

ORDINANCE NO. 97-03

AN ORDINANCE OF THE CITY OF MONROVIA RELATING
TO SURFACE MINING AND AMENDING THE MONROVIA
MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF MONROVIA DOES ORDAIN AS
FOLLOWS:

Section 1. Chapter 15.30 is hereby added to Title 15 (Building and Construction) of the Monrovia Municipal Code to read as follows:

“Chapter 15.30

SURFACE MINING

I. GENERAL PROVISIONS

15.30.010 Title. This chapter shall be known as the "Surface Mining Ordinance of the City of Monrovia."

15.30.020 Purpose. A. The purpose of this chapter is to regulate surface mining operations in accordance with the requirements of the Surface Mining and Reclamation Act of 1975 (as amended) ("SMARA"), the regulations adopted thereunder, and California Public Resources Code Section 2207.

B. Mine development is encouraged in compatible areas before encroachment of conflicting uses. Mineral resource areas that have been classified or designated by the State, as well as existing surface mining operations that remain in compliance with the provisions of this chapter, shall be protected from intrusion by incompatible land uses that may impede or preclude mineral extraction or processing, to the extent possible under the City's General Plan.

15.30.030 Incorporation by Reference. The provisions of the SMARA, the regulations adopted thereunder, and Public Resources Code Section 2207, as those provisions and regulations may be amended from time to time by the State of California, are made a part of this chapter by reference with the same force and effect as if they were specifically and fully set out herein; provided, however, that when the provisions of this chapter are more restrictive than correlative State provisions, this chapter shall prevail.

15.30.040 Requirements For Surface Mining Operation. Except as provided in Section 15.30.050, every owner or operator of a surface mining operation shall perform all of the following actions with the City in the manner prescribed by this chapter: (i) obtain a surface mining permit; (ii) obtain approval of a reclamation plan; and (iii) secure and maintain financial assurances.

15.30.050 Exemptions. This chapter shall not apply to the following activities:

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

B. Onsite excavation and onsite earthmoving activities which 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, including the related excavation grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

1. All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act (CEQA).

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

3. The approved construction project is consistent with the City's General Plan and zoning of the site.

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

C. Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:

1. The plant site is located on lands designated for industrial or commercial uses in the City's General Plan.

2. The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities.

3. None of the minerals being processed are being extracted onsite.

4. All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.

D. 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.

E. 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.

F. Any other surface mining operations that the Board determines to be of an infrequent nature and which involve only minor surface disturbances.

G. The solar evaporation of sea water or bay water for the production of salt and related minerals.

H. Emergency excavations or grading conducted by the State Department of Water Resources, the State Reclamation Board or other State or Local agencies for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

I. Excavations or grading for the exclusive purpose of obtaining materials for roadbed construction and maintenance for timber operations or forest management on land owned by the same person or entity. This exemption is limited to excavation and grading that is conducted adjacent to timber operations or forest management roads. This exemption is only available if: (1) slope stability and erosion are controlled in accordance with State regulations; and (2) 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. This exemption does 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 excavations for materials that are, or have been, sold for commercial purposes.

15.30.060 Vested Rights. No person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a surface mining permit pursuant to this chapter as long as the vested right continues and as long as no substantial changes have been made in the operation except in accordance with SMARA, the regulations promulgated thereunder, and this chapter. A person shall be deemed to have vested rights if, prior to January 1, 1976, the person has, in good faith and in reliance upon a permit or other authorization, if the permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefore. The reclamation plan and the financial assurances requirements of Section 15.30.040 of this Code, shall apply to operations conducted after January 1, 1976.

15.30.070 Time Extensions. All time schedules and limits used for processing herein are subject to modification by mutual agreement of the City and the applicant without specific approval of the Planning Commission or the City Council unless otherwise directed by these bodies; further, that such time extension shall be no longer than double the original time schedule or limit.

II. Definitions

15.30.080 Angle of Repose. "Angle of repose" shall mean the maximum angle of slope (measured from horizontal plane) at which loose cohesionless material will come to rest on a pile of similar material.

15.30.090 Backfill. "Backfill" shall mean earth, overburden, mine waste or imported material used to replace material removed during mining.

15.30.100 Board. "Board" shall mean the California Mining and Geology Board.

15.30.110 Borrow pits. "Borrow pits" shall mean excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

15.30.120 CEQA. "CEQA" shall mean the California Environmental Quality Act, located at Public Resources Code Section 21000 et seq. (as amended).

15.30.130 City . "City" shall mean the City of Monrovia.

15.30.140 City Council . "City Council" per Chapter 2.12 of this code.

15.30.150 Compatible land uses. "Compatible land uses" shall mean land uses that: (1) require a minimum public or private investment in structures, land improvements, or landscaping; and (2) 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.

15.30.160 Critical Gradient. "Critical gradient" shall mean the maximum stable inclination of an unsupported slope under the most adverse conditions that it will likely experience, as determined by current engineering technology.

15.30.170 Department of Conservation. "Department of Conservation" shall mean the California Department of Conservation.

15.30.180 Department of Transportation. "Department of Transportation" shall mean the California Department of Transportation.

15.30.190 Financial Assurances. "Financial assurances" shall mean security posted by the owner or operator of a surface mining operation to guarantee satisfactory performance of a reclamation plan.

15.30.200 Grading. "Grading" shall mean to bring an existing surface to a designed form by cutting, filling and/or smoothing operations.

15.30.210 Idle. "Idle" shall mean 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.

15.30.220 Incompatible land uses. "Incompatible land uses" shall mean land uses that: (1) require public or private investment in structures, land improvements, or landscaping; (2) 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.

15.30.230 Mined lands. "Mined lands" shall mean 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.

15.30.240 Minerals. "Minerals" shall mean 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. "Minerals" shall not include geothermal resources, natural gas, and petroleum.

15.30.250 Operator. "Operator" shall mean any person who is engaged in surface mining operations, or who contracts with others to conduct 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.

15.30.260 Overburden. "Overburden" shall mean soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations.

15.30.270 Owner. "Owner" shall mean any person who or which owns, controls or directs a surface mining operation.

15.30.280 Planning Commission. "Planning Commission" shall mean the Planning Commission of the City of Monrovia.

15.30.290 Planning Division. "Planning Division" shall mean the Planning Division of the Department of Community Development.

15.30.300 Public Works Department. "Public Works Department" shall mean the Department of Public Works of the City of Monrovia.

15.30.310 Reclamation. "Reclamation" shall mean 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.

15.30.320 Reclamation Plan. "Reclamation plan" shall mean a completed and approved plan for reclaiming the lands by a surface mining operation conducted after January 1, 1976.

15.30.330 Resoiling. "Resoiling" shall mean the process of artificially building or reconstructing a soil profile.

15.30.340 Stream bed skimming. "Stream bed skimming" shall mean excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.

15.30.350 Surface mining operations. "Surface mining operations" shall mean 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, stream bed skimming, and segregation and stockpiling of mined materials (and recovery of same).

III. SURFACE MINING PERMITS

15.30.360 Application and transmittal of copies. The application for a surface mining permit shall be filed with the Planning Division on a form provided. The application shall include all required environmental review forms and information required. The information provided in the application form shall be certified by the applicant as being true and accurate. The application shall be accompanied by a fee in an amount established by resolution of the City Council.

15.30.370 Notification of Filing. A. No later than thirty (30) days after acceptance of a surface mining permit application for filing, the Public Works Department shall notify the Department of Conservation of the filing of the application.

B. No later than thirty (30) days after acceptance of a complete surface mining permit application, the Public Works Department shall notify the Department of Transportation of the filing of the application if both of the following conditions are satisfied:

1. Mining operations are proposed in the 100-year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency; and

2. Mining operations are proposed within one mile, upstream or downstream, of any state highway bridge.

15.30.380 Issuance or Denial of Surface Mining Permit. A. The permit application shall be processed through environmental review pursuant to CEQA and the City's environmental review guidelines.

B. No later than one hundred twenty (120) days after the acceptance of a complete surface mining permit application, the Planning Commission shall hold a public hearing upon the application. Notice of the public hearing shall be given in accordance with the provisions of Section 17.52.320 of this Code. Additionally, if the conditions set forth in Section 15.30.330(B) of this Code are satisfied, then notice of the hearing shall be mailed or delivered to the Department of Transportation at least ten days prior to the hearing. At the public hearing, the Planning Commission shall consider any comments received from the Department of Conservation or the Department of Transportation regarding the subject surface mining operation.

C. A decision to issue or not to issue the surface mining permit shall be made by the Planning Commission at the conclusion of the public hearing thereon unless the applicant agrees to an extension. The Planning Commission may issue, modify or revise a surface mining permit if it finds, based on substantial evidence, that the proposed surface mining operation is consistent with the requirements of SMARA, the regulations promulgated thereunder, and this Code.

D. The Planning Commission may defer action on a surface mining permit application until taking final action on a concurrently processed reclamation plan and financial assurances proposal. If necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve a surface mining permit with the condition that the permit shall not issue until both the reclamation plan and the financial assurances proposal for the subject operation have been approved.

E. The surface mining permit shall contain all terms and conditions which the City determines to be appropriate for the surface mining operation.

F. Within fifteen days of issuing, modifying or revising a surface mining permit, the Planning Commission shall transmit to the applicant a copy of the surface mining permit. Copies of the permit shall be provided to the Department of Conservation and (to the Department of Transportation (if applicable) and to any person who has requested in writing that such copies be provided.

15.30.390 Permit Review. A. Every surface mining permit shall be due for review five years after its issuance or its most recent modification, revision or review. The permittee shall be given notice of the review by the Public Works Department no less than one hundred fifty days before it is due.

B. No less than one hundred twenty days before the permit is due for review, the operator shall submit an application for review of its surface mining permit. The application shall be made in the manner specified by Section 15.30.320 of this Code.

C. If the Public Works Department determines upon review that revision is not required, it shall give notice of its decision and the reasons therefor to the State and to any person who has requested in writing that he or she be given such notice.

D. A surface mining permit does not expire at the end of five years absent an express permit term or condition limiting the period of the permit.

IV. RECLAMATION PLANS

15.30.400 General Requirements. A. The reclamation plan shall comply with all the following requirements:

1. Such plan shall apply to a specific piece of property or properties; and
2. Such plan shall be based upon the character of the surrounding area and such characteristics of the property(ies) as type of overburden, soil stability, topography, geology, climate, stream characteristics, and principal mineral commodities; and
3. Such plan shall establish site-specific criteria for evaluating compliance with the approved reclamation plan, including topography, revegetation and sediment, and erosion control.

B. The reclamation plan shall include all of the following information and documents:

1. The name and address of the surface mining operator and the names and addresses of any persons designated by the operator as an agent for the service of process.
2. The anticipated quantity and type of minerals for which the surface mining operation is to be conducted.
3. The proposed dates for the initiation and termination of the surface mining operation.
4. The maximum anticipated depth of the surface mining operation.
5. The size and legal description of the lands that will be affected by the surface mining operation; a map that includes the boundaries and topographic details of the lands; a description of the general geology of the area; a detailed description of the geology of the area in which surface mining is to be conducted; the location of all streams, roads, railroads, and utility facilities within, or adjacent to, the lands; the location of all proposed access roads to be constructed in conducting the surface mining operation; and the names and addresses of the owners of all surface interests and mineral interests in the lands.
6. A description of, and a plan for, the type of surface mining to be employed, and a time schedule that will provide for the completion of surface mining on each segment of the mined lands 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 operation.

7. A description of the proposed use or potential uses of the mined lands after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses.

8. A description of the manner in which reclamation, adequate for the proposed use or potential uses, will be accomplished. Such description shall include the following:

a. A description of the manner in which contaminants will be controlled, and mining waste will be disposed.

b. A description of the manner in which affected stream bed channels and stream banks will be rehabilitated to a condition minimizing erosion and sedimentation.

9. An assessment of the effect of implementation of the reclamation plan on future mining in the area.

10. A signed statement that the person submitting the reclamation plan accepts responsibility for reclaiming the mined lands in accordance with the reclamation plan.

11. A specific description of each phase of reclamation. Such description shall include:

a. the beginning and expected ending dates for each phase; and

b. all reclamation activities required; and

c. criteria for measuring completion of each reclamation activity;

d. estimated costs for completion of each phase of reclamation.

12. 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.

13. The degree and type of present and probable future exposure of the public to the site.

14. The designed steepness and proposed treatment of the mined lands' final slopes shall take into consideration the physical properties of the slope material, its probable 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 the slope stability shall be prepared. Special emphasis on slope stability and design shall be necessary when public safety or adjacent property may be affected.

15. Areas mined to produce additional materials for backfilling and grading, as well as settlement of filled areas, shall be considered in the reclamation plan. Where ultimate site uses include roads, building sites, or other improvements sensitive to settlement, the reclamation plans shall include compaction of the fill materials in conformance with good engineering practice.

16. Disposition of old equipment.

17. Temporary stream or watershed diversions.

18. Any other information which the City may require.

19. All information available on the impact of the mining operation on any underlying ground water or adjacent public bodies of water or streams or rivers including any conditions established on the operations by the State Regional Water Quality Control Board.

C. An item of information or document required pursuant to subsection B of this section that has already been prepared as part of the application for a surface mining permit for the surface mining operation, or as part of an environmental document prepared for the project pursuant to CEQA, may be included in the reclamation plan by reference, if that item of information is attached to the reclamation plan.

15.30.410 Application. The reclamation plan shall be filed with the Planning Division on a form provided. Applications for reclamation plan approval shall include all required environmental review forms and information prescribed by the City. The information provided in the reclamation plan shall be certified by the applicant as true and correct. All documentation for the reclamation plan shall be submitted at one time. The reclamation plan shall be accompanied by a fee in an amount established by resolution of the City Council.

15.30.420 Transmittal of Copies. Within thirty (30) days of receipt of a complete reclamation plan, the Public Works Department shall submit copies of all of the following to the Department of Conservation:

1. The reclamation plan.

2. Information from any related document prepared, adopted or certified pursuant to CEQA.

3. Any other pertinent information.

In conjunction with such submission, the Public Works Department shall certify to the Department of Conservation that the reclamation plan is in compliance with the applicable requirements of Article 1 (commencing with Section 3500) of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations in effect at the time.

15.30.430 Evaluation of Department of Conservation Comments.

A. The Department of Conservation shall have thirty (30) days from its receipt of a reclamation plan to prepare comments if it so chooses. The Public Works Department shall prepare a written response to any comments received from the Department of Conservation. Such written response shall describe the disposition of the major issues raised by the Department of Conservation. Additionally, if the Public Works Department's position is at variance with any of the recommendations made or objections raised in the Department of Conservation's comments, then the written response shall address, in detail, why specific comments and suggestions were not accepted.

B. The Public Works Department shall forward to the surface mining operator copies of any written responses received from the Department of Conservation, as well as the responses prepared by the Public Works Department.

15.30.440 Approval or Rejection of Reclamation Plan. A. No later than one hundred twenty (120) days after the receipt of a complete reclamation plan, the Planning Commission shall hold a public hearing upon the reclamation plan. At the public hearing, the Planning Commission shall consider any comments received from the Department of Conservation and the Department of Transportation (if applicable) regarding the subject reclamation plan. Notice of the public hearing shall be given in accordance with the provisions of Section 17.52.320 of this Code.

B. A decision to approve, deny, modify or revise a reclamation plan shall be made by the Planning Commission at the conclusion of the public hearing thereon unless the applicant agrees to an extension. The Planning Commission shall approve a reclamation plan upon making the following findings:

1. The reclamation plan complies with Section 15.30.360 of this Code, and any other applicable provisions of State law.

2. The reclamation plan and the proposed use of reclaimed land pursuant to the plan are consistent with the City's General Plan and any applicable resource plan or element.

3. All significant adverse environmental impacts from the reclamation of the surface mining operation shall be mitigated to the maximum extent feasible.

4. Either: (i) the land and resources to be reclaimed (e.g. water bodies) will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources; or (ii) suitable off-site development will compensate for related disturbance to resource values.

5. 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 any applicable resource plan.

C. If the Planning Commission does not approve a reclamation plan, the Planning Commission shall return the plan to the applicant within sixty (60) days. The applicant shall have sixty (60) days from the date on which the reclamation plan is returned to revise the plan to address identified deficiencies.

D. Within fifteen days of approving, modifying or revising a reclamation plan, the Planning Commission shall transmit to the applicant a copy of the approved reclamation plan. Copies of the approved reclamation plan shall be provided to the Department of Conservation and to the Department of Transportation (if applicable) and to any person who has requested in writing that such copies be provided.

15.30.450 Performance. 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 from mining activity. Reclamation may be performed on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the Planning Commission.

V. FINANCIAL ASSURANCES

15.30.460 Financial Assurances Required. A. The owner or operator of each surface mining operation shall provide the City with financial assurances to ensure reclamation is performed in accordance with the operation's approved reclamation plan. Financial assurances may take the form of surety bonds, irrevocable letters of credit, trust funds, or other forms specified by the Department of Conservation, which the Public Works Department reasonably determines are adequate to perform reclamation in accordance with the operation's approved reclamation plan. The financial assurances shall be made payable to the City of Monrovia and the California Department of Conservation.

B. The amount of required financial assurances shall be based upon the following criteria:

1. 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 since January 1, 1976, and new lands to be disturbed by surface mining activities in the upcoming year.

2. An analysis of physical activities necessary to implement the approved reclamation plan, the unit costs for these activities, the number of units of each of these activities, and the actual administrative costs.

3. 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 on cost estimates that include, but are not limited to, labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator other than the surface mining permittee including allowances in future costs based on projected cost of living future adjustments.

4. A contingency factor of ten percent (10%).

15.30.470 Application. The owner or operator shall submit a financial assurances proposal to the Public Works Department prior to securing financial assurances. Such proposal shall be prepared by a California registered professional engineer approved by the Public Works Department. The financial assurances proposal shall be accompanied by a fee in the amount established by resolution of the City Council.

15.30.480 Transmittal of Copies. Within thirty (30) days of receipt of a complete financial assurances proposal, the Public Works Department shall forward a copy of the proposal, together with any documentation supporting the proposal, to the Department of Conservation for review.

15.30.490 Evaluation of Department of Conservation Comments.

A. The Department of Conservation shall have forty-five (45) days from its receipt of a financial assurances proposal to prepare comments if it so chooses. The Public Works Department shall prepare a written response to any comments received from the Department of Conservation. Such written response shall describe the disposition of the major issues raised by the Department of Conservation. Additionally, if the Public Works Department's position is at variance with any of the recommendations made or objections raised in the Department of Conservation's comments, then the written response shall address, in detail, why specific comments and suggestions were not accepted.

B. The Public Works Department shall forward to the surface mining operator copies of any written responses received from the Department of Conservation, as well as the responses prepared by the Public Works Department.

C. If the Department of Conservation does not comment within forty-five (45) days of receipt of the financial assurances proposal, the Public Works Department shall assume that the cost estimates contained within the proposal are adequate unless it has reason to determine that additional costs may be incurred.

15.30.500 Approval or Rejection of Financial Assurances. A. No later than one hundred twenty (120) days after the receipt of a complete financial assurances proposal, the Planning Commission shall hold a public hearing upon the proposal. Notice of the public hearing shall be given in accordance with Section 17.52.320 of this Code. At the public hearing, the Planning Commission shall consider any comments received from the Department of Conservation regarding the subject financial assurances proposal.

B. A decision to approve, deny, modify or revise a financial assurances proposal shall be made by the Planning Commission at the conclusion of the public hearing thereon unless the applicant agrees to an extension. The Planning Commission shall approve a financial assurances proposal upon making the following findings:

1. The financial assurances proposal complies with this Code, and any other applicable provisions of State law.

2. The financial assurances proposal is sufficient to fund reclamation of lands remaining disturbed by the surface mining operation.

C. If the Planning Commission does not approve a financial assurances proposal, the Commission shall return the proposal to the applicant within sixty (60) days. The applicant shall have sixty (60) days from the date at which the financial assurances proposal is returned to revise the proposal to address identified deficiencies.

D. Within fifteen days of approving, modifying or revising a financial assurances proposal, the Planning Commission shall transmit to the applicant a copy of the approved proposal. Copies of the approved financial assurances proposal shall be provided to the Department of Conservation and to any person who has requested in writing that such copies be provided.

15.30.510 Securance and Maintenance of Financial Assurances. The owner or operator shall secure financial assurances in accordance with the approved financial assurances proposal prior to conducting surface mining operations. The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed.

15.30.520 Revision. Each year, no later than forty-five (45) days prior to the anniversary date of the approval of the financial assurances proposal, the owner or operator shall submit any revisions to the financial assurances to the Public Works Department. If revisions to the financial assurances are not required, the owner or operator shall explain, in writing, why revisions are not required.

15.30.530 Annual Adjustment. The Public Works Department shall annually adjust the amount of financial assurances required of a surface mining operation for any one year to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.

15.30.540 New Ownership. If a mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in force until new financial assurances are secured from the new owner and have been approved in accordance with this Division.

15.30.550 Forfeiture. If the Public Works Department determines that the owner of a surface mining operation is financially incapable of performing reclamation in accordance with the approved reclamation plan, or has abandoned its surface mining operation without commencing reclamation, the Department shall do the following:

A. Notify the operator by personal service or certified mail that the Public Works Department intends to take appropriate action to forfeit the financial assurances. Such notification shall specify the reasons for forfeiting the financial assurances.

B. Allow the operator sixty (60) days to commence or cause the commencement of reclamation in accordance with the approved reclamation plan. Reclamation shall be

completed within the time limits specified in the approved reclamation plan or some other time period mutually agreed upon by the Public Works Department and the operator.

C. Take appropriate action to require forfeiture of the financial assurances if the operator does not substantially comply with subsection B.

D. Use the proceeds from the forfeited financial assurances to conduct and complete reclamation in accordance with the approved reclamation plan. In no event shall the financial assurances be used for any other purpose. The operator shall be responsible for the costs of conducting and completing reclamation in accordance with the approved reclamation plan which are in excess of the proceeds from the forfeited financial assurances.

15.30.560 Release. Upon determining that reclamation has been completed in accordance with the approved reclamation plan, the Public Works Department shall release financial assurances for that surface mining operation. The Public Works Department shall give written notice of the release of the financial assurances to the owner of the surface mining operation and to the Department of Conservation.

VI. INTERIM MANAGEMENT PLANS

15.30.570 Application. Within ninety (90) days of a surface mining operation becoming idle, the operator shall submit to the Planning Division an interim management plan for review and approval by the Planning Commission at a hearing. The interim management plan shall provide measures the operator will implement to maintain the surface mining operation site in compliance with this chapter including, but not limited to, all permit conditions. The interim management plan shall be accompanied by a fee in an amount established by resolution of the City Council.

15.30.580 Filing and Transmittal of Copies. Within thirty (30) days of acceptance of an interim management plan for filing, the City shall forward a copy of the interim management plan to the Department of Conservation for review.

15.30.590 Approval or Rejection of Interim Management Plan.

A. The Planning Commission shall determine whether to approve or deny approval of a proposed interim management plan within sixty (60) days of the City's acceptance of a proposed plan for filing, unless the operator consents to a longer period. The Planning Commission shall approve a proposed interim management plan if it finds, based on substantial evidence, that the interim management plan is consistent with the requirements of SMARA, the regulations promulgated thereunder, and this chapter.

B. If the Planning Commission does not approve a proposed interim management plan, the City shall notify the operator in writing of any deficiencies in the plan. The operator shall have thirty (30) days from such notice, or any longer period mutually agreed upon by the Planning Commission and the operator, to submit a revised plan.

D. The Planning Commission shall approve or deny approval of a revised interim management plan within sixty (60) days of receipt.

15.30.600 Appeal. A. If the Planning Commission denies approval of a revised interim management plan, the operator may appeal that action to the City Council by filing written notice of appeal with the City Clerk within ten (10) days of the Commission's denial.

B. The City Council shall schedule a public hearing on the appeal of an interim management plan denial within forty-five (45) days of the filing of a timely appeal. The City Council shall render a decision on the interim management plan at the conclusion of the public hearing, unless the appellant consents to a longer period.

15.30.610 Duration. The interim management plan shall remain in effect for a period not to exceed five years.

15.30.620 Expiration. Upon expiration of an interim management plan, the Public Works Department shall take one of the following actions:

A. Renew the interim management plan for another period not to exceed five years. An interim management plan shall not be renewed if the operator has not fully complied with the plan.

B. Require the operator to commence reclamation in accordance with the approved reclamation plan.

15.30.630 Financial Assurances. Financial assurances required by Section 15.30.420 of this Code shall remain in effect during the period that a surface mining operation is idle.

VII. MISCELLANEOUS PROVISIONS

15.30.640 Annual Operations Report. The owner or operator shall provide the Public Works Department with an annual operations report as required by Public Resources Code Section 2207(b).

15.30.650 Inspection. A. The Public Works Department shall arrange for inspection of a surface mining operation within six months of receipt of the annual operations report required in Section 15.30.600 of this Code, to determine whether the surface mining operation is in compliance with the provisions of this chapter, and State regulations. In no event shall less than one inspection be conducted in any calendar year. The Public Works Department may cause such inspections to be conducted 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 twelve (12) months.

B. All inspections shall be conducted using the form provided by the State.

C. The operator shall be solely responsible for the reasonable cost of the inspection.

D. The Public Works Department shall notify the Department of Conservation within thirty (30) days of completion of the inspection that said inspection has been conducted. The notice shall contain a statement regarding the surface mining operation's compliance with SMARA, shall include a copy of the completed inspection form, and shall specify which aspects of the surface mining operation, if any, are inconsistent with that statute. If the surface mining operation has a review of its reclamation plan, financial assurances, or an interim management plan pending before the Department of Conservation or the Public Works Department, the notice shall so indicate. The Public Works Department shall forward to the operator a copy of the notice, a copy of the completed inspection form, and any supporting documentation, including, but not limited to, any inspection report prepared by the geologist, civil engineer, landscape architect, or forester.

15.30.660 Abandonment. Unless review of an interim management plan is pending before the Planning Commission, or an appeal is pending before the City Council, a surface mining operation which remains idle for over one year after becoming idle without obtaining approval of an interim management plan shall be considered abandoned. The owner of a surface mining operation which has been deemed abandoned pursuant to this Section shall commence and complete reclamation in accordance with the approved reclamation plan.

15.30.670 Suspension or Revocation of Surface Mining Permit. The Public Works Department may suspend or revoke the surface mining permit of any person issued under the provisions of this chapter whenever it shall appear to the Public Works Department that the permittee is maintaining or conducting the surface mining operation in violation of the laws of the State or the provisions of this chapter.

15.30.680 Reinstatement of Suspended or Revoked Surface Mining Permit.

A. If a surface mining permit has been suspended, it is reinstated without further action on the date specified in the suspension or upon completion of the required acts. A suspended surface mining permit shall be due for review five years after its original issuance, last review or revision, including the period of suspension.

B. If a surface mining permit has been revoked, it may be reinstated by application, no less than one year after the effective date of revocation and no less than one year after any similar application. Such an application shall be made in the manner specified in Section 15.30.320 of this Code and shall be handled in the same manner as an application for a new permit; however, nothing in this section is intended to prevent the Public Works Department from considering the revocation and grounds therefor in reviewing the application. A surface mining permit reinstated after revocation shall be due for review five years after its reinstatement.

C. No less than one year after the effective date of the revocation and no less than one year after any similar petition, a person whose surface mining permit has been revoked may petition the Public Works Department for reduction of the penalty.

15.30.690 Application for Revision of Surface Mining Permit.

A. Any holder of a surface mining permit proposing to make a significant change in the design or operation of the surface mining operation shall, at least one hundred twenty (120) days prior to the proposed modification, apply for a revision of the permit. The application shall be made in the manner specified in Section 15.30.320 of this Code. Except as otherwise provided in this Section, the application shall be handled in the same manner as an application for a new surface mining operation. If the Public Works Department determines that a permit must be modified less than one hundred twenty (120) days after the filing of an application for revision, it may waive the one hundred twenty day filing period.

B. Any time before the revised permit is issued and all appeals are final, the applicant may withdraw the application and surrender any permit that has been issued. In such a case, the surface mining permit existing at the time of application for revision shall have the same force and effect as it would have had if the application for revision had not been filed.

C. A change shall be deemed significant for purposes of this section if and only if it does not conform to terms or conditions of the surface mining permit.

15.30.700 Notice of Change of Address. Every owner and operator of a surface mining operation, and every person who has been issued a surface mining permit, shall notify the City of each change of address. Notice shall be given no more than seven (7) days after the change is effective and shall be given on a form provided by the City.

15.30.710 Notice of Change of Ownership of Property. Any person who owns real property on which a surface mining operation is being conducted for which a surface mining permit has been issued shall file a certified report with the Public Works Department within thirty days of encumbering, selling, transferring or conveying the property or part thereof or permitting the property or part thereof to be encumbered, sold, transferred or conveyed. The report shall be made on a form provided by the City. The Public Works Department shall transmit a copy of the report to the Department of Conservation and shall file a copy with the County Recorder within five business days of its receipt.

15.30.720 Violations--Penalty. Any person, firm or corporation, whether as principal, agent, employee, or otherwise, violating or causing the violation of any provision of this chapter or permit issued pursuant hereto, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable as provided in Section 1.16.010 of this Code. Such person shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this chapter is committed or continued by such person, firm or corporation and shall be punished as provided in this section. The penalty provisions under this section are in addition to and do not supersede or limit any other remedies, civil or criminal."

Section 2. Severability. 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. The City Council hereby declares that it would have passed this Ordinance and

each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of the Ordinance would be subsequently declared invalid or unconstitutional.

INTRODUCED AND ADOPTED this 6th day of MAY, 1997.

SIGNED, APPROVED AND ADOPTED this ___ day of _____, 1997 by the following vote:

AYES:

NOES:

ABSTAIN:

EXCUSED:

BY:

Robert T. Bartlett, Mayor
City Of Monrovia, California

ATTEST:

Linda B. Proctor, CMC, City Clerk
City Of Monrovia, California

Approved as to form:

Michele Beal Bagneris, City Attorney