

**ORDINANCE NO. 2007-02**

**AN ORDINANCE OF THE CITY OF CLAREMONT ADDING PART 8 TO CHAPTER 5 (GENERAL DEVELOPMENT AND ENVIRONMENTAL STANDARDS) OF THE CLAREMONT LAND USE AND DEVELOPMENT CODE RELATING TO SURFACE MINING AND RECLAMATION**

**WHEREAS**, the City of Claremont ("City") recognizes that the extraction of minerals is essential to continued economic well-being of the State and to the needs of society; and

**WHEREAS**, 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 specifications therefore may vary accordingly; and

**WHEREAS**, the City drafted surface mining and reclamation provisions to be added to the Claremont Land Use and Development Code as Chapter 5 Part 8 ("Proposed Amendment"); and

**WHEREAS**, the purpose of the Proposed Amendment is to ensure continued availability of important mineral resources, while regulating surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (California Public Resources Code §§ 2710 et seq.) and State Mining and Geology Board regulations (California Code of Regulations, Title 14 §§ 3500 et seq.) to ensure that adverse environmental effects are prevented or minimized, and that mined lands are reclaimed to usable condition which is readily adaptable for alternative land uses; the production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage and aesthetic enjoyment; and residual hazards to the public health and safety are eliminated; and

**WHEREAS**, the Community Development Director has determined that the Proposed Amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 b(3) of the CEQA Guidelines, in that the Proposed Amendment does not have the potential for having a significant effect on the environment; and

**WHEREAS**, on June 20, 2006, the Claremont Planning Commission conducted a noticed public hearing regarding the Proposed Amendment at which time all interested persons were heard and continued the matter to June 28, 2006; and

**WHEREAS**, on June 28, 2006, by a 6-0 vote, the Planning Commission recommended that the City Council adopt the Proposed Amendment; and

**WHEREAS**, following the June 28, 2006 Planning Commission recommendation, the City forwarded the Proposed Amendment to the State Mining and Geology Board ("SMGB") for review and comment; and

**WHEREAS**, on September 29, 2006, the staff of the SMGB responded to the City by providing detailed, written comments pertaining to the content of the Proposed Amendment; and

**WHEREAS**, the City revised the Proposed Amendment to incorporate the recommendations and suggestions provided by the SMGB staff ("Proposed Revised Amendment");

**WHEREAS**, on December 5, the Claremont Planning Commission conducted a noticed public hearing regarding the Proposed Revised Amendment at which time all interested persons were heard.

**WHEREAS**, on December 5, 2006, the Planning Commission passed a 4-2 vote to recommend that the City Council adopt the Proposed Revised Amendment; and

**WHEREAS**, on December 12, 2006, the City Council held a duly noticed public hearing to consider the Proposed Revised Amendment, at which time all persons wishing to testify in connection with the Specific Plan were heard.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAREMONT DOES ORDAIN AS FOLLOWS:**

**Section 1.** This Ordinance, due to its length and the corresponding costs of publication, will be published by title and summary as permitted by California Government Code Section 36933. The approved summary of this Ordinance reads as follows:

**"Summary**

The purpose of the Proposed Amendment is to ensure continued availability of important mineral resources, while regulating surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (California Public Resources Code §§ 2710 et seq.) and State Mining and Geology Board regulations (California Code of Regulations, Title 14 §§ 3500 et seq.) to ensure that adverse environmental effects are prevented or minimized, and that mined lands are reclaimed to usable condition which is readily adaptable for alternative land uses; the production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage and aesthetic enjoyment; and residual hazards to the public health and safety are eliminated.

Ordinance No. 2007-02 shall take effect upon its publication by title and summary."



**Section 2.** A new Part 8, entitled "Surface Mining and Reclamation," is hereby added to Chapter 5 (General Development and Environmental Standards) of the Claremont Land Use and Development Code to read as follows:

**CHAPTER 5 PART 8 SURFACE MINING AND RECLAMATION**

**580 INTENT**

The City recognizes that the extraction of minerals is essential to continued economic well-being of the State 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. 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.

The purpose and intent of this Part 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 (California Public Resources Code §§ 2710 et seq.) ("SMARA"), and State Mining and Geology Board regulations (California Code of Regulations, Title 14, §§ 3500 et seq.) ("State Regulations"), 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; and
- C. Residual hazards to the public health and safety are eliminated.

**581 DEFINITIONS**

For purposes of this Part, the following terms, words and phrases and their derivations shall have the meanings as defined in this Section:

- 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) or fill elsewhere.
- D. Conditional Use Permit. A permit that complies with the requirements of Chapter 6, Part 2 (Conditional Use Permits) and the requirements of the zoning district in which the mining operation is located.
- E. 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.
- F. 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.
- G. 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.
- H. 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.
- I. 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.
- J. 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.



- K. 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.
- L. 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 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.
- M. Stream Bed Skimming. Excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.
- N. 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, inplace 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).

## **582 SCOPE**

- A. The provisions of SMARA (California Public Resources Code §§ 2710 et seq.) and State regulations (California Code of Regulations, Title 14, §§ 3500 et seq.), as those provisions and regulations may be amended from time to time, are made a part of this Part 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 Part are more restrictive than correlative State provisions, this Part shall prevail.
- B. Except as provided in this Part, no person shall conduct surface mining operations unless a Conditional Use permit, 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, ordinances or policies of the City, including but not limited to, the application of the California Environmental Quality Act, 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 Part shall apply to all lands within the City, public and private, except that this Part shall not apply to any of the activities set forth in

California Public Resources Code § 2714 and Section 582.5 of this Part.

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

D. Exceptions

This Part does not apply to any of the following activities:

1. Excavations or grading conducted for farming or onsite construction or for the purpose of restoring land following a flood or natural disaster.
2. Onsite excavation and onsite earthmoving activities that 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 associated with those structures, 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:
  - a. 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 (California Public Resources Code § 21000 et seq.) ("CEQA").
  - b. The lead agency's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to CEQA (California Public Resources Code § 21000 et seq.).
  - c. The approved construction project is consistent with the City General Plan or zoning of the site.
  - d. 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.
3. 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:



- a. The plant site is located on lands designated for industrial or commercial uses in the City General Plan.
  - b. 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 applicable city or county.
  - c. None of the minerals being processed are being extracted onsite.
  - d. All reclamation work has been completed pursuant to the approved Reclamation Plan for any mineral extraction activities that occurred onsite after January 1, 1976.
4. Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden where the removal of overburden or mineral product totals less than 1,000 cubic yards in any one location, and the total surface area disturbed is less than one acre.
  5. 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.
  6. Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.
  7. The solar evaporation of sea water or bay water for the production of salt and related minerals.
  8. 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.
  9. Surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Reclamation Board for the purpose of flood control, subject to the following conditions:
    - a. The Department of Water Resources must adopt, after submission to and consultation with, the Department of Conservation, a reclamation plan for lands affected by these activities, and those lands must be reclaimed in conformance with the standards specified in regulations of the State Mining and Geology Board. The Department of Water Resources shall provide an annual report

to the Department of Conservation by the date specified by the Department of Conservation on these mining activities.

- b. Nothing in this subsection shall require the Department of Water Resources or the Reclamation Board to obtain a permit or secure approval of a reclamation plan from any city or county in order to conduct surface mining operations specified in paragraph (l)(1). Nothing in this subsection shall preclude the bringing of an enforcement action pursuant to California Public Resources Code § 2774,1 if it is determined that a surface mine operator, acting under contract with the Department of Water Resources or the Reclamation Board on lands other than those owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources or the Reclamation Board, is otherwise not in compliance with SMARA, State Regulations, or this Part.
10. Excavations or grading for the exclusive purpose of obtaining materials for roadbed construction and maintenance conducted in connection with timber operations or forest management on land owned by the same person or entity.
    - a. This exemption is limited to excavation and grading that is conducted adjacent to timber operation or forest management roads and shall 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 excavation for materials that are, or have been, sold for commercial purposes.
    - b. This exemption shall be available only if slope stability and erosion are controlled in accordance with California Code of Regulations, Title 14, §§ 3704(d) and 3706 and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and postclosure uses in consultation with the Department of Forestry and Fire Protection.
  11. Excavations or grading, or other earthmoving activities in an oil or gas field that are integral to, and necessary for, ongoing operations for the extraction of oil or gas that comply with all of the following conditions:
    - a. The operations are being conducted in accordance with California Public Resources Code § 3000 et seq.
    - b. The operations are consistent with the City General Plan or zoning applicable to the site.
    - c. The earthmoving activities are within oil or gas field properties under a common owner or operator.



- d. No excavated materials are sold for commercial purposes.

### **583 PROCESS**

- A. Applications for a Conditional Use Permit and Reclamation Plan for surface mining or land reclamation projects shall be made on forms provided by the Planning Division. The application shall be filed in accord with this Part and procedures to be established by the Community Development Director. The forms for Reclamation Plan applications shall require, at a minimum, each of the elements required by SMARA (California Public Resources Code §§2772-2773) and State regulations, and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed Reclamation Plan, to be established at the discretion of the Community Development Director. As many copies of the Conditional Use Permit application as may be required by the Community Development Director shall be submitted to the Planning Division.
- B. As many copies of a Reclamation Plan application as may be required shall be submitted in conjunction with all applications for Conditional Use Permits for surface mining operations. 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 Community Development Director.
- D. Upon completion of the environmental review procedure and filing of all documents required by the Community Development Director, consideration of the Conditional Use Permit and Reclamation Plan for the proposed or existing surface mine shall be completed pursuant to California Public Resources Code §2774 at a public hearing before the Planning Commission.
- E. 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 Division shall notify the State Department of Conservation of the filing of the application(s). Whenever mining operations are proposed in the 300-year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the Planning Division shall also notify the State Department of Transportation that the application has been received.
- F. The Planning Division shall process the application(s) through environmental review pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000 et seq.) ("CEQA") and the City's environmental review guidelines.

- G. Subsequent to the appropriate environmental review, the Planning Division 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 Conditional Use Permit and Reclamation Plan.
- I. Prior to final approval of a Reclamation Plan, Financial Assurances, 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 comply 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 Conditional Use Permit is being processed concurrently with the Reclamation Plan, the Planning Commission may simultaneously also conceptually approve the Conditional Use Permit. However, the Planning Commission may defer action on the Conditional Use 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 Conditional Use Permit with the condition that the Planning Division shall not issue the Conditional Use 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 Public Resources Code §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. The Planning Commission shall also give the State Department of Conservation at least 30 days' notice of the time, place, and date of the hearing to finally approve the Reclamation Plan.

- J. 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 Public Resources Code §2770(d). Following this action, or following any appeal of the action to the City Council, the City shall send the Department of Conservation its final response to the



Department's comments within 30 days following the action being finally decided.

- K. The Planning Division 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 Division 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.
- L. The City shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this Part 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 Conditional Use 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 Part are borne by the operator.

#### **584 STANDARDS FOR RECLAMATION**

- A. All Reclamation Plans shall comply with the provisions of SMARA (Public Resources Code §§ 2772 and 2773) and State regulations (California Code of Regulations, Title 14, §§ 3500 – 3505). 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 (California Code of Regulations, Title 14, §§ 3700 – 3713). In addition, Reclamation Plans shall meet the following City standards:
  - 1. All mining operations shall be reclaimed to conditions that are coordinated and compatible with the surrounding land uses within City limits that are either existing, if actually developed at the time of the application, or identified in the City's General Plan, if not yet developed, at the time of the application. For purposes of this requirement, a reclaimed operation is "coordinated and compatible with" surrounding properties only if it would blend in with the general environment, topography, appearance, and types of land uses found in the surrounding properties, or contemplated for the surrounding properties in the General Plan at the time of the application.
  - 2. Where mined property is to be reclaimed to an open space land use, the mined property shall, to the maximum extent feasible, be restored to a condition that is consistent with the character, vegetation, and appearance of the property in its pre-mining condition, and is readily adaptable for alternative uses that are consistent with open space land use and applicable sections of the City's General Plan.

3. During and following mining operations, the operator shall not diminish the water recharge capacity of or lower the water table under the mined property or degrade natural filtration properties to the extent that additional groundwater treatment would be required. Following reclamation, the water percolation on and groundwater flow through the mined property shall equal or exceed the percolation capacity and groundwater flow existing before mining.
  4. Mining waste and overburden piles that will be retained on site during mining operations shall, to the maximum extent feasible, be placed in locations and screened such that they are not visible from neighboring properties. Where it is not feasible to prevent neighboring properties from seeing the waste and overburden piles, appropriate measures shall be implemented to mitigate the visual impacts to those properties.
  5. For purposes of this section, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.
- 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 in addition to those required in Paragraph A of this Section.
  - 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.
  - D. The person submitting the Reclamation Plan shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. That statement shall be kept by the Planning Division in the mining operation's permanent record. Upon sale or transfer of the operation, the new operation shall submit a signed statement of responsibility to the Planning Division for placement in the permanent record.
  - E. The City shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this Part 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 Conditional Use 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 Part are borne by the mining operator.

## **585 FINDINGS FOR APPROVAL**

- A. Conditional Use Permits. In addition to any findings required by this Code, Conditional Use Permits for surface mining operations shall include a finding that the project complies with the provision of SMARA and State regulations.
- B. Reclamation Plans. For Reclamation Plans, the following findings shall be required:
1. That the Reclamation Plan complies with California Public Resources Code §2772 and §2773, and any other applicable provisions;
  2. That the Reclamation Plan complies with applicable requirements of the State Regulations (California Code of Regulations, Title 14, §§ 3500 – 3505, 3700 – 3713);
  3. That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are consistent with this Part and the City's General Plan and any applicable resource plan or element;
  4. That the Reclamation Plan has been reviewed pursuant to CEQA (California Public Resources Code §§ 21000 et seq.) 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, as determined by the City, is readily adaptable for alternative land uses consistent with the General Plan and applicable resource plan; and
  7. That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that Department. Where the City's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

## **586 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 a financial security which will be released upon satisfactory performance. The applicant may post 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 State Mining and Geology Board as specified in State Regulations, and which the City reasonably determines is 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 Claremont and the State Department of Conservation.
- B. Financial assurances will be required to ensure compliance with all 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 Planning Division 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 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 Community Development Director shall have the discretion to approve the financial assurance if it meets the requirements of this Part, 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 Community Development Director. 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 the 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 Community Development Director 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.

## **587 ENFORCEMENT**

### **A. Interim Management Plans**

- 1. Within 90 days of a surface mining operation becoming idle, the operator shall submit to the Planning Division 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 Division, and shall be processed as an amendment to the Reclamation Plan. IMPs shall not be considered a project for the purposes of environmental review.
- 2. Financial assurances for idle operations shall be maintained as though the operation were active.
- 3. Upon receipt of a complete proposed IMP, the Planning Division 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.

4. 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 Part. 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/Board of Supervisors.
  5. 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.
- B. Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the City Planning Division 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 forwarding the annual surface mining report.
- C. The Planning Division shall arrange for inspection of a surface mining operation within six months of receipt of the Annual Report required in Paragraph B to determine whether the surface mining operation is in compliance with the approved Conditional Use 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. Such 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 Community Development Director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.
- The Planning Division shall notify the State Department of Conservation within thirty (30) days of completion of the inspection that the inspection has been conducted, and shall forward a copy of the inspection notice and any supporting documentation to the mining operator. The operator shall be solely responsible for the reasonable cost of such inspection.
- D. If the Community Development 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 Part, the City shall follow the procedures set forth in California Public Resources Code §2774.1 and §2774.2 concerning violations and penalties.

- E. Any person aggrieved by an act or determination of the Planning Division in the exercise of the authority granted herein, shall have the right to appeal to the Planning Commission or the City Council, whichever is the next higher authority. An appeal, along with the designated appeal fee, shall be filed on forms provided within ten (10) calendar days after the rendition, in writing, of the appealed decision.

### **588 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 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 California Public Resources Code §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 and shall be made in accordance with the applicable element(s) of the City's General Plan addressing mineral resources. 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.

### **589 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 Part. Where an operator with vested rights has continued surface mining in the same area subsequent to January 1, 1976, the operator 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).

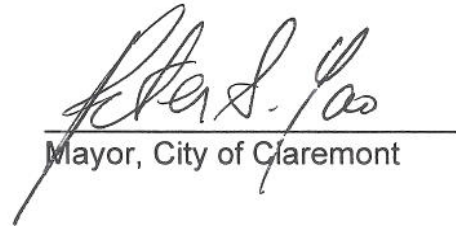
All other requirements of State law and this Part shall apply to vested mining

operations.

**Section 3.** The City Council declares that if any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance.

**Section 4.** The Mayor shall sign this Ordinance and the City Clerk shall attest and certify to the passage and adoption thereof and shall cause the same to be published in the Claremont Courier, a semi-weekly newspaper of general circulation, printed, published and circulated in the City of Claremont, and thirty (30) days hereafter, it shall take effect and be in force.

**PASSED, APPROVED, AND ADOPTED THIS 9th day of January, 2007.**

  
\_\_\_\_\_  
Mayor, City of Claremont

ATTEST:

  
\_\_\_\_\_  
City Clerk, City of Claremont

APPROVED AS TO FORM:

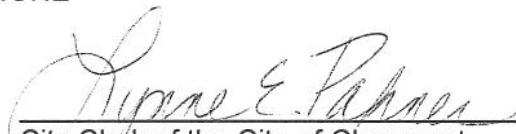
  
\_\_\_\_\_  
City Attorney, City of Claremont



STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES    ) ss.  
CITY OF CLAREMONT         )

I, Lynne Pahner, City Clerk of the City of Claremont, County of Los Angeles, State of California, hereby certify that the foregoing Ordinance No. 2007-02 was introduced at a regular meeting of said council held on the 12th day of December, 2006, that it was regularly passed and adopted by said city council, signed by the mayor, and attested by the city clerk of said city, all at a regular meeting of said council held on the 9<sup>th</sup> day of January, 2007, and that the same was passed and adopted by the following vote:

AYES:            COUNCILMEMBERS:    CALAYCAY, TAYLOR, MCHENRY, BALDONADO, YAO  
NOES:            COUNCILMEMBERS:    NONE  
ABSTAINED:    COUNCILMEMBERS:    NONE  
ABSENT:          COUNCILMEMBERS:    NONE

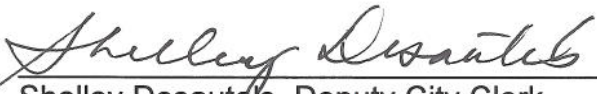
  
\_\_\_\_\_  
City Clerk of the City of Claremont

CERTIFIED COPY OF ORIGINAL

STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES    ) ss.  
CITY OF CLAREMONT         )

I, Shelley Desautels, Deputy City Clerk of the City of Claremont, California, hereby certify that the attached copy of **Ordinance No. 2007-02**, introduced by the City Council of the City of Claremont at its regular meeting of December 12, 2006, and regularly passed, approved and adopted by said Council at its regular meeting on January 9, 2007, consisting of nineteen (19) pages, is a true and correct copy of the original on file in the Office of the City Clerk.

IN WITNESS WHEREOF, I have hereunto subscribed my name and seal this 23<sup>rd</sup> day of January, 2007.



Shelley Desautels, Deputy City Clerk  
City of Claremont