, or other measures.

16 R. "State geologist" means the individual holding office as provided in the California  
Public Resources Code, Section 677, Article 3, Chapter 2, Division 1.

17 S. "Stream bed skimming" means the excavation of sand and gravel from stream bed  
deposits above the mean summer water level or stream bottom, whichever is higher.

18 T. "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  
19 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, inplace distillation or retorting or leaching, the production and  
20 disposal of mining waste, prospecting and exploratory activities, borrow pitting, streambed  
skimming, and segregation and stockpiling of mined materials (and recovery of same).

### 21 **18.76.30 Incorporation by Reference.**

22 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  
23 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.

### 24 **18.76.040 Scope.**

25 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 requirements does not automatically

1 exempt a project or activity from the application of other regulations, ordinances or policies of  
2 the city, including but not limited to, the application of CEQA, the requirement of site approvals  
3 or other permits, the payment of development impact fees, or the imposition of other dedications  
4 and exactions as may be permitted under the law. The provisions of this chapter shall apply to  
5 all lands within the city, public and private.

6 This chapter shall not apply to the following activities, subject to the above referenced  
7 exceptions:

8 A. Excavations or grading conducted for farming or on-site construction or for the  
9 purpose of restoring land following a flood or natural disaster.

10 B. On-site excavation and on-site earthmoving activities which are an integral and  
11 necessary part of a construction project that are undertaken to prepare a site for construction of  
12 structures, landscaping, or other land improvements, including the related excavation, grading,  
13 compaction, or the creation of fills, road cuts, and embankments, whether or not surplus  
14 materials are exported from the site, subject to all the following conditions:

15 1. All required permits for the construction, landscaping, or related land improvements  
16 have been approved by a public agency in accordance with applicable provisions of state law  
17 and locally adopted plans and ordinances, including but not limited to, the California  
18 Environmental Quality Act ("CEQA," Public Resources Code, Division 13, § 21000 et. seq.).

19 2. The city approval of the construction project included consideration of the on-site  
20 excavation and on-site earthmoving activities pursuant to CEQA.

21 3. The approved construction project is consistent with the general plan or zoning of the  
22 site.

23 4. Surplus materials shall not be exported from the site unless and until actual  
24 construction work has commenced and shall cease if it is determined that construction activities  
25 have terminated, have been indefinitely suspended, or are no longer being actively pursued.

26 C. Operation of a plant site used for mineral processing, including associated on-site  
27 structures, equipment, machines, tools, or other materials, including the on-site stockpiling and  
28 on-site recovery of mined materials, subject to all of the following conditions:

29 1. The plant site is located on lands designated for industrial or commercial uses in the  
30 city's general plan.

31 2. The plant site is located on lands zoned industrial or commercial, or are contained  
32 within a zoning category intended exclusively for industrial activities by the City of Rialto.

33 3. None of the minerals being processed are being extracted on-site.

34 4. All reclamation work has been completed pursuant to the approved reclamation plan  
35 for any mineral extraction activities that occurred on-site after January 1, 1976.

36 D. Prospecting for, or the extraction of, minerals for commercial purposes and the  
37 removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one  
38 acre or less.

39 E. Surface mining operations that are required by federal law in order to protect a  
40 mining claim, if those operations are conducted solely for that purpose.

41 F. Any other surface mining operations that the State Mining and Geology Board  
42 determines to be of an infrequent nature and which involves only minor surface disturbances.

43 G. The solar evaporation of sea water or bay water for the production of salt and related  
44 minerals.

45 H. Emergency excavations or grading conducted by the Department of Water  
46 Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or  
47 restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

48 I. Road construction and maintenance for timber or forest operations if the land is  
49 owned by the same person or entity, and if the excavation is conducted adjacent to timber or  
50 forest operation roads. This exemption is only available if slope stability and erosion are

1 controlled in accordance with Board regulations and upon closure of the site, the person closing  
2 the site implements, where necessary, revegetation measures and post closure uses in  
3 consultation with the Department of Forestry and Fire Protection. This exemption does not  
4 apply to on-site excavation or grading that occurs within 100 feet of a Class One watercourse or  
5 75 feet of a Class Two watercourse, or to excavations for materials that are, or have been, sold  
6 for commercial purposes.

7 **18.76.050 Vested Rights.**

8 No person who obtained a vested right to conduct surface mining operations prior to  
9 January 1, 1976, shall be required to secure a permit to mine, so long as the vested right  
10 continues and as long as no substantial changes have been made in the operation except in  
11 accordance with SMARA, state regulations and this chapter. Where a person with vested rights  
12 has continued surface mining in the same area subsequent to January 1, 1976, he shall obtain  
13 city approval of a reclamation plan covering the mined lands disturbed by such subsequent  
14 surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense)  
15 between pre- and post-Act mining, the reclamation plan shall call for reclamation proportional to  
16 the disturbance caused by the mining after the effective date of the Act (January 1, 1976).  
17 All other requirements of state law and this chapter shall apply to vested mining operations.

18 **18.76.060 Process.**

19 A. Applications for a site approval or reclamation plan for surface mining or land  
20 reclamation projects shall be made on forms provided by the planning division. Said application  
21 shall be filed in accord with this chapter and procedures to be established by the director of  
22 development services. The forms for reclamation plan applications shall require, at a minimum,  
23 each of the elements required by SMARA (§2772-2773) and state regulations, and any other  
24 requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed  
25 reclamation plan, to be established at the discretion of the director of development services.

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 required environmental review forms and information  
prescribed by the director of development services.

D. Upon completion of the environmental review procedure and filing of all documents  
required by Chapter 18.66 (Conditional Development Permits) and provisions of this chapter, a  
public hearing will be scheduled for planning commission consideration of the reclamation plan  
and/or conditional development permit for the proposed or existing surface mining operation  
pursuant to Section 18.64.040 (Public Hearings) of the municipal code and pursuant to Section  
2774 of the Public Resources Code.

E. Within thirty (30) days of acceptance of an application for a site approval for surface  
mining operations and/or a reclamation plan as complete, the planning division 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 division shall also  
notify the State Department of Transportation that the application has been received.

F. The planning division shall process the application(s) through environmental review  
pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000  
et. seq.) and the city's environmental review guidelines.

1 G. Subsequent to the appropriate environmental review, the planning division shall  
prepare a staff report with recommendations for consideration by the planning commission.

2 H. The planning commission shall hold at least one noticed public hearing on the site  
approval and/or reclamation plan.

3 I. 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  
4 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  
5 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  
6 assurance before submittal to the State Department of Conservation. If a site approval is being  
processed concurrently the reclamation plan, the planning commission may simultaneously also  
7 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  
8 necessary to comply with permit processing deadlines, the planning commission may  
conditionally approve the site approval with the condition that the planning division shall not  
9 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  
10 on the reclamation plan and financial assurances.

11 Pursuant to Public Resources Code §2774(d), the State Department of Conservation  
shall be given thirty (30) days to review and comment on the reclamation plan and forty-five (45)  
12 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  
13 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  
14 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  
15 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.

16 J. 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  
17 pursuant to Public Resources Code §2770 (d).

18 K. The planning division 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 division shall  
19 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  
20 have been no changes during the previous year.

#### 21 **18.76.070 Standards for Reclamation.**

22 A. All reclamation plans shall comply with the provisions of the SMARA (§2772 and  
§2773) and state regulations (CCR §3500-3505). Reclamation plans approved after January  
23 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).

24 B. The city may impose additional performance standards as developed either in  
review of individual projects, as warranted, or through the formulation and adoption of city  
25 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

1 be required for mined lands that have been disturbed and that may be disturbed again in future  
2 operations. Reclamation may be done on an annual basis, in stages compatible with continuing  
3 operations, or on completion of all excavation, removal or fill as approved by the city. Each  
4 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  
5 required; (c) criteria for measuring completion of specific reclamation activities; and (d)  
6 estimated costs for completion of each phase of reclamation.

7 **18.76.080 Statement of Responsibility.**

8 The person submitting the reclamation plan shall sign a statement accepting  
9 responsibility for reclaiming the mined lands in accordance with the reclamation plan. Said  
10 statement shall be kept by the planning division in the mining operation's permanent record.  
11 Upon sale or transfer of the operation, the new operator shall submit a signed statement of  
12 responsibility to the planning division for placement in the permanent record.

13 **18.76.090 Findings for Approval.**

14 A. Site approvals. In addition to any findings required by the City of Rialto Municipal  
15 Code, site approvals for surface mining operations shall include a finding that the project  
16 complies with the provisions of SMARA and state regulations.

17 B. Reclamation plans. For reclamation plans, the following findings shall be required:

18 1. That the reclamation plan complies with SMARA Sections 2772 and 2773, and any  
19 other applicable provisions;

20 2. That the reclamation plan complies with applicable requirements of state regulations  
(CCR §3500-3505, and §3700-3713);

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

24 4. That the reclamation plan has been reviewed pursuant to CEQA and the city's  
25 environmental review guidelines, and all significant adverse impacts from reclamation of the  
surface mining operations are mitigated to the maximum 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 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; and

7. 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.

**18.76.100 Financial Assurances.**

A. 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 pose 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

1 with the surface mining operation's approved reclamation plan. Financial assurances shall be  
made payable to the City of Rialto and the State Department of Conservation.

2 B. Financial assurances will be required to ensure compliance with elements of the  
3 reclamation plan, including but not limited to, revegetation and landscaping requirements,  
4 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.

5 C. Cost estimates for the financial assurance shall be submitted to the planning division  
6 for review and approval prior to the operator securing financial assurances. The director of  
7 development services shall forward a copy of the cost estimates, together with any  
8 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  
forty-five (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  
director of development services shall have the discretion to approve the financial assurance if it  
meets the requirements of this chapter, SMARA and State regulations.

9 D. The amount of the financial assurance shall be based upon the estimated costs of  
10 reclamation for the years or phases stipulated in the approved reclamation plan, including any  
11 maintenance of reclaimed areas as may be required, subject to adjustment for the actual  
amount required to reclaim lands disturbed by surface mining activities since January 1, 1976,  
and new lands to be disturbed by surface mining activities in the upcoming year. Cost  
12 estimates should be prepared by a California Registered Professional Engineer and/or other  
similarly licensed and qualified professionals retained by the operator and approved by the  
13 director of development services. The estimated amount of the financial assurance shall be  
based on an analysis of physical activities necessary to implement the approved reclamation  
14 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  
15 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  
16 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 financial assurances.

17 E. In projecting the costs of financial assurances, it shall be assumed without prejudice  
18 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.

19 F. The financial assurances shall remain in effect for the duration of the surface mining  
20 operation and any additional period until reclamation is completed (including any maintenance  
required).

21 G. The amount of financial assurances required for a surface mining operation for any  
one year shall be adjusted annually to account for new lands disturbed by surface mining  
22 operations, inflation and reclamation of lands accomplished in accordance with the approved  
reclamation plan. The financial assurances shall include estimates to cover reclamation for  
23 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.

24 H. Revisions to financial assurances shall be submitted to the director of development  
25 services 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.



1 **18.76.110 Interim Management Plans.**

2 A. Within ninety (90) days of a surface mining operation becoming idle, the operator  
3 shall submit to the Planning division a proposed Interim Management Plan (IMP). The  
4 proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all  
5 site approval conditions and shall provide measures the operator will implement to maintain the  
6 site in a stable condition, taking into consideration public health and safety. The proposed IMP  
7 shall be submitted on forms provided by the planning division and shall be processed as an  
8 amendment to the reclamation plan. IMPs shall not be considered a project for the purposes of  
9 environmental review.

10 B. Financial assurances for idle operations shall be maintained as though the operation  
11 were active, or as otherwise approved through the idle mine's IMP.

12 C. Upon receipt of a complete proposed IMP, the planning division shall forward the  
13 IMP to the State Department of Conservation for review. The IMP shall be submitted to the  
14 State Department of Conservation at least thirty (30) days prior to approval by the planning  
15 commission.

16 D. Within sixty (60) days of receipt of the proposed IMP, or a longer period mutually  
17 agreed upon by the director of development services and the operator, the planning commission  
18 shall review and approved or deny the IMP in accordance with this chapter. The operator shall  
19 have thirty (30) days, or a longer period mutually agreed upon by the operator and the director  
20 of development services to submit a revised IMP. The planning commission shall approve or  
21 deny the revised IMP within sixty (60) days of receipt. If the planning commission denies the  
22 revised IMP, the operator may appeal that action to the city council.

23 E. The IMP may remain in effect for a period not to exceed five (5) years, at which time  
24 the planning commission may renew the IMP for another period not to exceed five (5) years, or  
25 require the surface mining operator to commence reclamation in accordance with its approved  
reclamation plan.

14 **18.76.120 Annual Report Requirements.**

15 Surface mining operators shall forward an annual surface mining report to the State  
16 Department of Conservation and the city planning division on a date established by the State  
17 Department of Conservation, upon forms furnished by the State Mining and Geology Board.  
18 New mining operations shall file an initial surface mining report and any applicable filing fees  
19 with the State Department of Conservation within thirty (30) days of the permit approval, or  
20 before commencement of operations, whichever is sooner. Any applicable fees, together with a  
21 copy of the annually inspection report, shall be forwarded to the State Department of  
22 Conservation at the time of filing the annual surface mining report.

19 **18.76.130 Inspections.**

20 The planning division shall arrange for inspection of a surface mining operation within six  
21 (6) months of receipt of the annual report required in Section 18.76.120, to determine whether  
22 the surface mining operation is in compliance with the approved site approval and/or  
23 reclamation plan, approved financial assurances, and state regulations. In no event shall less  
24 than one (1) inspection be conducted in any calendar year. Said inspections may be made by a  
25 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 twelve (12) months, or  
other qualified specialists, as selected by the director of development services. All inspections  
shall be conducted using a form approved and provided by the State Mining and Geology  
Board.

The planning division 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

1 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.

2  
3 **18.76.140 Violations and Penalties.**

4 If the director of development services, based upon an annual inspection or otherwise  
5 confirmed by an inspection of the mining operation, determines that a surface mining operation  
6 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  
Sections 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 a site approval which are not  
preempted by SMARA.

7 **18.76.150 Notice of Decision and Appeals.**

8 A. The planning commission shall make its findings and determination within thirty-five  
(35) days from the date of the hearing on such application(s) and forthwith transmit a copy  
thereof to the applicant.

9 B. The order of the planning commission in granting or denying approval to conduct  
10 surface mining operations becomes final and effective, unless an appeal in writing is filed within  
fifteen (15) days after the rendering of its decision, unless an appeal is filed as provided in  
Chapter 18.68.

11 C. If an appeal is filed as provided in Chapter 18.68, the action of the city council is final  
12 after notice of the decision is mailed by first class mail to the interested person or persons. Any  
person seeking review of a decision of the city council must seek judicial review in accordance  
with Section 1094.6(b) of the California Code of Civil Procedure.

13 **18.76.160 Fees.**

14 The city shall establish such fees as it deems necessary to cover the reasonable costs  
15 incurred in implementing this chapter and the state regulations, including but not limited to,  
processing of applications, annual reports, inspections, monitoring, enforcement and  
16 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  
17 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.

18 **18.76.170 Mineral Resource Protection.**

19 Mine development is encouraged in compatible areas before encroachment of conflicting  
20 uses. 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  
21 provisions of this chapter, shall be protected from 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.

22 In accordance with PRC §2762, the city's general plan and resource maps will be  
23 updated to reflect mineral information (classification and/or designation reports) within twelve  
(12) months of receipt from the State Mining and Geology Board of such information. Land use  
24 decision 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  
25 mineral resource areas will be considered and encouraged. Recordation of 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,

1 conditions of approval may be applied to encroaching development projects to minimize  
2 potential conflicts.

3 **18.76.180 Severability.**

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

7 **SECTION 2 – CERTIFICATION**

8 The City Clerk shall certify to the adoption of this ordinance and cause same to be  
9 published once in the local paper and the same shall be in force and effect on and thirty (30)  
10 days after its adoption.

11 PASSED, APPROVED AND ADOPTED this 19th day of January, 1999.

12   
13 RAY FARMER, MAYOR  
14 CITY OF RIALTO

15 ATTEST:

16   
17 Barbara A. McGee, CITY CLERK

18 APPROVED AS TO FORM:

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20 Robert A. Owen, CITY ATTORNEY

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STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO ) ss  
CITY OF RIALTO )

I, Barbara McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing Ordinance No. 1285 was duly passed and adopted at a regular meeting of the City Council of the City of Rialto held on the 19th day of January, 1999.

Upon motion of Councilmember Sampson, seconded by Councilmember Scott, the foregoing Ordinance No. 1285 was duly passed and adopted.

Vote on the motion:

AYES: Mayor Farmer, Council Members Zupanic-Skaggs, Vargas, Sampson & Scott

NOES: None

ABSENT: None

IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of Rialto this 27th day of January, 1999.

  
Barbara A. McGee, CITY CLERK

FEB 05 1999

# CERTIFICATION

STATE MINING and GEOLOGY BOARD

*I, Barbara A. McGee, City Clerk of the City of Rialto, County of San Bernardino, State of California, DO HEREBY CERTIFY that I have compared the annexed copy of:*

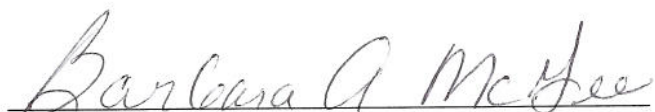
**ORDINANCE NO. 1285 OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, AMENDING A PORTION OF TITLE 18 OF THE RIALTO MUNICIPAL CODE BY AMENDING CHAPTER 18.76 (SURFACE MINING AND LAND RECLAMATION) IN IT'S ENTIRETY TO CONFORM WITH ALL REQUIREMENTS OF THE CURRENT STATE SURFACE MINING AND RECLAMATION ACT.**

*With the original on file in the Office of the City Clerk, 290 W. Rialto Ave., Rialto, CA 92376, and that it is a true, complete and correct copy of the same as it appears in the records on file in my office remaining.*

(Seal)

*IN WITNESS WHEREOF, I have here onto set my hand and affixed the official seal of the City of Rialto on*

*January 29, 1999.*



*Barbara A. McGee, CMC  
City Clerk, City of Rialto*