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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UPLAND
AMENDING SECTIONS OF ARTICLE IX OF THE UPLAND
MUNICIPAL CODE PERTAINING TO SURFACE
MINING AND RECLAMATION.

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

SECTION 1. Section .120 (Development review and permits) of Chapter 9499 of the Upland Municipal Code is hereby amended to read as follows:

SEC. 9499.120. DEVELOPMENT REVIEW AND PERMITS. Prior to commencing any work pertaining to the extraction, processing, developing, removing, or stockpiling of natural resources or minerals, or the construction, reconstruction, moving, conversion, alteration, or addition to any building or structure proposed in conjunction with said use, all buildings and plans shall be subject to review and permits shall be secured in compliance with all provisions of Sec. 9404.100, "Development Review and Permits--General," State Mining and Geology Board Policy (Title 14, Chapter 3, Section 3500 et. seq. of the California Code of Regulations), and Public Resources Code Section 2710 et. seq., provided, further that the following provisions shall also apply:

.010 Permit and Reclamation Plan Requirement. Unless exempted by the provisions of Upland Municipal Code Section 9499.010.021 of Section 9499.120.020 hereinafter, any person, firm, corporation, or private association who proposes to engage in surface mining operations as defined in this Chapter shall, prior to the commencement of such operations, obtain (1) a conditional use permit to mine; and (2) approval of a mining and reclamation plan and (3) financial assurances for reclamation in accordance with the provisions set forth herein. In addition, should a mining operations become idle (as defined in Public Resources Code Section 2727.1) an Interim Management Plan must be developed pursuant to the requirements set forth in Public Resources Code Section 2770 (h).

All applications shall include a mining plan and reclamation plan, shall be on forms provided by the Planning Director, and shall be filed with the Planning Director for Administrative Committee review. The application shall provide all information and data required pursuant to Section 2772 and Section 2773 of the Public Resources Code and such additional information as may be

- .011 Mining Plan. The mining plan shall, to the extent practicable, contain at least the following:
- .0111 Indicate the progression of all operations of the facility, indicating time frames for each phase and the estimated life of the operation;
 - .0112 Show the location of equipment, stockpiles, settling ponds, interim drainage, machinery, wasteredumps and the areas to be mined;
 - .0113 Indicate the progression of stripping and excavating through the use of cross sections, elevations, and topographic maps;
 - .0114 Indicate the time lag between mining and reclamation and equipment siting and removal and/or relocation;
 - .0115 Discuss the method of handling simultaneous excavation and reclamation, if applicable;
 - .0116 Show the locations of all streams, roads, railroads, sewage disposal systems, water wells, and utility devices and facilities within five hundred (500) ft. of the site and the location of all proposed access roads to be constructed in conducting the surface mining operation; and
 - .0117 Indicate the type of, and amount of, mineral commodities to be removed, the amount of waste materials to be retained on the site, and the amount of waste materials to be disposed off-site, including the method, route, and location of disposal of said waste materials.
- .012 Reclamation Plan. The reclamation plan shall, in addition to all other requirements, contain at least the following:
- .0121 Indicate the methods to be used to reclaim the land, including a detailed schedule of the sequence and timing of all stages of the reclamation;
 - .0122 Describe the physical condition of the site upon the completion of all reclamation, including the proposed uses, or potential uses, of the reclaimed site;

- .0123 Contain a map which will delineate, through the use of cross sections and elevations, the physical characteristics of the land upon the conclusion of reclamation. A topographic map shall also be provided with the location of the reclaimed land clearly indicated on said map.
- .0124 Describe the manner in which derelict machinery, waste materials, and scraps will be removed from the reclaimed site and how contaminants will be controlled;
- .0125 Describe the methods to be used to ensure that the site will contain stable waste piles and slopes;
- .0126 Describe how reclamation of this site may affect the future use of the area for mining purposes;
- .0127 Show that the proposed site in its final form shall be, to the extent reasonable and practical, as determined by the Administrative Committee, revegetated for soil stabilization, free of drainage and erosion problems, coordinated with present and anticipated future land use, and compatible with the topography and general environment of surrounding property.
- .013 The City Engineer shall notify the State Geologist of the filing of each application for surface mining and reclamation operation. No application shall be accepted as completed for filing and the time limitation for processing an application shall not begin to run until all procedures under the California Environmental Quality Act (CEQA) and the City Environmental Guidelines to implement CEQA have been commenced.
- .014 Upon completion of all procedures for review by the city Administrative Committee, including notification of the State Geologist, there shall be filed an application for a conditional use permit to the City Planning Commission, for consideration of the proposed surface mining operation, in compliance with provisions for same as set forth in Chapter 9403, "Zoning Procedures."
- .020 Vested Rights. No person who has obtained a vested right to conduct a surface mining operation prior to January 1, 1976, shall be required to secure a conditional use permit pursuant to the provision of this chapter as long as such vested right continues, provided that no substantial change is made in that operation

except in accordance with the provisions of this Chapter. A person shall be deemed to have such vested rights if, prior to January 1, 1976, said person has, in good faith and in reliance upon a permit or other legal authorization, if such permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work necessary therefor. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials. Any substantial change in the surface mining operation subsequent to January 1, 1988, shall require the granting of a conditional use permit pursuant to the provisions of this chapter.

.021 Except as provided hereinafter, a person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976 shall, prior to March 30, 1988, submit to the City Administrative Committee for approval of a reclamation plan for vested operations to be conducted after said date and shall apply for a special inspection permit from the City Engineer in the same manner and with the same frequency as those mining operators required to obtain a permit pursuant to this chapter before commencing or expanding their operation.

.0211 Nothing in this chapter shall be construed as requiring the filing of a reclamation plan for, or the reclamation of mined lands on which surface mining operations were conducted prior to, but not after, January 1, 1976.

.030 Annual Inspections and Reports. Annual inspections and reports of reclamation activities shall be required of all operations, active and idle, as a condition of a conditional use permit or for all vested mining operations, as follows:

.031 The operator shall submit a completed copy of the mining operator's annual report to the Engineering Department at least thirty (30) days before the first day of July each year, pursuant to Public Resources Code Section 2207.

.032 The City Engineer shall conduct the inspection of the mining operations within six (6) months of the Engineering Department's receipt of a completed copy of the surface mining operations annual report. All inspections shall be recorded using an inspection form provided to the City by the State Department of Conservation. The mining operator shall be solely responsible for the reasonable cost of the inspection. The Engineering Department shall cause the

notification of the State Geologist within thirty (30) days of completion of the inspection that the inspection has been conducted. The notice shall include a statement regarding the operator's compliance with the approved reclamation plan and financial assurances and shall include a copy of the completed inspection form, and shall also specify which aspects of the surface mining operation are inconsistent with this chapter and/or the approved reclamation plan.

.033 Unless modified by the Planning Commission at the time of the granting of a conditional use permit pursuant to this chapter, each operator shall apply for an inspection permit from the City Engineer at least once in each calendar year. Additional yearly inspections may be required as a condition of the granting of a conditional use permit, or in conformance with the City-approved reclamation plan.

.034 If, after conducting the inspection, the City Engineer finds that the reclamation plan is not being followed and completed as approved, the operator shall be so notified and given a reasonable time to comply with the reclamation plan, not to exceed ninety (90) days. If, at the end of this period of time, the reclamation plan is still not being followed and completed as approved, the City Engineer shall notify the Planning Director of that fact. Thereupon, the Planning Director shall notify the operator involved and either: (1) in the instance of a permit granted by the Planning Commission, set the matter for public hearing before the Commission in accordance with the procedures set out in Chapter 9403, "Zoning Procedures"; or (2) in the case of a reclamation plan approved by the Administrative Committee for vested operation, set the matter for hearing before the Committee.

.0341 At the public hearing before the Planning Commission, it shall be determined to what extent the operator is not complying with the reclamation plan, and whether the conditional use permit should be revoked or merely suspended until the operator files a revised reclamation plan for Administrative Committee and Planning Commission approval and whether said plan must be accompanied by bonds or liens of the type hereinafter described to ensure compliance with the revised reclamation plan. The decision of the Planning Commission may be appealed to the City Council in accordance with procedures for the granting or denial of a conditional use permit as provided in Chapter 9403, "Zoning Procedures."

- .0342 At the review before the Administrative Committee, it shall be determined to what extent the operator is not complying with the reclamation plan, and whether or not the continuation of the operation would constitute a public nuisance and should be abated in accordance with the provisions of Section 5400, et seq, of the Upland Municipal Code, or if the Committee's original approval of the plan should merely be suspended until the operator files a revised reclamation plan for Administrative Committee approval. The Committee shall determine if the revised plan must be accompanied by bonds or liens of the type hereinafter described to ensure compliance with said revised reclamation plan. The decision of the Administrative Committee may be appealed to the Planning Commission in accordance with the procedures for same as provided in Section 9104.080, "Administrative Committee Meetings and Procedures," of Chapter 9104.
- .035 No revised reclamation plan prepared pursuant to this section shall be acceptable unless it is so structured that the goals of the original reclamation plan will be met within a reasonable period of time. A revised reclamation plan and financial assurances shall be reviewed by the State Geologist prior to approval by the Administrative Committee.
- .036 Plan and Permit Checking Fees and Inspection Charges. Plan and permit checking fees and inspection charges for services provided by the City under this section shall be set from time to time by resolution of the City Council of the City of Upland.
- .040 Financial Assurances. All operators, including idle mining operators, shall be required to provide financial assurances to ensure the reclamation is performed in accordance with the surface mining operation's approved reclamation plan and within the time limits of said plan, as follows:
- .041 The financial assurance necessary for the reclamation of the mined land, may take the form of surety bonds, irrevocable letters of credit, trust funds, or other forms of financial assurances as specified by the State Mining and Geology Board through the regulatory process. The financial assurance shall be submitted to the City Engineer for review and approval. Such surety shall be executed in favor of the City of Upland and the State Geologist and shall be reviewed and revised by the Administrative Committee annually, or as

City of Upland and the State Geologist and shall be reviewed and revised by the Administrative Committee annually, or as necessary. Such surety shall be maintained in an amount equal to the cost of completing the remaining reclamation of the site as prescribed in the reclamation plan. The amount of such surety shall be adjusted annually according to the construction cost index, and/or to account for new lands disturbed by the operator's inflation and/or reclamation of lands accomplished in accordance with the City's approved reclamation plan.

.042 Unless otherwise directed by the Administrative Committee or the Planning Commission, a revised reclamation plan, or the development of an Interim Management Plan, pursuant to Public Resources Code Section 2770 (h), shall not be accepted for review by the City unless it is accompanied by financial assurances equal to the cost of completing the reclamation ordered by the plan. The financial assurance shall not be released or reduced until the revised reclamation plan has been completed to the satisfaction of the City Engineer.

.050 Approval Commencement Period. Any conditional use permit that is granted shall be diligently commenced within a one (1) year period from the effective date thereof, or within the time limit that is set in the conditions of approval of said permit. Otherwise, such permit shall be null and void. The term "commenced" shall mean the beginning of a surface mining operation that is authorized, which mining operation must thereafter be pursued diligently to completion.

.060 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. The 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 the chapter, including proprietary information, shall be furnished to the State Geologist, Department of Conservation, by the City of Upland.

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.

.070 Transfer of Operation. Whenever any surface mining operation, or portion of any operation subject to the provisions of this chapter is sold, assigned, conveyed, exchanged, or otherwise transferred, the successor in interest shall be bound by the provisions of any reclamation plan approved in accordance with the provisions of this chapter. In addition, financial assurances are transferable pursuant to the criteria set forth in the Public Resources Code 2773.1 (h).

SECTION 2. If any section, subsection, sentence, clause, or phrase of this ordinance shall for any reason be invalid, such holding or holdings shall not affect the validity of the remaining portions of this ordinance. The City Council has declared that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase thereof, be declared invalid.

SECTION 3. This ordinance shall be signed by the Mayor, attested by the City Clerk, and published in the Upland Edition of the Valley Life in pursuant to the requirements of the California Government Code.

I hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Upland held on the _____ day of May, 1992, and passed thereafter on the _____ day of _____, 1992, by the following roll call vote:

AYES: _____

NAYS: _____ ABSENT: _____

ROBERT R. NOLAN, MAYOR

ATTEST: _____

SHERYLL SCHROEDER, CITY CLERK

APPROVED AS TO FORM:

DONALD E. MARONEY, CITY ATTORNEY

DATE: _____