

**COPY**

**ORDINANCE NO. 98-160**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LATHROP  
ADDING CHAPTER 196 OF THE LATHROP CITY CODES PERTAINING TO  
SURFACE MINING IN THE CITY OF LATHROP.

WHEREAS, the City of Lathrop 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 lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety; and

WHEREAS, 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; and

WHEREAS, the purpose and intent of this Section is to regulate surface mining operations as authorized by California's Surface Mining and Reclamation Act (SMARA) of 1975 (P.R.C. Sec. 2710 et. Seq.) as amended, hereinafter referred to as SMARA; P.R.C. Section 2207; and the State Mining and Geology Board Regulations for surface mining and reclamation practice (California Code of Regulations [CCR], adopted pursuant thereto (Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.), hereinafter (AState Regulations@), to ensure that:

- A. The adverse effects of surface mining operations will be prevented or minimized and that the mined lands are reclaimed to a usable condition, which is readily adaptable for alternative, land uses.
- B. The production and conservation of minerals will be encouraged while eliminating hazards to public health and safety and avoiding or minimizing adverse effects on the environment, including but not limited to geologic subsidence, air pollution, water quality degradation, damage to biological resources, flooding, erosion, degradation of scenic quality, and noise pollution.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LATHROP DOES  
HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 196 is added to read as follows:

- (2) **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.
- (3) **Borrow Pits**  
Excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.
- (4) **Compatible Land Uses**  
Land uses inherently compatible with mining and/or that require a minimum of 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, recreation, agricultural, silvicultural, grazing, and open space.
- (5) **Haul Road:**  
A road along which material is transported from the area of excavation to the processing plant or stockpile area of the surface mining operation.
- (6) **Idle:**  
To curtail for a period of one year or more surface mining operations by more than 90 percent of the operations previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date. (SMARA, Sec. 2727.1)
- (7) **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.

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, resoiling, revegetation, soil compaction, stabilization, or other measures.

(14) **Stream Bed Skimming:**

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

(15) **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 incidental to an underground mine. Surface mining operations shall include, but are not limited to:

- (a) In-place distillation or retorting or leaching.
- (b) The production and disposal of mining waste.
- (c) Prospecting and exploratory activities. (SMARA, Sec. 2735)

Surface mining operations shall also include the creation of borrow pits, stream bed skimming, segregation and stockpiling of mined materials (and recovery of same). (State Regulations, Sec. 3501)

• **196.2 Incorporation of SMARA and State Regulations by Reference**

The provisions of the California Surface Mining and Reclamation Act of 1975 (P.R.C. Sec. 2710 et seq.), P.R.C. Section 2207, and the California Code of Regulations implementing the Act (14 Cal. Admin., Sec. 3500 et seq.), hereinafter referred to as the State Regulations, as either may be amended from time to time, are made a part of this Chapter by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this chapter are more restrictive than related State (or City) provisions, this Chapter shall prevail.

• **196.2.5 Scope**

Except as provided in this Chapter, no person shall conduct surface mining

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 ordinances, including, but not limited to, the California Environmental Quality Act (CEQA, Public Resources Code, Division 13, '21000 et seq.)
  - (2) The City's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to CEQA.
  - (3) The approved construction project is consistent with the general plan or zoning of the site.
  - (4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined those 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 Lathrop General Plan.
  - (2) The plant site is located on lands zoned industrial or commercial, or is contained within a zoning category intended exclusively for industrial activities by the City of Lathrop.
  - (3) None of the minerals being processed are being extracted onsite.
  - (4) All reclamation work has been completed pursuant to the approved

Development Director. The forms for 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 Reclamation Plan.

- (B) Fifteen (15) copies of a proposed Reclamation Plan shall be required for submittal in conjunction with all applications for CUP=s for Surface Mining Operations. For surface mining operations that are exempt from a Conditional Use Permit 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 of Lathrop at one time. Applications shall include all required environmental review forms and information prescribed by the Community Development Director.
- (C) The Department will review the application package for completeness and shall, within 30 days after receipt, either accept the application as complete for the purpose of initiating permit processing or return the application as deficient. Resubmittal of the revised application shall start a new review time frame.
- (D) Within thirty (30) days of acceptance of an application for a Conditional Use Permit for surface mining operations and/or a Reclamation Plan as complete, the Planning Department shall notify the State Department of Conservation of the filing of the application(s). Whenever mining operations are proposed in the 100-year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the Planning Department shall also notify the State Department of Transportation that the application has been received.
- (E) The Planning Department 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 of Lathrop=s environmental review guidelines.
- (F) Subsequent to the appropriate environmental review, the Planning Department shall prepare a staff report with recommendations for consideration by the Planning Commission.

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

**' 196.7 Performance Standards for Reclamation Plans.**

- (1) 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).
- (2) The City of Lathrop 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.
- (3) 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, remove, or fill, as approved by the City of Lathrop. 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.

- (7) That a written response to the Director of Department of Conservation has been prepared, describing the disposition of major issues raised by the Director of Department of Conservation. Where the City's position is at variance with the recommendations and objections raised by the Director, said response shall address, in detail, why specific comments and suggestions were not accepted.  
(SMARA, Sec. 2774(d)).

**196.10 Financial Assurances for Reclamation Plans.**

- (1.) In order to ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the City shall require as a condition of approval one or more forms of security which will be released upon satisfactory performance. The applicant may post security in the form of a corporate surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, a certificate of time deposit as part of an approved trust fund, or other method acceptable to the City and the State Mining and Geology Board as specified in statewide regulations adopted by the Mining and Geology Board, as specified in State regulations, and which the City of Lathrop reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved Reclamation Plan. Financial assurances shall be made jointly payable to the City of Lathrop and the State Department of Conservation.
- (2) Financial assurances shall be required and be sufficient to ensure compliance with elements of the Reclamation Plan including but not limited to revegetation and landscaping requirements; restoration of aquatic or wildlife habitat; protection of archaeological sites; restoration of water bodies and water quality; slope stability and erosion and drainage control, disposal of hazardous materials; and other mitigation measures. The Planning Department shall monitor financial assurances for such elements of the Plan.
- (3) Cost estimates for the financial assurance shall be submitted to the Planning Department for review and approval prior to the operator securing financial assurances. The Community Development Director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within 45

succeeding year. Financial assurances for all subsequent years of the operation shall be handled in the same manner.

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

• **196.11 Interim Management Plans**

- (A) Within 90 days of a surface mining operation becoming idle, the operator shall submit to the Planning Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all Conditional Use Permit conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the Planning Department, and shall be processed as an amendment to the Reclamation Plan. IMPs shall not be considered a project for the purpose of environmental review.
- (B) Financial assurances for idle operations shall be maintained as though the operation was active, or as otherwise approved through the idle mines IMP.
- (C) Upon receipt of a complete proposed IMP, the Planning Department shall forward the IMP to the State Department of Conservation for review. The IMP shall be submitted to the State Department of Conservation at least 30 days prior to approval by the Planning Commission.
- (D) Within 60 days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Community Development Director and the operator, the Planning Commission shall review and approve or deny the IMP in accordance with this Chapter. The operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator and the Community Development Director, 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, City of Lathrop.
- (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



The time limit for commencing a surface mining operation that is permitted pursuant to this Section shall be as provided in Lathrop Code of Ordinances, Chapter 186, Conditional Use Permits.

▸ **196.15      Violations and Penalties**

If the Planning Director, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this chapter, the applicable 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 City of Lathrop Title 15 for revocation and/or abandonment of a Conditional Use Permit which are not preempted by SMARA.

▸ **196.16      Appeals**

Any person aggrieved by an act or determination of the Planning Department in the exercise of the authority granted herein shall have the right to appeal to the Lathrop City Council. An appeal shall be filed on forms provided, within ten (10) calendar days after the rendition, in writing, of the appealed decision.

▸ **196.17      Fees**

The City shall establish such fees as it deems necessary from time to time by resolution, 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 of Lathrop, at the time of filing of the Conditional Use Permit application, Reclamation Plan application, and at such other times as are determined by the City of Lathrop to be appropriate in order to ensure that all reasonable costs of implementing this Chapter are borne by the mining operator.

▸ **196.18      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

This Ordinance was introduced on June 2, 1998 and PASSED AND ADOPTED at a regular meeting of the City Council of the City of Lathrop on this 16th day of June, 1998, by the following vote:

AYES: Rhodes, Gleason, Hernandez, McKee


NOES:

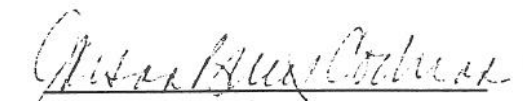
ABSTAIN:

ABSENT: Oliver

Attest:

Approved as to Form:

  
Lisa Oliveira, City Clerk

  
Susan Burns Cochran  
City Attorney

Approved

  
Mayor, Steve McKee