

ORDINANCE NO. 1042

AN ORDINANCE OF THE CITY OF LAKE ELSINORE, CALIFORNIA, RESCINDING EXISTING TITLE 14.04 OF THE LAKE ELSINORE MUNICIPAL CODE AND ADDING A NEW TITLE 14.04 TO SAID CODE WHICH SHALL BE KNOWN AS THE "SURFACE MINING AND RECLAMATION CHAPTER" AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH.

THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, ORDAINS AS FOLLOWS:

SECTION ONE:

WHEREAS, the City Council hereby finds and declares that the extraction of minerals is essential to the continued economic well-being of the City and to the needs of society, and the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety; and

WHEREAS, the City Council further finds that the reclamation of mined lands as provided in this Ordinance will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land, by ensuring that the land is returned to a usable condition which is readily adaptable for alternative land use; and

WHEREAS, the City Council further finds that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different, and reclamation operations and the specifications therefore may vary accordingly; and

WHEREAS, the City Council further finds that the production and conservation of minerals should be encouraged while giving consideration to values relating to groundwater supply, recreation, watershed, wildlife, range and forage, and aesthetic enjoyments; and

WHEREAS, the City Council further finds that it is necessary to regulate the conduct of surface mining operations to ensure that such operations are not detrimental to existing or future land uses and to protect the public health, safety, and general welfare, as shown in Exhibit "A".

SECTION TWO:

If any section, subsection, sentence, clause or phrase of this Ordinance 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 Ordinance.

SECTION THREE:

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

I declare under penalty of perjury that the foregoing instrument is a full, true and correct copy of the original on file in this office.

ATTEST: Vicki Kasad  
VICKI KASAD: City Clerk

DATED: 2/12/99

**EXHIBIT "A"**

**TITLE 14.04**

**SURFACE MINING AND RECLAMATION CHAPTER**

**SECTION 14.04.010 – TITLE:** Chapter 14.04 of the Lake Elsinore Municipal Code shall be known as the Surface Mining and Reclamation Chapter and shall supersede any previous Surface Mining and Reclamation Chapters.

**SECTION 14.04.020 - PURPOSE AND INTENT:** The 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 (PRC) 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.
- (C) Residual hazards to the public health and safety are eliminated.

**SECTION 14.04.030 – DEFINITIONS:** As used in this Chapter, the following terms shall have the following meanings:

- (A) 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.
- (B) 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.
- (C) Borrow Pits. Excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.
- (D) City. The City of Lake Elsinore.
- (E) Commission. The Planning Commission of the City of Lake Elsinore.
- (F) Community Development Department. The Planning Division, Engineering Division, and Building and Safety Division.

- (G) 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.
- (H) Council. The City Council of the City of Lake Elsinore.
- (I) Director. The Community Development Director of the City of Lake Elsinore, or designee.
- (J) Exploration. The search for minerals by geological, geophysical, geochemical or other techniques, including, but not limited to, sampling, assaying, drilling, or any surface or underground works needed to determine the type, extent, or quantity of minerals present.
- (K) 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.
- (L) 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.
- (M) 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.
- (N) 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.
- (O) 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.
- (P) Mining Waste. Includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operation.
- (Q) 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 engaged in surface mining operations as an employee with wages as his/her sole compensation.
- (R) Overburden. 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.
- (S) Permit. Any formal authorization from, or approved by the city, the absence of which would preclude surface mining operations.

- (T) Person. Any individual, firm, association, corporation, organization, or partnership, or any city, county, district, or the state or any department or agency thereof.
- (U) Prospecting. See "exploration."
- (V) Reclamation. The combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses compatible with Zoning and the General Plan and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.
- (W) State Board. State Mining and Geology Board, in the Department of Conservation State of California.
- (X) State Geologist. Individual holding office as structured in Section 677 of Article 3, Chapter 2 of Division 1 of the Public Resources Code.
- (Y) Stream Bed Skimming. Excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.
- (Z) Surface Mining Operations. All, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations include, but are not limited to, in-place distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, streambed skimming, and segregation and stockpiling of mined materials (and recovery of same).
- (AA) Use. The beginning of a substantial surface mining operation that is authorized, which construction must thereafter be pursued diligently to completion.

**SECTION 14.04.040 - 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.

**SECTION 14.04.050 – SCOPE:** Except as provided in this Chapter, no person shall conduct surface mining and quarrying operations unless a permit for Surface Mining, 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, chapters or policies of the City, including but not limited to, the application of CEQA, the requirement of a Conditional Use Permit, Surface Mining Permit, 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.

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

- (A) Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.
- (B) Onsite excavation and onsite earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:
  - (1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and chapters, 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 for 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 are being extracted onsite.
  - (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 the 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 and the City determine to be of an infrequent nature and which involve only minor surface disturbances.
- (G) The solar evaporation of sea water or bay water for the production of salt and related minerals.

- (H) Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.
- (I) Road construction and maintenance for timber or forest operations if the land is owned by the same person or entity, and if the excavation is conducted adjacent to timber or forest operation roads. This exemption is only available if slope stability and erosion are controlled in accordance with Board regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and post-closure uses in consultation with the Department of Forestry and Fire Protection. This exemption does not apply to onsite excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavations for materials that are, or have been, sold for commercial purposes.

**SECTION 14.04.060 - 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 vested rights has continued surface mining in the same area subsequent to January 1, 1976, she / 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.

**SECTION 14.04.070 – PROCESS:**

- (A) Applications for the Surface Mining Permit and Reclamation Plan process shall be made on forms provided by the Community Development Department. Said application shall be filed in accord with this Chapter and procedures established by the Director, or designee. The forms for Surface Mining Permit and Reclamation Plan applications shall require, at a minimum, each of the elements required by SMARA (§§2772-2773) and State regulations, and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed permit for Surface Mining and Reclamation Plan, to be established at the discretion of the Director, or designee.
- (B) Twenty (20) sets of copies of a Surface Mining and Reclamation Plan shall be submitted in conjunction with all necessary information for Permit approvals for surface mining operations. For surface mining operations that are exempt from a Permit 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 Director, or designee.
- (D) Upon completion of the environmental review procedure and filing of all documents required by the Community Development Director, or designee, consideration of the Surface Mining Permit and/or Reclamation Plan for the proposed or existing surface mine shall be completed pursuant to Title 14.04 of the Lake Elsinore Municipal Code at a public hearing before the Planning Commission, and pursuant to Section 2774 of the Public Resources Code.

- (E) Within thirty (30) days of acceptance of an application for approval for Surface Mining operations and/or a Reclamation Plan as complete, the Community Development 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 Community Development Department shall also notify the State Department of Transportation that the application has been received.
- (F) The Community Development Department shall process the application(s) through the environmental review process pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code Sections 21000 et seq.).
- (G) Subsequent to the appropriate environmental review, the Community Development Department shall prepare a staff report with recommendations for consideration by the Planning Commission.
- (H) The Planning Commission shall hold at least one noticed public hearing on the requested Surface Mining Permit and Reclamation Plan, pursuant to the requirements of Section 17.92 of the Lake Elsinore Municipal Code.
- (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 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 Surface Mining Permit is being processed concurrently with the Reclamation Plan, the Planning Commission may simultaneously also conceptually approve the Surface Mining Permit. However, the Planning Commission may defer action on the Surface Mining Permit 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 Surface Mining Permit with the condition that the Community Development Department shall not issue the Surface Mining Permit 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.

- (J) The Planning Commission shall then take action to approve, conditionally approve, or deny the Surface Mining Permit and/or Reclamation Plan, and to approve the financial assurances pursuant to PRC §2770(d).

- (K) The Community Development Department shall forward a copy of each approved Surface Mining Permit 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 Community Development Department shall submit to the State Department of Conservation for each active or idle mining operation a copy of the Surface Mining Permit or Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year.
- (L) All Reclamation Plans previously adopted shall remain in effect until modified as provided in the Chapter.
- (M) Upon the approval of the permit by the Planning Commission, the Community Development Department shall issue the approved mining or reclamation permit. Such permit shall include issuance of a grading permit which shall allow the permittee to commence operations pursuant to the approved plan.
- (N) Any permit that is granted shall be used within one year from the effective date thereof, or within the time limit that is set in the conditions of approval, which shall not exceed five years; otherwise, such permit shall be null and void. If, however, a reclamation permit has been granted which calls for the project to be completed in stages, then such permit shall renew for an additional one year term upon the completion of each phase as detailed in the approved Reclamation Plan.

**SECTION 14.04.080 - CONTENTS OF THE SURFACE MINING PLAN:** The Surface Mining Plan shall, to the extent practicable, provide all of the following information:

- (A) The size and legal description of the lands that will be affected by the mining operations, and a map or maps showing the boundaries and topographic details of such lands, the location of all streams, roads, railroads, sewage disposal systems, groundwater basins, water wells, and utility facilities within 500 feet of the site, and the location of all proposed access roads to be constructed in conducting the surface mining operation;
- (B) A description of the general geology of the area, and a detailed description of the geology of the area in which surface mining is to be conducted, including a description of depth to groundwater and quality of existing groundwater in the area;
- (C) The anticipated progression of mining operations, including the proposed dates for the initiation and termination of the operations, and a time frame for each phase of operations;
- (D) A description of and plan for the type of surface mining to be employed, including the complexity of the operation and the manner and degree to which the mined lands will be disturbed;
- (E) A time schedule that will provide for the completion of surface mining on each segment of the mined lands so that reclamation can be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operations;
- (F) The maximum anticipated depth of the surface mining operations;
- (G) The location of equipment, stockpiles, settling ponds, interim drainage systems, machinery and wastedumps in areas to be mined and the nature, quantity and location of any explosives to be stored at the site;



- (H) The nature and extent of any discharge of liquid waste that may occur at the site, including where applicable, the direction of flow, methods of containment and potential risk of water and / or groundwater contamination;
- (I) The method of handling simultaneous excavation and reclamation if applicable;
- (J) The anticipated type and amount of minerals to be removed from the site and the truck routes to be used, the amount of mining waste to be retained on the site, and the amount of mining waste to be disposed off-site, including the method and location of disposal and the truck routes to be used;
- (K) The anticipated hours of operation, the maximum anticipated noise levels during operating hours, and the location and intensity of any lights to be used at the site;
- (L) The methods of dust control and noise suppression to be employed at the site; and
- (M) The location and design of any structures to be erected at the site.

**SECTION 14.04.090 – CONTENTS OF THE RECLAMATION PLAN:** Each Reclamation Plan shall take into account the particular characteristics of the mined lands and the surrounding area, including types of overburden, soil stability, topography, geology, climate, stream characteristics, groundwater resources, and principal mineral commodities, and shall provide at least the following information:

- (A) The environmental setting of the operation site and the effect that possible alternate reclaimed site conditions may have upon the existing and future uses of surrounding lands;
- (B) The methods to be used to reclaim the land including a detailed schedule of the sequence and timing of all stages of the reclamation;
- (C) The manner in which derelict machinery, mining waste and scrap will be removed from the reclaim site and how contaminants will be controlled;
- (D) The manner in which rehabilitation of affected streambed channels and streambanks to a condition minimizing erosion and sedimentation will occur;
- (E) The methods to be used to ensure that the site will contain stable waste piles and slopes;
- (F) The anticipated physical condition of the site upon the completion of all reclamation, and the proposed use or potential uses of the reclaimed site;
- (G) A map or maps which will delineate through the use of cross-sections and elevations the physical characteristics of the land upon the conclusion of reclamation, including a topographic map (to a scale of one inch equals 100 feet) showing the location of the reclaimed land;
- (H) An explanation of how reclamation of the site may affect the future use of the area for mining purposes, including the effect the proposed reclamation may have upon the site's remaining unmined resources;
- (I) An explanation of how the reclaimed site shall be, to the extent reasonable and practicable, revegetated for soil stabilization, made free of drainage and erosion problems, coordinated with present and anticipated future land use, and rendered compatible with the topography and general environment of surrounding property;

- (J) A statement of how the public health and safety will be protected for the duration of the mining operations, giving consideration to the degree and type of present and probable future exposure of the public to the site; and
- (K) The name and address of the operator and the names and addresses of any persons designated by him as agents for the service of process;

**SECTION 14.14.100 - 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 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. 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.

**SECTION 14.04.110 - 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 Community Development 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 Community Development Department for placement in the permanent record.

**SECTION 14.04.120 - FINDINGS FOR APPROVAL:**

- (A) Surface Mining Permit. In addition to any findings required by the Lake Elsinore Municipal Code and the General Plan, surface mining operations shall include a finding that the project complies with the provisions of SMARA and State regulations.
  - (1) That the granting of the permit or approval of the plan will not be detrimental to the public health, welfare or safety or injurious to the property in such zone or vicinity.
- (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 and potential use of reclaimed land pursuant to the plan are consistent with this Chapter and the City's General Plan and any applicable resource plan or element.

- (4) That the Reclamation Plan has been reviewed pursuant to CEQA and the City's 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.
- (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.

**SECTION 14.04.130 - CONDITIONS OF APPROVAL:** The approval of any plan or permit may be subject to conditions set forth in the findings of fact. Any plan or permit may be revoked by the same procedure by which it is granted if conditions of approval are not complied with or for violation of any law or regulation.

**SECTION 14.04.140 - 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 with the surface mining operation's approved Reclamation Plan. Financial assurances shall be made payable to the City of Lake Elsinore and the State Department of Conservation.
- (B) Financial assurances will be required to ensure compliance with elements of the Reclamation Plan, including but not limited to, revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if necessary.
- (C) Cost estimates for the financial assurance shall be submitted to the Community Development Department for review and approval prior to the operator securing financial assurances. The Director, or designee, 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 Director, or designee, 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 in the upcoming year. Cost 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 Director, or designee. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved Reclamation Plan, the unit costs for each of these activities, the number of units of each of these activities, and the

actual administrative costs. Financial assurances to ensure compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved Reclamation Plan shall be based upon cost estimates that include but may not be limited to labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator other than the permittee. A contingency factor of ten percent (10%) shall be added to the cost of financial assurances.

- (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 operations, 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 Director, or designee, 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.

**SECTION 14.04.150 - INTERIM MANAGEMENT PLANS:**

- (A) Within 90 days of a surface mining operation becoming idle, the operator shall submit to the Community Development Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all 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 Community Development 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 Community Development 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 Director, or designee, 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 Director, or designee, to submit a revised IMP. The Planning Commission shall approve or deny the revised IMP within sixty (60) days of receipt. If the Planning Commission denies the revised IMP, the operator may appeal that action to the City Council.

- (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.

**SECTION 14.04.160 - PUBLIC RECORDS:** Reclamation plans, reports, applications, and other documents submitted pursuant to this Chapter, are public records unless it can be demonstrated to the satisfaction of the City that the release of such information, or part thereof, would reveal production reserves, or rate of depletion entitled to protection as proprietary information. City shall identify such proprietary information as a separate part of each application. A copy of all permits, reclamation plans, reports, applications, and other documents submitted pursuant to this Chapter, including proprietary information, shall be furnished to the Director of the Department of Conservation by the City. Proprietary information shall be made available to persons other than the State Geologist only when authorized by the mine operator and by the mine owner in accordance with Section 2778 of the Public Resources Code as amended from time to time.

**SECTION 14.04.170 - AMENDMENTS:** Amendments to an approved Reclamation Plan may be submitted to the City at any time, detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until such amendment has been filed with, and approved by, the City. Amendments to an approved Reclamation Plan shall be approved by the same procedure as is prescribed for approval of a Reclamation Plan, including fees which may be reasonably imposed as a result of additional public hearings. Minor amendments to an approved Reclamation Plan shall be submitted for review, consideration, and approval by the Director, or designee.

**SECTION 14.04.180 - VARIANCE:** Any "variance" from the approved reclamation plan should be only minor in nature and consequences, otherwise, any substantial deviations from the approved plan require that the plan formally be amended.

**SECTION 14.04.190 - ANNUAL REPORT REQUIREMENTS:** Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the Community Development 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.

**SECTION 14.04.200 - INSPECTIONS:** The Community Development Department shall arrange for inspection of a surface mining operation within six months of receipt of the Annual Report required in Section 14.04.200, to determine whether the surface mining operation is in compliance with the approved Surface Mining Permit 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 Director, or designee. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

The Community Development 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.

**SECTION 14.04.210 - VIOLATIONS AND PENALTIES:** If the Director, or designee, 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 Surface Mining Permit, 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 a Surface Mining Permit which are not preempted by SMARA.

**SECTION 14.04.220 – APPEALS:** Any person aggrieved by an act or determination of the Community Development Department in the exercise of the authority granted herein, shall have the right to appeal to the Planning Commission. Appeal of a Planning Commission decision may be made to the City Council. An appeal shall be filed on forms provided, within five (5) calendar days after the rendition, in writing, of the appealed decision and must be accompanied by an appeal fee equal to one half the amount of the application fee.

**SECTION 14.04.230 – 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 Surface Mining Permit 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.

**SECTION 14.04.240 - MINERAL RESOURCE PROTECTION:** Mine development is encouraged in compatible areas before encroachment of conflicting 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 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.

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.

INTRODUCED AND PASSED UPON FIRST READING this 26th day of January, 1999, upon the following roll call vote:

AYES:	COUNCILMEMBERS:	BRINLEY, METZE, PAPE, KELLEY
NOES:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	VACANT
ABSTENTIONS:	COUNCILMEMBERS:	NONE

PASSED, APPROVED, AND ADOPTED UPON SECOND READING this 9th day of Feb., 1999 upon following role call vote:

AYES:	COUNCILMEMBERS:	BRINLEY, METZE, PAPE, KELLEY
NOES:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	VACANT
ABSTENTIONS:	COUNCILMEMBERS:	NONE

  
Genie Kelley, Mayor

ATTEST:

  
Vicki Lynn Kasad, City Clerk

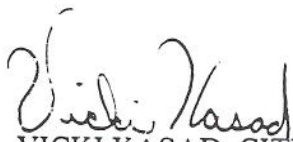
APPROVED AS TO FORM AND LEGALITY:

  
Barbara Leibold, City Attorney

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) SS:  
CITY OF LAKE ELSINORE)

I, VICKI KASAD, CITY CLERK OF THE CITY OF LAKE ELSINORE, DO HEREBY  
CERTIFY that the foregoing Ordinance was read by title only for adoption on January 26, 1999, and  
passed on February 9, 1999, by the following roll call vote:

AYES:	COUNCILMEMBERS:	BRINLEY, METZE, PAPE, KELLEY
NOES:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	VACANT
ABSTAIN:	COUNCILMEMBERS:	NONE


  
VICKI KASAD, CITY CLERK  
CITY OF LAKE ELSINORE

(SEAL)

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) SS:  
CITY OF LAKE ELSINORE)

I, VICKI KASAD, CITY CLERK OF THE CITY OF LAKE ELSINORE,  
DO HEREBY CERTIFY that the above and foregoing is a full, true and correct copy  
of Ordinance No. 1042 of said Council, and that the same has not been amended or repealed.

DATED: February 11, 1999

  
VICKI KASAD, CITY CLERK  
CITY OF LAKE ELSINORE

(SEAL)