

ORDINANCE NO. 173106  
POSTED: FEBRUARY 24, 2000  
EFFECTIVE: MARCH 5, 2000  
SUBJECT: "G" SUPPLEMENTAL USE  
DISTRICT - SURFACE MINING

C 98-0141 CA  
Cr 99-2404

ORDINANCE NO. 173106

An ordinance amending Sections 11.5.3, 11.5.5, 13.03, 14.5.3, 16.05, 17.02, 18.01, 62.106.1, and 98.0402 of the Los Angeles Municipal Code to bring the City's regulations for "G" Surface Mining Districts into conformance with the State Surface Mining and Reclamation Act of 1975, as amended.

THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:

**Section 1.** Section 11.5.3 is hereby added to the Los Angeles Municipal Code to read:

**11.5.3. Director of Planning.**

The Director shall have the authority to adopt guidelines for the administration of the provisions of this chapter if he or she determines that guidelines are necessary and appropriate. Existing provisions of this chapter that delegate authority for the adoption of guidelines to others shall continue to apply with respect to those provisions. Authority to adopt guidelines for the administration of the provisions of this chapter may be delegated to others by adoption of a resolution by Council.

**Sec. 2.** The first unnumbered paragraph of Section 11.5.5 of the Los Angeles Municipal Code is hereby amended to read:

The Commission shall advise and recommend to the Mayor, Council, Director, and municipal departments and agencies with respect to City Planning and related activities and legislation. On matters of policy it shall direct and supervise the Director in the execution of his or her various powers and duties. It shall perform the functions and exercise other powers as are prescribed by this chapter or set forth in the City Charter. It shall adopt guidelines for the administration of the provisions of this chapter if it determines that guidelines are necessary and appropriate. Existing provisions of this chapter that delegate authority for the adoption of guidelines to others shall continue to apply with respect to those provisions. Authority to adopt guidelines for the administration of the provisions of this chapter may be delegated to others by adoption of a resolution by Council.

Sec. 3. Section 13.03 of the Los Angeles Municipal Code is hereby amended to read:

**SEC. 13.03. "G" SURFACE MINING OPERATIONS DISTRICTS.**

**A. Purpose and Objectives.**

The City recognizes that the extraction of Minerals is essential to the continued economic well-being of the City and to the needs of society.

It is the purpose of this section to:

Establish reasonable and uniform limitations, safeguards, and controls in the City for the future production of Minerals to safeguard the public interest;

Permit production in all Districts irrespective of the regulations of the Comprehensive Zoning Plan;

Provide for the Reclamation of Mined Lands in order to prevent or minimize adverse effects on the environment and to protect the public health and safety;

Recognize that Surface Mining Operations take place in diverse areas where the geologic, topographic, climatic, biological, and social considerations are significantly different;

Recognize that Reclamation to return Mined Lands to a usable condition which is readily adaptable for alternative land uses are significantly different and that their specifications may vary accordingly;

Ensure the continued availability of important Mineral resources, while regulating Surface Mining Operations as required by the Act;

Effect practices which will provide for more economic conservation and production of Minerals; and

Take into consideration the surface use of land, as such uses are indicated by:

The value and character of the existing improvements within 500 feet of Districts where production is permitted;

The desirability of the area for residential, recreation, watershed, wildlife, aesthetic enjoyment, or other uses; or

Other factors directly relating to the public health, comfort, safety, and welfare in Districts.

When the provisions of this section are more restrictive than the correlative state provisions, the provisions of this section shall control.

## **B. Definitions.**

The following definitions shall apply to this section:

**Abandon(ment of Operation).** Failure to conduct Surface Mining Operations, either under Permit or as a Vested right, for a period of nine consecutive months.

**Act.** The Surface Mining and Reclamation Act (SMARA) of 1975 (Public Resources Code Section 2710 et seq.), as amended; Public Resources Code Section 2207 relating to annual reporting requirements; and State Board regulations for Surface Mining Operations and Reclamation practice (California Code of Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.)

**Borrow Pit.** An excavation created by Surface Mining Operations of rock, unconsolidated geologic deposits, or soil to provide material (Borrow) for fill elsewhere.

**Completed Operations (Completion of Operations).** When all rock and gravel in commercial quantities is entirely extracted, produced, and removed from a property within a District, or the operations allowed by Permit are Completed, whichever occurs first.

**District.** Any Surface Mining Operations District established pursuant to the provisions of this section.

**Exploration.** The search for Minerals by geological, geophysical, geochemical or other techniques, including but not limited to sampling, assaying, drilling, or other surface or underground works needed to determine the type, extent, or quality of Minerals present.

**Idle.** Mineral production, with the intent to resume those Surface Mining Operations at a future date.

**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.

**Mineral.** 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. Minerals shall specifically include rock, sand, gravel, aggregate, and clay.

**Mining Waste.** The residual of soil, rock, Mineral, liquid, vegetation, equipment, machines, tools, or other matters or property directly resulting from or displaced by Surface Mining Operations.

**Operator.** Any Person who is engaged in Surface Mining Operations or who contracts with others to conduct Surface Mining Operations on his or her behalf, except a Person who is engaged in Surface Mining Operations as an employee with wages as his or her sole compensation.

**Overburden.** Soil, rock, or other Minerals that lie above a natural Mineral deposit or in between Mineral deposits before or after their removal by Surface Mining Operations.

**Owner.** The holder of fee title to property in a District, and lessees, Permittees, assignees, or successors in interest to the holder of fee title.

**Permit.** Any formal authorization from, or approval by, a lead agency, the absence of which would preclude Surface Mining Operations.

**Permittees.** Holder of a permit.

**Person.** In addition to the definition contained in Section 11.01 of this Code, Person shall include any city, county, district, or the state of California, or any department or agency of and of them.

**Prospecting.** Exploration.

**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 alternative land uses and create no danger to public health or safety. The processes may extend to affected lands surrounding Mined Lands and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, and/or other measures.

**SMARA.** The Surface Mining and Reclamation Act of 1975, as amended. The Act.

**State Board.** The state Mining and Geology Board in the Department of Conservation, State of California.

**State Geologist.** The individual designated pursuant to Section 677 of the California Public Resources Code or any amendment to that Code.

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

**Surface Mining (Operations).** All or any part of the process involved in the mining, quarrying, and/or excavating of Minerals on Mined Lands by removing Overburden and mining directly from the Mineral deposits; open pit mining of materials naturally exposed; mining by auger method, dredging, and quarrying; or surface work incidental to an underground mine. Surface Mining Operations shall also include, but

are not limited to: processing of Minerals; in place distillation, retorting, or leaching; the production and disposal of Mining Wastes; Prospecting and exploratory activities; Borrow Pitting; Streambed Skimming; and segregation and stockpiling of mined Minerals and the recovery of same.

**Vested.** A project that diligently commenced Surface Mining Operations and incurred substantial liabilities for work and materials, prior to January 1, 1976, in good faith and reliance upon an authorization, if one was required. Expenses incurred in obtaining the enactment of an ordinance or issuance of an authorization relating to a particular Surface Mining Operation shall not be deemed liabilities for work or materials.

#### **C. Establishment of Districts.**

1. The provisions of this section shall apply to Districts where Surface Mining Operations are Permitted. The Council may establish new Surface Mining Districts and alter the boundaries of Districts now or hereafter established, provided they are consistent with any existing Surface Mining Operations Permits.

2. For the boundaries of Districts, see the maps on file in the Planning Department.

#### **D. Permits.**

1. A Permit for Surface Mining Operations shall be issued only for property located in a Surface Mining District.

2. No Permit shall be required for those Persons who have obtained a Vested right to continue Surface Mining Operations prior to January 1, 1976. However, no substantial change may be made in the Surface Mining Operation without securing a new Permit. These Surface Mining Operations shall be subject to those limitations set forth in Subdivision 4 of this subsection, and any conditions imposed by the City Planning Commission ("Commission") or Council on any pre-existing Permit.

3. No Person shall engage in Surface Mining Operations without having obtained a Permit issued by the Commission or Council to engage in Surface Mining Operations, approval of a Reclamation plan, and approved financial assurances for Reclamation.

4. All Surface Mining Operations, whether under Permit or Vested, shall be conducted subject to the following conditions: -

(a) All equipment used in Surface Mining Operations shall be constructed, maintained, and operated in such a manner as to eliminate, as far as practicable, noise, vibration, odor, smoke, dust, and the like, which are injurious or annoying to Persons living or working in the vicinity.

(b) No Surface Mining Operations shall be Permitted closer than 50 feet to the boundary of a District; closer than 500 feet to any residentially zoned property unless a landscaped berm is constructed and maintained along the property line, in which case the setback may be 50 feet; closer than 50 feet to the boundary of an adjoining property, unless Surface Mining Operations are Permitted on the adjoining property, in which case the property may be excavated to the property line with the written consent of the adjacent Owner; or closer than 50 feet to a Street (including an alley or walk), Highway, or freeway. If the Commission or Council finds that these criteria would be impracticable due to the small extent of the District, economically infeasible, or not required by the Surface Mining Operation, the Commission or Council may waive these requirements in whole or in part.

(c) No Surface Mining Operations from an open pit shall be Permitted which creates a final perimeter slope steeper than one foot horizontal to one foot vertical.

(d) Surface Mining Operations shall be conducted in accordance with applicable standards of the Regional Water Quality Control Board and/or any other agency with jurisdiction over water quality

(e) Mined Lands shall be enclosed along their exterior by a fence, wall, landscaping, berm, or combination of these features, which shall screen the Surface Mining Operations from adjoining property. Enclosures shall be designed, constructed, and maintained to be consistent with the Flood Hazard Management Specific Plan. If the Commission determines that the enclosure would be impracticable because of the location of the Mined Lands in the bed or flood channel of a wash or water course, or because one or more boundaries are located

immediately adjacent to M2 or less restrictively zoned property, this requirement may be waived by the Commission.

(f) Whenever production on any Property is Abandoned or Surface Mining Operations Completed, all plants, buildings, structures (except fences), and equipment shall be entirely removed from the property, and all stockpiles shall be removed or backfilled into the pit within one year of Abandonment of Operations or completion of Surface Mining Operations. This provision shall not apply to any plants, buildings, structures, or equipment whenever any rock and gravel or other Minerals are available in the same District from other properties owned by the Operator which is processing by or through any of these plants, buildings, structures, or equipment.

(g) No Surface Mining Operations shall be conducted on any property except between the hours of 6 a.m. and 8 p.m., except in case of an emergency or whenever any reasonable or necessary repairs to equipment are required to be made. Surface Mining Operations in an M-3 zone and more than 1,200 feet from any residential use may be conducted between the hours of 5 a.m. and 10 p.m.

(h) Every Operator, before commencing Surface Mining Operations within any District, shall be insured to the extent of \$500,000 against liability arising from Surface Mining Operations or activities incidental to them. The insurance shall be kept in full force and effect during the period of Surface Mining Operations, including Reclamation.

(i) In granting Surface Mining Operations Permits, the Commission or Council:

(1) Shall impose other and further conditions and limitations regarding Surface Mining Operations as are set forth in the General Plan and any applicable specific plans. Special emphasis shall be given to applicable community plans.

(2) Shall impose other and further conditions as are authorized by the Act, are authorized by policies adopted by the State Board, or which are necessary for the public health, safety, and welfare.



(3) May impose other conditions to address the circumstances of any individual District or its surroundings. In the case of conflicts between the conditions of this section and those of Subparagraphs (1) and (2) above, the more restrictive shall control.

#### **E. Application.**

An application for a Permit to conduct Surface Mining Operations shall contain at a minimum the following information:

##### **1. Site Analysis:**

(a) A comprehensive soils engineering and engineering geologic investigation report prepared by a registered civil engineer and a certified engineering geologist, who shall not be employees of the applicant. The report shall indicate the type and features of Overburden and Minerals expected to be extracted and Mining Waste generated by the proposed Surface Mining Operations, and recommendations relative to setbacks, slopes, and excavations.

(b) A geographic report which shall include a recent aerial photograph of the site of the proposed Surface Mining Operations, and a map or maps and notes which illustrate the following:

(1) Property lines and lease lines, including a legal description of the site.

(2) The existing topography of the site and land within 500 feet of the site, and any structures, watercourses, levees, drainage facilities, utility easements and facilities, roads, and driveways existing within this area.

(3) The location and condition of any Abandoned pits and previously mined areas on the site.

(4) Any other information that may be required to adequately characterize the site.

## 2. Operations Analysis:

(a) A description of the proposed Surface Mining Operations in all of its phases. The document shall include the following:

(1) A phasing plan and schedule showing the approximate starting date, the proposed increments of extraction, and the sequence in which these increments will be accomplished.

(2) A map of the areas to be excavated and typical cross sections of slopes to be formed or modified.

(3) The depth of all proposed excavations.

(4) The location of all proposed structures, including processing plants and appurtenant equipment and fences, and their various relocation sites, where these facilities are proposed to be relocated during the Permit period.

(5) Existing vegetation.

(6) Landscaping to be provided, if any, in addition to that indicated on the Reclamation plan.

(7) Details of plans for storage of Overburden and Mining Waste, including maps showing areas anticipated to be used for storage.

(8) Proposed points for ingress and egress, haul roads, driveways, and parking areas on the site.

(b) A drainage and erosion control plan. This document shall illustrate the following:

(1) The location and approximate depth of proposed settling basins, desilting ponds, recycling ponds, and other bodies of water. Where these facilities are proposed to be relocated over the course of the life of the Permit, their various proposed locations shall be shown.

(2) The historic groundwater level and anticipated annual fluctuation of water levels in all areas to be excavated.

(3) Methods to be taken for the disposition of drainage and for the control of erosion and sedimentation.

(4) Provisions to be taken for the conservation and protection of groundwater.

(5) Approvals obtained or required from the appropriate Regional Water Quality Control Board.

(6) Any other information that may be required to adequately characterize drainage and erosion.

(c) A vehicular access plan. This document shall illustrate the following:

(1) The points of ingress and egress to the site; the Streets and Highways to be used by vehicles going to and coming from the site; and the type, size, and number of vehicles anticipated on a daily basis.

(2) Minimizing or precluding additional vehicular traffic over local residential Streets.

(d) Any other information that may be required to adequately characterize vehicular access.

### **3. Reclamation Plan:**

(a) If portions of the information and documentation is included in the site analysis and/or operations analysis, the Reclamation plan may refer to the site analysis and/or operations analysis. The Reclamation plan shall include:

(1) The names and addresses of the Operator.

(2) The names and addresses of each Owner of any interest in the site on which Surface Mining Operations are or will be operated, the names and addresses of any Persons designated by the Operator as his agents for the service of process, and the name and address of the managing employee.

(3) The anticipated quantity and type of Minerals to be extracted.

(4) The estimated time schedules for initiation and termination of Surface Mining Operations. An Operation under a Vested right shall also include a description of Surface Mining Operations occurring subsequent to January 1, 1976, including the type and quantity of Minerals extracted and location and depth of the surface drilling operations.

(5) The maximum anticipated depth of Surface Mining Operations.

(6) The size and legal description of lands that will be affected by the anticipated Surface Mining Operation (affected lands shall include as a minimum all land within 500 feet of the Surface Mining Operation); a map that includes the boundaries and topographic details of these lands; a description of the general geography of the area; a detailed report of the geology and hydrology of the area in which Surface Mining Operations are to be conducted; the location of all streams, roads, railroads, and utility easements and facilities within and adjacent to these lands; the location of all proposed access roads to be constructed in conducting these Surface Mining Operations; and the names and addresses of the Owners of all surface interests and Mineral interests in the lands.

(7) A description of the anticipated Surface Mining Operations and an estimated time schedule showing anticipated completion of each segment of these Surface Mining Operations, so that Reclamation can be initiated at the earliest possible time on those portions of the Mined Lands that will not be subject to further disturbance by the Surface Mining Operations.

(8) A description of the proposed use or potential uses of the Mined Lands after Reclamation; the consent of the Owner to the Reclamation and proposed use; and evidence that all Owners of a possessory interest in the land have been notified of the proposed use or potential uses.

(9) A description of the manner in which Reclamation of the land, adequate for the proposed use or potential uses, will be accomplished, including:

(i) The manner in which contaminants will be controlled and Mining Waste will be disposed of.

(ii) The manner in which rehabilitation of affected stream channels and stream banks to a condition minimizing erosion and sedimentation will occur.

(iii) A topographic map showing final contours of the property after Reclamation.

(iv) A diagram showing how Reclamation will be coordinated with the Surface Mining Operations.

(v) A plan showing the types and location of revegetation to be used as part of the Reclamation.

(vi) A ground water hydrology plan and a surface water drainage plan.

(vii) An estimate of the cost of Reclamation.

(viii) An assessment of the effect the proposed Reclamation activity may have on future mining in the area.

(ix) The Person submitting a Reclamation plan shall prepare and sign a statement accepting responsibility for reclaiming the Mined Lands in accordance with the Reclamation plan. This statement shall be kept by the Department of City Planning ("Department") in the Operator's permanent record. Upon sale or transfer of the Surface Mining Operation, the new Operator shall prepare and submit a signed statement of responsibility to the Department for placement in the permanent record.

(x) The Reclamation plan shall be applicable to a specific piece of property or properties; shall be based upon the character of the surrounding area and characteristics of the property such as type of Overburden, soil stability, topography, geology, climate, stream characteristics, and principal Mineral commodities; and shall establish site-specific criteria for evaluating compliance with the approved Reclamation plan, including topography, revegetation, and sediment and erosion control.

(xi) The environmental setting of the site of Operations and the effect that possible alternate reclaimed site conditions may have upon the existing and future uses of surrounding lands.

(xii) The impact on the public health and safety, giving consideration to the degree and type of present and probable future exposure of the public to the site.

(xiii) The designed steepness and proposed treatment of Mined Lands' final slopes shall take into consideration the physical properties of the slope material, its probably maximum water content, landscaping requirements, and other factors. In all cases, Reclamation plans shall specify slope angles flatter than the critical gradient for the type of material involved. Whenever final slopes approach the critical

gradient for the type of material involved, an engineering analysis of slope stability shall be required. Special emphasis shall be placed on slope stability and design when public safety or adjacent property may be affected.

(xiv) Areas mined to produce additional materials for backfilling and grading, as well as settlement of filled areas. Where ultimate site uses include roads, building sites, or other improvements sensitive to settlement, the Reclamation plan shall include compaction of the fill materials in conformance with Section 91 of the Municipal Code.

(xv) Disposition of old equipment.

(xvi) Temporary stream or watershed diversions.

(xvii) All Reclamation plans shall comply with the Act. Reclamation plans approved after January 15, 1993; Reclamation plans for proposed new Surface Mining Operations; and any substantial amendments to previously approved Reclamation plans shall also comply with performance standards of the Act.

(xviii) Any other information that may be required to adequately characterize the Reclamation.

**(b) Time for Performance.**

(1) 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.

(2) Interim Reclamation may be required for Mined Lands that have been disturbed and that may be disturbed again in future Surface Mining Operations.

(3) Phasing:

(i) Reclamation may be done on an annual basis, in stages compatible with continuing Surface Mining Operations, or on completion of all excavation, removal, or fill, as approved by the Commission or Council.

(ii) Each phase of Reclamation shall be specifically described in the Reclamation plan, and shall include the beginning and ending dates for each phase, all Reclamation activities required, criteria for measuring completion of specific Reclamation activities, and estimated costs for each phase of Reclamation.

(4) The Reclamation plan shall be implemented no later than six months after Surface Mining Operations are Completed, or a Permit or Vested right to conduct surface Mining Operations has been Abandoned.

**(c) Financial Assurances.**

(1) To ensure that Reclamation will proceed in accordance with the approved Reclamation plan, the City shall require as a condition of approval financial assurances which will be released upon satisfactory performance. The applicant may pose security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method satisfactory to the City Attorney and State Board as specified in state regulations; and which the City reasonably determined 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 Los Angeles and the state Department of Conservation.

(2) Financial assurances shall be required to ensure compliance with elements of the Reclamation plan, including but not limited to revegetation and landscaping



requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures if necessary.

(3) Cost estimates for financial assurances shall be submitted to the Department for review and approval prior to the Operator securing financial assurances. The Director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of cost estimates, to the state Department of Conservation for review. If the state Department of Conservation does not comment within 45 days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the City has reason to determine that additional costs may be incurred. The Director shall have the discretion to approve the financial assurance if it meets the requirements of this section and the Act.

(4) 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 Operations in the upcoming year. Cost estimates should be prepared by a California registered Professional Engineer and/or other similarly licensed and qualified professionals retained by the Operator and approved by the Director. 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 shall be added to the cost of financial assurances.

(5) In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the Surface Mining Operation could be Abandoned by the Operator, and consequently, the City or state Department of Conservation may need to contract with a third party commercial company for Reclamation of the site.

(6) 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.

(7) 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.

(8) Revisions to financial assurances shall be submitted to the 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.

(9) Any other information that may be required to adequately characterize the financial assurances.

4. Environmental analysis as required by the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines.

## **F. Procedure.**

1. The application for Permit shall be processed as provided in Section 12.24 of this Code for conditional uses under the jurisdiction of the Commission, subject to the exceptions of Subdivisions 2 through 5 of this subsection (procedures for state review).

2. Within 30 days of the date the application is determined to be complete, a copy of the site analysis, operations analysis, and Reclamation plan shall be sent to the state Department of Conservation.

3. Whenever Surface Mining Operations are proposed in the 100-year floodplain, 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, within 30 days of the date the application is determined to be complete, a copy of the site analysis, operations analysis, and Reclamation plan shall be sent to the state Department of Transportation.

### **4. State Department of Conservation.**

(a) Prior to taking any action to approve, conditionally approve, or deny an application submitted under this section, the Commission or Council shall certify to the state Department of Conservation that the site analysis, operations analysis, Reclamation plan, and financial assurances comply with the applicable requirements of state law, and shall submit them to the state Department of Conservation for review.

(b) The state Department of Conservation is allowed 30 days under state law to review and comment on the site analysis, operations analysis, and Reclamation plan. The state Department of Conservation is allowed 45 days under state law to review and comment on the financial assurances. Time limits of this code shall be suspended during these comment periods.

(c) If the state Department of Conservation fails to comment within the statutory time periods, the Commission or Council shall not interpret this failure as either approval or disapproval of the site analysis, operations analysis, Reclamation plan, or financial assurances.

## **5. Evaluation of Comments.**

(a) The Commission or Council shall evaluate any written comments by the state Department of Conservation received during the statutory comment periods. Time limits of this code shall be suspended during the Commission's or Council's evaluation.

(b) A written response to the state Department of Conservation's comments shall be prepared for the Commission's or Council's approval. If the Commission's or Council's position differs from the Department of Conservation's comments, the written response shall address in detail why specific comments were not accepted.

(c) Copies of any written comments received, and responses prepared, by the Commission or Council shall be promptly forwarded to the Owner and/or Operator.

## **6. Commission or Council Decision.**

Within 30 days of the date of Paragraph (b) of Subdivision 5 above (regarding the Commission's or Council's responses to the state Department of Conservation), the Commission or Council shall approve, conditionally approve, or deny the site analysis, operations analysis, Reclamation plan, and/or financial assurances.

7. A Permit shall not be effective until 15 days after approval by the Commission, or after approval by the Council if the Council approval is a result of an appeal or transfer of jurisdiction.

## **G. Findings.**

A Permit shall be approved if the Commission or Council finds that:

1. The project complies with the Act and with the policies of the State Board for Surface Mining Operations; and
2. Minerals described in the application are available; and
3. The proposed Surface Mining Operations will not be detrimental to the public health, safety, and welfare; and

4. The proposed Surface Mining Operations can be conducted in accordance with the provisions of this section; and

5. The proposed Surface Mining Operations are consistent with the elements and objectives of the General Plan, in particular the open space and conservation elements; and

6. The site analysis, operations analysis, Reclamation plan, and any conditions of approval have been signed by the applicant, Operator, and/or Owner; and

7. The drainage and erosion control plan is adequate to protect the public health, safety, and welfare; and

8. The vehicular access plan is adequate to protect the public health, safety, and welfare; and

9. The proposed Surface Mining Operations are consistent with the General Plan; and

10. A written response to the state Department of Conservation has been prepared, describing the disposition of major issues raised by the Department of Conservation. Where the City's position differs from the recommendations and objections raised by the state Department of Conservation, the response has addressed, in detail, why specific comments and suggestions were not accepted; and

11. In regard to the Reclamation plan, that:

(a) The Reclamation plan complies with the Act and with the policies of the State Board for Reclamation practice; and

(b) The Reclamation plan has been reviewed pursuant to CEQA and the City's CEQA Guidelines, and all significant adverse impacts from Reclamation of Surface Mining Operations are mitigated to the maximum extent feasible; and

(c) The Reclamation plan is compatible with future projected uses in the area; and

(d) The Reclamation plan provides for one or more beneficial uses or alternate uses of the land which are not detrimental to the public health, safety, and welfare; and

(e) The land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible, 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 value; and

(f) The Reclamation plan will restore the Mined Lands to a useable condition which is readily adaptable for alternative land uses consistent with the General Plan and applicable resource plan; in particular, the open space and conservation elements.

#### **H. Appeal.**

1. The signing of statements required by Subsection G of this section shall not in any way affect rights to appeal the determination in whole or in part.

2. Appeals shall be shall be processed as provided in Section 12.24 of this Code for conditional uses under the jurisdiction of the Commission.

3. An applicant whose request for a Permit to conduct Surface Mining Operations in an area of statewide or regional significance (as determined by the State Board) has been denied, or any Person who is aggrieved by the granting of a Permit in an area of statewide or regional significance, shall have rights of appeal to the State Board as may be granted by the Act. In the case of conflicts between the determination of the Commission or Council and the determination of the State Board, the determination of the State Board shall control.

#### **I. Exceptions.**

A Permit, financial assurances, and Reclamation plan are not required for:

1. Excavation or grading conducted for farming or on-site construction, or for the purpose of restoring land following a flood or a natural disaster.

2. Prospecting or Exploration for Minerals of commercial value where Overburden in the amount of less than 1,000 cubic yards is removed in any one location of one acre or less.

3. Prospecting for, or the extraction of, Minerals for commercial purposes, and the removal of Overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.

4. Surface Mining Operations that are required by federal law in order to protect a mining claim, if the Operations are conducted solely for that purpose.

5. Other Surface Mining Operations as the Commission determines to be of an infrequent nature, involve only minor surface disturbances, and are identified by the State Board pursuant to the Act.

6. Onsite excavation and onsite earthmoving activities which are an integral and necessary part of a construction project, which are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction; or 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. This provision shall include compliance with CEQA and the City's CEQA Guidelines.

(b) The City's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to CEQA and the City's CEQA Guidelines. In those instances where CEQA analysis has not otherwise been applied to the project, the

procedures, although not the threshold, of Section 91.7006.8 (CEQA grading review) of the Municipal Code shall be followed.

(c) The approved construction project is consistent with the General Plan and zoning of the site.

(d) Surplus materials shall not be exported from the site unless and until actual construction work has commenced. Export shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued, except as provided in the procedures, although not the threshold, of Section 91.7006.7.4 (CEQA grading review) of the Municipal Code.

7. 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 Minerals, subject to all of the following conditions:

(a) The plant site is located in an area designated in the Land Use Element of the General Plan with a designation corresponding to the M3 Zone.

(b) The plant site is located on land zoned M3.

(c) None of the materials being processed are being extracted onsite; and

(d) All Reclamation work has been Completed pursuant to the approved Reclamation plan for any Mineral extraction activities that occurred before January 1, 1976.

8. The solar evaporation of sea water or bay water for the production of salt and related Minerals.

9. Emergency excavations or grading conducted by the state 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. and



10. Persons who have obtained a Vested right to continue Surface Mining Operations prior to January 1, 1976, providing that:

(a) No substantial change may be made in the Surface Mining Operation without securing a new Permit. The Surface Mining Operations shall be subject to those limitations set forth in this section, and to any conditions imposed by the Commission or Council in any pre-existing Permit or authority to conduct the Operations.

(b) Persons with Vested rights shall submit to the Commission within six months after receipt of notice from the City a Reclamation plan for lands mined after January 1, 1976. The Reclamation plan shall be subject to review, hearing and approval by the Commission as provided in Subsection F of this section.

(c) However, where a Person with Vested rights has continued Surface Mining Operations in the same area subsequent to January 1, 1976, he or she shall obtain the commission's approval or the approval of council on appeal of a Reclamation plan covering the Mined Lands disturbed by the subsequent Surface Mining Operations. 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 Operations after the effective date of the Act.

(d) All other requirements of state law and this section shall apply to Vested Surface Mining Operations.

11. Nothing in this section shall be construed as requiring the reapproval of a Reclamation plan which is in substantial conformity with the Act, approved prior to the effective date of this section.

#### **J. Amendments.**

Amendments or changes to an approved Permit or Reclamation plan shall be submitted to the Commission and shall become effective

only if approved by the Commission. Substantial deviations from the approved Permit or Reclamation plan shall be processed in the same manner as provided for in Subsection F of this section.

#### **K. Public Record.**

Reclamation plans, reports, applications for Permits, and other documents as described in Section 2778 of the Public Resources Code are public records unless it can be demonstrated to the satisfaction of the Commission that the release of all or part of the information would reveal production reserves or rate of depletion entitled to protection as proprietary information. Proprietary information shall be made available only to the State Geologist and to Persons authorized in writing by the Operator and/or the Owner.

#### **L. Successors.**

Each subsequent Owner and/or Operator of a premise covered by a Permit, whether by sale, assignment, transfer, conveyance, exchange, or other means, shall be bound by the provisions of the approved Reclamation plan, the provisions of this section, and the Act.

#### **M. Inspections.**

1. The Director shall inspect each Surface Mining Operation at least once a year, within six months of receipt of the annual report required in Subsection O of this section, to determine whether the Surface Mining Operation is in compliance with the approved site analysis, operations analysis, and/or Reclamation plan; approved financial assurances; and state regulations. The inspections may be made by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered professional forester, who is experienced in land Reclamation of the type described in the Reclamation plan, and who has not been employed by the Surface Mining Operation in any capacity during the previous 12 months; or other qualified specialists, as selected by the Director. All inspections shall be conducted using a form approved by the State Board. A fee as established by Section 19.01 I of this Code shall be charged for this inspection. The Department shall transmit a copy of the inspection report to the state Department of Conservation within thirty days of completion of the inspection.

2. The Director may authorize the Superintendent of Building to inspect each Surface Mining Operation at least once a year. An annual

inspection fee as established by Section 98.0402 (e) 3 of this Code shall be collected by the Superintendent. An inspection may also be made by the Superintendent whenever a complaint is received by him or her concerning a violation of the municipal code and/or its Permit. The Superintendent shall send notice of the inspection, and his or her findings, to the Director within five days of the performance of the inspection.

3. If a Surface Mining Operation inspected by the Superintendent of Building is found to be in violation of any provision of the municipal code and/or its Permit, the Superintendent shall send a notice to comply to the Operator within two weeks of the inspection, in accordance with the provisions of Section 12.26 of this Code. The notice to comply shall clearly state the following:

(a) The violation shall be corrected by a compliance date specified in the notice, and shall be no more than 30 days from the date the notice is mailed.

(b) The compliance date as specified in the notice may be extended for no more than 45 days if the Operator presents satisfactory evidence to the Superintendent of Building that unusual difficulties prevent substantial compliance without an extension.

#### **N. Interim Management Plan.**

1. Within 90 days of a Surface Mining Operation becoming Idle, the Operator shall submit to the Department a proposed Interim Management Plan (IMP.) The proposed IMP shall fully comply with the requirements of the Act, 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 processed in accordance with the provisions of Subsection J of this section (amendments). IMPs shall not be considered a project for the purposes of complying with CEQA and the city's CEQA Guidelines.

2. Financial assurances for Idle operations shall be maintained as though the operation were active.

3. Upon receipt of a complete proposed IMP, the Department shall forward the IMP to the state Department of Conservation for review. The IMP shall be submitted to the state Department of Conservation at least 30 days prior to approval under Subsection J of this section (amendments).

4. Within 60 days of the receipt of the IMP, or a longer period mutually agreed upon by the Director and the Operator, the IMP shall be reviewed and approved, conditionally approved, or denied.

5. The IMP shall remain in effect for a period not to exceed five years, at which time the Commission may renew the IMP for another period not to exceed five years, or require the Surface Mining Operator to begin Reclamation in accordance with its approved Reclamation plan.

#### **O. Annual Report.**

Surface Mining Operators shall forward an annual Surface Mining Operations report to the state Department of Conservation and to the Department on a date established by the state Department of Conservation, upon forms furnished by the State Board. New Surface Mining Operations shall file an initial Surface Mining Operations report and any applicable filing fees with the state Department of Conservation within 30 days of Permit approval, or before commencement of operations, whichever is sooner. Any applicable fees, together with a copy of the annual inspection report, shall be forwarded to the state Department of Conservation at the time of filing the annual Surface Mining Operations report.

**Sec. 4.** Section 14.5.3 of the Los Angeles Municipal Code is hereby amended by deleting the definition of **Commission**.

**Sec. 5.** Subsection B of Section 16.05 of the Los Angeles Municipal Code is amended by repealing the current Subdivision 2 and renumbering Subdivisions 3 and 4 as 2 and 3.

**Sec. 6.** Section 17.02 of the Los Angeles Municipal Code is hereby amended by deleting the definitions of **Commission** and **Director of Planning**.

**Sec. 7.** Section 18.01 of the Los Angeles Municipal Code is hereby amended by deleting the definitions of **City**, **Commission**, **Council** and **Director**.

**Sec. 8.** A new paragraph H is hereby added to Subdivision 4 of Subsection a of Section 62.106.1 of the Los Angeles Municipal Code to read:

**H.** For each report under the provisions of Section 13.03 of this Code, a fee of \$1100.

Sec. 9. Subsection e of Section 98.0402 of the Los Angeles Municipal Code is hereby amended to read:

**(e) Annual Inspection Fee.**

Whenever the Department of Building and Safety makes annual inspections pursuant to Sections 12.26 F 3, 12.26 I 5, and 13.03.13 of the Los Angeles Municipal Code (or any other provision of this Code) the Department shall collect a fee for inspection of each "yard" as defined in Section 12.26 F 1, each vehicle "repair garage" as defined in Section 12.26 I 1, and each "surface mining operation" as defined in Section 13.03 B, the annual inspection fees shall be as follows:

1. For each yard.....\$325.00
2. For each repair garage.....\$300.00
3. For each surface mining operation.....a fee of \$265.00

**Sec. 10. Severability.** If any provision of this ordinance or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections' provisions, clauses or applications thereof which can be implemented without the invalid provisions, clause or application thereof, and to this end the provisions and clauses of this ordinance are declared to be severable.

**Sec. 11. Urgency Clause.** This ordinance amendment is urgently necessary for the preservation of the public peace, health, and safety, and shall take effect immediately upon its publication. The following is a statement of the facts supporting its urgency. Adoption of the amended Surface Mining and Reclamation Act of 1975 (the Act) regulations is required so that the City, as lead agency under the Act, can retain its land use approval authority under the Act.

Sec. 12. The City Clerk shall certify to the passage of this ordinance and cause it to be published by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located on the ground level at the Los Angeles Street entrance to the Los Angeles Police Department; and one copy on the bulletin board located at the Temple Street entrance to the Hall of Administration.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, at its meeting of FEB 16 2000.

J. MICHAEL CAREY, City Clerk

By Maria Kosterina  
Deputy

Approved FEB 23 2000

By [Signature]  
Mayor

Approved as to form and legality:

DEC 16 1999  
JAMES K. HAHN, City Attorney

Pursuant to Sec. 97.8 of the City Charter, approval of this ordinance recommended for the City Planning Commission . . . . .

October 13, 1999

By Sandra M. Thomas  
SANDRA MISHELL THOMAS  
Deputy City Attorney

See attached report

File No. 99-2404

[Signature]  
Director of Planning

DECLARATION OF POSTING ORDINANCE


I, MARIA C. RICO, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 173106 - Amended Sections of the L.A.M.C. to bring City's regulations for "G" surface mining districts into conformance with the State Surface Mining & Reclamation Act of 1975 - copy of which is hereto attached, was finally adopted by the Council of the City of Los Angeles on Feb. 16, 2000, & under direction of said Council & said City Clerk, pursuant to Section 31 of the Charter of the City of Los Angeles, on Feb. 24, 2000, I posted a true copy of said ordinance at each of three public places located in the City of Los Angeles, California, as follows: one copy on the bulletin board at the Main Street entrance to City Hall of said City, one copy on the bulletin board on the ground level at the Los Angeles Street entrance to the Los Angeles Police Department in said City, & one copy on the bulletin board at the Temple Street entrance to the Hall of Records of the County of Los Angeles in said City.

The copies of said ordinance posted as aforesaid were kept posted continuously & conspicuously for ten days, or more, beginning February 24, 2000 to and including March 5, 2000.

I declare under penalty of perjury that the foregoing is true & correct.

Signed this 24th day of Feb. 2000 at Los Angeles, California.

  
\_\_\_\_\_  
Maria C. Rico, Deputy City Clerk

Received by  
DEPARTMENT OF CONSERVATION

MAR 17 2000

Office of Mine Reclamation