

CITY OF OROVILLE
ORDINANCE NO. 1606

**AN ORDINANCE REPEALING CHAPTER 23A OF THE OROVILLE CITY CODE
AND RE-ENACTING CHAPTER 23A OF THE OROVILLE CITY CODE PERTAINING
TO SURFACE MINING AND RECLAMATION**

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6 **WHEREAS**, the Oroville Planning Commission has held the required public hearing on the action
7 described herein and has recommended adoption of this ordinance; and

8 **WHEREAS**, the Oroville City Council has held the required public hearings, has found the
9 proposed action is consistent with the General Plan of the City of Oroville, and is in
10 the best interest of the City; and

11 **WHEREAS**, the Oroville City Council finds that the proposed action is exempt form the
12 requirements of the California Environmental Quality Act under Section 15370 of the
13 California Environmental Quality Act Guidelines;

14 **NOW, THEREFORE**, the Council of the City of Oroville do ordain as follows:

15 **SECTION 1:** Chapter 23A of the Oroville City Code is hereby repealed.

16 **SECTION 2:** Chapter 23A of the Oroville City Code is hereby re-enacted to read as follows:

17 **23A-1 Purpose and Intent**

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

24 The purpose and intent of this Chapter is to ensure the continued availability of important
25 mineral resources, while regulating surface mining operations as required by California's Surface
26 Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710 et seq.), as amended,
27 hereinafter referred to as "SMARA", Public Resources Code (PRC) Section 2207 (relating to annual
28 reporting requirements), and State Mining and Geology Board regulations (hereinafter referred to as

1 "State regulations") for surface mining and reclamation practice (California Code of Regulations
2 [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.), to ensure that:

3 (a) Adverse environmental effects are prevented or minimized and that mined lands are
4 reclaimed to a usable condition which is readily adaptable for alternative land uses.

5 (b) The production and conservation of minerals are encouraged, while giving consideration
6 to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.

7 (c) Residual hazards to the public health and safety are eliminated.

8 23A-2 Definitions

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

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

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

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

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

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

1 Idle. Surface mining operations curtailed for a period of one year or more, by more than 90
2 percent of the operation's previous maximum annual mineral production, with the intent to resume
3 those surface mining operations at a future date.

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

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

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

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

20 Reclamation. The combined process of land treatment that minimizes water degradation, air
21 pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from
22 surface mining operations, including adverse surface effects incidental to underground mines, so that
23 mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and
24 create no danger to public health or safety. The process may extend to affected lands surrounding
25 mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction,
26 stabilization, or other measures.

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

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

8 **23A-3 Incorporation by Reference**

9 The provisions of SMARA (PRC §2710 et seq.), PRC Section 2207, and State regulations
10 CCR §3500 et seq., as those provisions and regulations may be amended from time to time, are made
11 a part of this Chapter by reference with the same force and effect as if the provisions therein were
12 specifically and fully set out herein, excepting that when the provisions of this Chapter are more
13 restrictive than correlative State provisions, this Chapter shall prevail.

14 **23A-4 Scope**

15 Except as provided in this Chapter, no person shall conduct surface mining operations un
16 a Use Permit, Reclamation Plan, and financial assurances for reclamation have first been approved
17 by the City. Any applicable exemption from this requirement does not automatically exempt a projec
18 or activity from the application of other regulations, ordinances or policies of the City, including bu
19 not limited to, the application of CEQA, the requirement of Use Permits or other permits, th
20 payment of development impact fees, or the imposition of other dedications and exactions as may b
21 permitted under the law. The provisions of this Chapter shall apply to all lands within the City, publ
22 and private.

23 This Chapter shall not apply to the following activities, subject to the above-reference
24 exceptions:

25 (a) Excavations or grading conducted for farming or on-site construction or for the purpo
26 of restoring land following a flood or natural disaster.

27 (b) Onsite excavation and onsite earthmoving activities which are an integral and necessa
28 part of a construction project that are undertaken to prepare a site for construction of structu

1 landscaping, or other land improvements, including the related excavation, grading, compaction, or
2 the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from
3 the site, subject to all of the following conditions:

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

8 (2) The City's approval of the construction project included consideration of the onsite
9 excavation and onsite earthmoving activities pursuant to CEQA.

10 (3) The approved construction project is consistent with the general plan or zoning of the
11 site.

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

15 (c) Operation of a plant site used for mineral processing, including associated onsite
16 structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite
17 recovery of mined materials, subject to all of the following conditions:

18 (1) The plant site is located on lands designated for industrial or commercial uses in the
19 City's general plan.

20 (2) The plant site is located on lands zoned industrial or commercial, or are contained within
21 a zoning category intended exclusively for industrial activities by the City.

22 (3) None of the minerals being processed are being extracted onsite.

23 (4) All reclamation work has been completed pursuant to the approved Reclamation Plan for
24 any mineral extraction activities that occurred onsite after January 1, 1976.

25 (d) Prospecting for, or the extraction of, minerals for commercial purposes and the removal
26 of overburden in total amounts of less than 1,000 cubic yards on any one parcel in any one location
27 of one acre or less.

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1 (e) Surface mining operations that are required by federal law in order to protect a mining
2 claim, if those operations are conducted solely for that purpose.

3 (f) Any other surface mining operations that the State Mining and Geology Board determine
4 to be of an infrequent nature and which involve only minor surface disturbances.

5 (g) Emergency excavations or grading conducted by the Department of Water Resources
6 or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to
7 property due to imminent or recent floods, disasters, or other emergencies

8 (h) Road construction and maintenance for timber or forest operations if the land is owned
9 by the same person or entity, and if the excavation is conducted adjacent to timber or forest operation
10 roads. This exemption is only available if slope stability and erosion are controlled in accordance with
11 State Mining and Geology Board regulations and, upon closure of the site, the person closing the site
12 implements, where necessary, revegetation measures and postclosure uses in consultation with the
13 Department of Forestry and Fire Protection. This exemption does not apply to onsite excavation or
14 grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two
15 watercourse, or to excavations for materials that are, or have been, sold for commercial purpo

16 **23A-5 Process**

17 (a) Applications for a Use Permit or Reclamation Plan for surface mining or land reclamatio
18 projects shall be made on forms provided by the Planning Department. Said application shall be file
19 in accord with this Chapter and procedures to be established by the Planning Director and the City
20 Zoning Ordinance. The forms for a Use Permit and/or Reclamation Plan applications shall requir
21 at a minimum, each of the elements required by SMARA (§2772-2773) and State regulations, ar
22 any other requirements deemed necessary to facilitate an expeditious and fair evaluation of t
23 proposed Reclamation Plan, to be established at the discretion of the Planning Director. As ma
24 copies, but not to exceed a maximum of twenty (20) copies, of the Use Permit application as may
25 required by the Planning Director shall be submitted to the Planning Department.

26 (b) As many copies of a Reclamation Plan application as may be required shall be submit
27 in conjunction with all applications for surface mining operations. For surface mining operations t
28 are exempt from a Use Permit pursuant to this Chapter, the Reclamation Plan application shall

1 information concerning the mining operation that is required for processing the Reclamation Plan.
2 All documentation for the Reclamation Plan shall be submitted to the City at one time.

3 (c) Applications shall include all required environmental review forms and information
4 prescribed by the Planning Director.

5 (d) Upon completion of the environmental review procedure and filing of all documents
6 required by the Planning Director, consideration of the Use Permit or Reclamation Plan for the
7 proposed or existing surface mine shall be completed pursuant to Section 26-80 of the Zoning
8 Ordinance at a public hearing before the Planning Commission, and pursuant to Section 2774 of the
9 Public Resources Code.

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

17 (f) The Planning Department shall process the application(s) through environmental review
18 pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.)
19 and the City 's environmental review guidelines.

20 (g) Subsequent to the appropriate environmental review, the Planning Department shall
21 prepare a staff report with recommendations for consideration by the Planning Commission.

22 (h) The Planning Commission shall hold at least one noticed public hearing on the Use Permit
23 and/or Reclamation Plan.

24 (i) Prior to final approval of a Reclamation Plan, financial assurances (as provided in this
25 Chapter), or any amendments to the Reclamation Plan or existing financial assurances, the Planning
26 Commission shall certify to the State Department of Conservation that the Reclamation Plan and/or
27 financial assurance complies with the applicable requirements of State law, and submit the plan,
28 assurance, or amendments to the State Department of Conservation for review. The Planning

1 Commission may conceptually approve the Reclamation Plan and financial assurance before submittal
2 to the State Department of Conservation. If a Use Permit is being processed concurrently with the
3 Reclamation Plan, the Planning Commission may simultaneously also conceptually approve the Use
4 Permit. However, the Planning Commission may defer action on the Use Permit until taking final
5 action on the Reclamation Plan and financial assurances. If necessary to comply with permit
6 processing deadlines, the Planning Commission may conditionally approve the Use Permit with the
7 condition that the Planning Department shall not issue the Use Permit for the mining operations until
8 cost estimates for financial assurances have been reviewed by the State Department of Conservation
9 and final action has been taken on the Reclamation Plan and financial assurances.

10 Pursuant to PRC §2774(d), the State Department of Conservation shall be given 30 days to
11 review and comment on the Reclamation Plan and 45 days to review and comment on the financial
12 assurance. The Planning Commission shall evaluate written comments received, if any, from the State
13 Department of Conservation during the comment periods. Staff shall prepare a written response
14 describing the disposition of the major issues raised by the State for the Planning Commission's
15 approval. In particular, when the Planning Commission's position is at variance with
16 recommendations and objections raised in the State's comments, the written response shall address
17 in detail, why specific comments and suggestions were not accepted. Copies of any written
18 comments received and responses prepared by the Planning Commission shall be promptly forwarded
19 to the operator/applicant.

20 (j) The Planning Commission shall then take action to approve, conditionally approve,
21 deny the Use Permit and/or Reclamation Plan, and to approve the financial assurances pursuant
22 to PRC §2770(d).

23 (k) The Planning Department shall forward a copy of each approved Use Permit for mining
24 operations and/or approved Reclamation Plan, and a copy of the approved financial assurances to the
25 State Department of Conservation. By July 1 of each year, the Planning Department shall submit
26 to the State Department of Conservation for each active or idle mining operation a copy of the Use
27 Permit or Reclamation Plan amendments, as applicable, or a statement that there have been
28 changes during the previous year.

1 **23A-6 Standards for Reclamation**

2 (a) All Reclamation Plans shall comply with the provisions of SMARA (§2772 and §2773)
3 and State regulations (CCR §3500-3505). Reclamation Plans approved after January 15, 1993,
4 Reclamation Plans for proposed new mining operations, and any substantial amendments to
5 previously approved Reclamation Plans, shall also comply with the requirements for reclamation
6 performance standards (CCR §3700-3713).

7 (b) The City may impose additional performance standards as developed either in review of
8 individual projects, as warranted, or through the formulation and adoption of City performance
9 standards.

10 (c) Reclamation activities shall be initiated at the earliest possible time on those portions of
11 the mined lands that will not be subject to further disturbance. Interim reclamation may also be
12 required for mined lands that have been disturbed and that may be disturbed again in future
13 operations. Reclamation may be done on an annual basis, in stages compatible with continuing
14 operations, or on completion of all excavation, removal, or fill, as approved by the City. Each phase
15 of reclamation shall be specifically described in the Reclamation Plan and shall include (a) the
16 beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) criteria
17 for measuring completion of specific reclamation activities; and (d) estimated costs for completion
18 of each phase of reclamation.

19 **23A-7 Statement of Responsibility**

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

25 **23A-8 Findings for Approval**

26 (a) Use Permit. In addition to any findings required by the City Zoning Ordinance, Use
27 Permits for surface mining operations shall include a finding that the project complies with the
28 provisions of SMARA and State regulations.

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

2 (1) That the Reclamation Plan complies with SMARA Sections 2772 and 2773, and any other
3 applicable provisions;

4 (2) That the Reclamation Plan complies with applicable requirements of State regulations
5 (CCR §3500-3505, and §3700-3713).

6 (3) That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are
7 consistent with this Chapter and the City's General Plan and any applicable resource plan or element.

8 (4) That the Reclamation Plan has been reviewed pursuant to CEQA and the City's
9 environmental review guidelines, and all significant adverse impacts from reclamation of the surface
10 mining operations are mitigated to the maximum extent feasible.

11 (5) That the land and/or resources such as water bodies to be reclaimed will be restored to
12 a condition that is compatible with, and blends in with, the surrounding natural environment,
13 topography, and other resources, or that suitable off-site development will compensate for related
14 disturbance to resource values.

15 (6) That the Reclamation Plan will restore the mined lands to a usable condition which
16 readily adaptable for alternative land uses consistent with the General Plan and applicable resource
17 plan.

18 (7) That a written response to the State Department of Conservation has been prepared,
19 describing the disposition of major issues raised by that Department. Where the City's position is at
20 variance with the recommendations and objections raised by the State Department of Conservation,
21 said response shall address, in detail, why specific comments and suggestions were not accepted.

22 **23A-9 Financial Assurances**

23 (a) To ensure that reclamation will proceed in accordance with the approved Reclamation
24 Plan, the City shall require as a condition of approval security which will be released upon satisfactory
25 performance. The applicant may pose security in the form of a surety bond, trust fund, irrevocable
26 letter of credit from an accredited financial institution, or other method acceptable to the City and the
27 State Mining and Geology Board as specified in State regulations, and which the City reasonably
28 determines are adequate to perform reclamation in accordance with the surface mining operatic

1 approved Reclamation Plan. Financial assurances shall be made payable to the City of Oroville and
2 the State Department of Conservation.

3 (b) Financial assurances will be required to ensure compliance with elements of the
4 Reclamation Plan, including but not limited to, revegetation and landscaping requirements, restoration
5 of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion
6 and drainage control, disposal of hazardous materials, and other measures, if necessary.

7 (c) Cost estimates for the financial assurance shall be submitted to the Planning Department
8 for review and approval prior to the operator securing financial assurances. The Planning Director
9 shall forward a copy of the cost estimates, together with any documentation received supporting the
10 amount of the cost estimates, to the State Department of Conservation for review. If the State
11 Department of Conservation does not comment within 45 days of receipt of these estimates, it shall
12 be assumed that the cost estimates are adequate, unless the City has reason to determine that
13 additional costs may be incurred. The Planning Director shall have the discretion to approve the
14 financial assurance if it meets the requirements of this Chapter, SMARA, and State regulations.

15 (d) The amount of the financial assurance shall be based upon the estimated costs of
16 reclamation for the years or phases stipulated in the approved Reclamation Plan, including any
17 maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount
18 required to reclaim lands disturbed by surface mining activities since January 1, 1976, and new lands
19 to be disturbed by surface mining activities in the upcoming year. Cost estimates should be prepared
20 by a California registered Professional Engineer and/or other similarly licensed and qualified
21 professionals retained by the operator and approved by the Planning Director. The estimated amount
22 of the financial assurance shall be based on an analysis of physical activities necessary to implement
23 the approved Reclamation Plan, the unit costs for each of these activities, the number of units of each
24 of these activities, and the actual administrative costs. Financial assurances to ensure compliance with
25 revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other
26 applicable element of the approved Reclamation Plan shall be based upon cost estimates that include
27 but may not be limited to labor, equipment, materials, mobilization of equipment, administration, and
28 reasonable profit by a commercial operator other than the permittee. A contingency factor of ten

1 percent (10%) shall be added to the cost of financial assurances.

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

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

9 (g) The amount of financial assurances required of a surface mining operation for any one
10 year shall be adjusted annually to account for new lands disturbed by surface mining operations,
11 inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan.
12 The financial assurances shall include estimates to cover reclamation for existing conditions and
13 anticipated activities during the upcoming year, excepting that the permittee may not claim credit for
14 reclamation scheduled for completion during the coming year.

15 (h) Revisions to financial assurances shall be submitted to the Planning Director each ye
16 prior to the anniversary date for approval of the financial assurances. The financial assurance shall
17 cover the cost of existing disturbance and anticipated activities for the next calendar year, including
18 any required interim reclamation. If revisions to the financial assurances are not required, the
19 operator shall explain, in writing, why revisions are not required.

20 **23A-10 Interim Management Plans**

21 (a) Within 90 days of a surface mining operation becoming idle, the operator shall submit to
22 the Planning Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully
23 comply with the requirements of SMARA, including but not limited to all Use Permit conditions, and
24 shall provide measures the operator will implement to maintain the site in a stable condition, taking
25 into consideration public health and safety. The proposed IMP shall be submitted on forms provided
26 by the Planning Department, and shall be processed as an amendment to the Reclamation Plan. IMPs
27 shall not be considered a project for the purposes of environmental review.

28 (b) Financial assurances for idle operations shall be maintained as though the operation w...

1 active, or as otherwise approved through the idle mine's IMP.

2 (c) Upon receipt of a complete proposed IMP, the Planning Department shall forward the
3 IMP to the State Department of Conservation for review. The IMP shall be submitted to the State
4 Department of Conservation at least 30 days prior to approval by the Planning Commission.

5 (d) Within 60 days of receipt of the proposed IMP, or a longer period mutually agreed upon
6 by the Planning Director and the operator, the Planning Commission shall review and approve or deny
7 the IMP in accordance with this Chapter. The operator shall have thirty (30) days, or a longer period
8 mutually agreed upon by the operator and the Planning Director, to submit a revised IMP. The
9 Planning Commission shall approve or deny the revised IMP within sixty (60) days of receipt. If the
10 Planning Commission fails to act on the IMP within sixty (60) days it shall be deemed approved. If
11 the Planning Commission denies the revised IMP, the operator may appeal that action to the City
12 Council.

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

16 **23A-11 Annual Report Requirements**

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

25 **23A-12 Inspections**

26 The Planning Department shall arrange for inspection of a surface mining operation within six
27 months of receipt of the Annual Report required in Section 12, to determine whether the surface
28 mining operation is in compliance with the approved Use Permit and/or Reclamation Plan, approved

1 financial assurances, and State regulations. In no event shall less than one inspection be conducted
2 in any calendar year. Said inspections may be made by a state-registered geologist, state-registered
3 civil engineer, state-licensed landscape architect, or state-registered forester, who is experienced in
4 land reclamation and who has not been employed by the mining operation in any capacity during the
5 previous 12 months, or other qualified specialists, as selected by the Planning Director. All
6 inspections shall be conducted using a form approved and provided by the State Mining and Geology
7 Board.

8 The Planning Department shall notify the State Department of Conservation within thirty (30)
9 days of completion of the inspection that said inspection has been conducted, and shall forward a
10 copy of said inspection notice and any supporting documentation to the mining operator. The
11 operator shall be solely responsible for the reasonable cost of such inspection.

12 **23A-13 Violations and Penalties**

13 If the Planning Director, based upon an annual inspection or otherwise confirmed by an
14 inspection of the mining operation, determines that a surface mining operation is not in compliance
15 with this Chapter, the applicable Use Permit, any required permit and/or the Reclamation Plan, t'
16 City shall follow the procedures set forth in Public Resources Code, Sections 2774.1 and 2774.2
17 concerning violations and penalties, as well as those provisions of the City Zoning Ordinance for
18 revocation and/or abandonment of a Use Permit which are not preempted by SMARA.

19 **23A-14 Appeals**

20 If the applicant or any protestant is dissatisfied with the action of the Planning Commission
21 they may appeal, in writing, within 15 days to the City Council. The City Council shall set a date for
22 public hearing and give notice to the Planning Commission of such appeal; whereupon the Planning
23 Commission shall submit a written report to the City Council setting forth the reasons for the action
24 taken by the Commission prior to the hearing. The City Council shall render its decision within 30
25 days of said public hearing.

26 **23A-15 Fees**

27 The City shall establish such fees as it deems necessary to cover the reasonable costs incurred
28 in implementing this Chapter and the State regulations, including but not limited to, processing

1 applications, annual reports, inspections, monitoring, enforcement and compliance. Such fees shall
2 be paid by the operator, as required by the City, at the time of filing of the Use Permit application,
3 Reclamation Plan application, and at such other times as are determined by the City to be appropriate
4 in order to ensure that all reasonable costs of implementing this Chapter are borne by the mining
5 operator.

6 **23A-16 Mineral Resource Protection**

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

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

23 **23A-17 Severability**

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

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28 /////
29

1 PASSED AND ADOPTED by the Oroville City Council at the meeting of
2 November 18, 1997 by the following vote:

3 AYES: Andoe, Hatley, Koslin, Lightle, Fairbanks, Diver

4 NOES: None

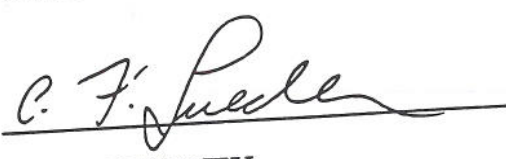
5 ABSTAIN: None


6 ABSENT: Morgan

7 
8 _____
9 MAYOR

10 APPROVED AS TO FORM:

ATTEST:

11 
12 _____
13 CITY ATTORNEY


14 _____
15 DEPUTY CITY CLERK

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