

ORDINANCE NO. 99-010

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AZUSA AMENDING THE ZONING ORDINANCE (TITLE 88 OF THE AZUSA MUNICIPAL CODE) ARTICLE XII, SURFACE MINING AND RECLAMATION, UPDATING AND REVISING THIS ARTICLE IN COMPLIANCE WITH THE DEPARTMENT OF CONSERVATION, STATE MINING AND GEOLOGY BOARD, SURFACE MINING AND RECLAMATION ACT, CODE AMENDMENT 211

The City Council of the City of Azusa does ordain as follows:

SECTION 1: Article XII, "Surface Mining and Reclamation" of Title 88 of the Azusa Municipal Code, is hereby amended as follows:

"ARTICLE XII. SURFACE MINING AND RECLAMATION

Sec. 88-1830. Intent and Purpose.

- (a) This article is adopted pursuant to the California Surface Mining and Reclamation Act of 1975 (Public Resources Code § 2710 et seq.) as amended, Section 2207 (related to annual reporting requirements), and State Mining and Geology Board (SMGB) regulations for surface mining and reclamation practice (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Section 3500 et seq.).
(b) The City Council finds and declares that the extraction of minerals is essential to the continued economic well-being of the state and to the needs of the society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment, aesthetics, and to protect the public health and safety.
(c) The Council further finds that the reclamation of mined lands as provided in this article will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land, giving consideration to values relating to recreation, watershed, range and forage and aesthetic enjoyment.
(d) The Council further finds that surface mining takes place in diverse areas where the aesthetic, geologic, topographic, climatic, biological, and social conditions are significantly different, and that reclamation operations and the specifications for the reclamation may vary accordingly.

Sec. 88-1830.1 Incorporation by Reference

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

Post-It® Fax Note 7671 Date 11-9-99 # of pages 9
To Kit Gonzales From Roy Bruce Rner
Co./Dept. State Board of Mining Res. Co. City of Azusa
Phone # Phone # 626-812-5236
Fax # 916-445-0738 Fax # 626-334-5464



**Sec. 88-1835. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

**Exploration or prospecting** means the search for minerals by geological, geophysical, geochemical or other techniques, including but not limited to sampling, assaying, drilling, or any surface or underground works needed to determine the type, extent, or quantity of minerals present.

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

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

**Mined lands** includes the surface, subsurface, and groundwater 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.

**Minerals** means 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.

**Mining waste** includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from or displaced by surface mining operations.

**Operator** means any person who is engaged in surface mining operations himself or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface mining operations as an employee with wages as his sole compensation.

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

**Reclamation** means the 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.

**State Board** means the State Mining and Geology Board, in the Department of Conservation.

**State geologist** means the individual holding office as structured in Public Resources Code 677.

**Surface mining operations** means 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 shall include, but are not limited to:

- (1) In-place distillation, retorting or leaching;
- (2) The production and disposal of mining waste;
- (3) Prospecting and exploratory activities; and
- (4) Borrow pitting, streambed skimming and segregation and stockpiling of mined materials (and recovery of same).

#### **Sec. 88-1840. Exempt Activities.**

This Article is not applicable to the following:

- (1) Excavations or grading conducted for farming or onsite construction or for the purpose of restoring land following a flood or natural disaster;
- (2) Prospecting and exploration for minerals for commercial purposes where less than 1,000 cubic yards of overburden is removed in any one location of one acre or less;
- (3) Any surface mining operation that does not involve either the removal of a total of more than 1,000 cubic yards of minerals, ores, and overburden or involve more than one acre in any one location;
- (4) Surface mining operations that are required by federal law in order to protect a mining claim, if such operations are conducted solely for that purpose; and
- (5) Such other mining operations that the SMBG <sup>SMBG</sup> determines to be of an infrequent nature and which involve only minor surface disturbances and are categorically identified by the State Board pursuant to Public Resources Code §§ 2714(d) and 2758(c).

#### **Sec. 88-1845. Conditional Use Permit, Reclamation Plan, and Annual Report Required.**



- (a) Any person, except as provided in Public Resources Code § 2776, who proposes to engage in surface mining operations shall, prior to the commencement of such operations, obtain the following:
- (1) A Conditional Use Permit to mine in accordance with Article III, Division 7 of this Chapter; and
  - (2) Approval of a reclamation plan and financial assurances for reclamation in accordance with this Article and as further provided in Public Resources Code § 2770 et seq.
  - (3) New mining operators shall forward an initial surface mining report and 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 mine report.
- (b) No person who has obtained a vested right to conduct a surface mining operation prior to January 1, 1976 shall be required to secure a Conditional Use Permit as long as such vested right continues, provided that no substantial change is made in that operation except in accordance with the provisions of this Article. A person shall be deemed to have such vested rights if, prior to January 1, 1976, he has in good faith and in reliance upon a Conditional Use Permit, if such a permit was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary for the operation.
- (c) Nothing in this article shall be construed as requiring the filing of a reclamation plan or the reclamation of mined lands on which surface mining operations were conducted prior to but not after January 1, 1976.
- (d) The owner, lessor, lessee, agent, manager, or other person in charge of any mining operation of whatever kind or character within the State shall forward to the Director of the State Department of Mines and Geology and the City of Azusa not later than July 1, 1991, and every year thereafter not later than an anniversary date established by the director, upon forms which shall be supplied by the State, an annual report which contains all the required information as specified in Section 2207<sup>(SD)</sup> seq.

*et.*

#### Sec 88-1845.1 Findings for Approval

- (a) In addition to the finding required for Conditional Use Permits contained in Sec 88-320, of the Zoning Ordinance, Site Approvals for surface mining operations shall include a finding that the project complies with the provisions of SMARA and State regulations.
- (b) Reclamation Plans. For Reclamation Plans, the following findings shall be required:
- (1) That the Reclamation Plan complies with SMARA Sections 2772 and 2773, and any other applicable provisions;

**Art. XII. Surface Mining and Reclamation****SMRA Compliance**

- (2) That the Reclamation Plan complies with applicable requirements of State Regulations (CCR Section 3500-3505, and Sections 3700-3713).
- (3) That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are consistent with this Article and the Azusa General Plan and any applicable resource plan or element.
- (4) That the Reclamation Plan has been reviewed pursuant to CEQA and the City's environmental review guidelines and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible.
- (5) That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values.
- (6) That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that Department. Where the City's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail why specific comments and suggestions were not accepted.

**Sec. 88-1850. Compliance with State Surface Mining and Reclamation Act.**

- (a) The Director of the Department of Conservation shall be notified of the filing of all applications.
- (b) Required reclamation plans shall consist of at least those items as outlined in PRC § 2772, 2773 and 2773.1 and CCR § 3500 et seq. and § 3700 et seq.
- (c) This Article shall be continuously reviewed and revised, as necessary, in order to ensure that it is in accordance with the State policy for mined lands reclamation.
- (d) If the Community Development Director, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this Article, the applicable Conditional Use Permit, any required permit and/or the Reclamation Plan, the City shall follow the procedures set forth in the Public Resources Code concerning violations and penalties, as well as those provisions of the Azusa Zoning Ordinance for revocation and/or abandonment of a Conditional Use Permit which are not preempted by SMARA.

**Sec. 88-1855. Financial Assurances**

- (a) To ensure reclamation in accordance with the approved Reclamation Plan, the City shall require as a condition of approval security to be released upon satisfactory performance. Security may be in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to the City and the SMGB



as specified in State regulations and which the City reasonably determines are 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 Azusa and the State Department of Conservation.

- (b) Financial assurances will 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, water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures if necessary.
- (c) Cost estimates for the financial assurances shall be submitted to the Planning Division for approval prior to securing financial assurances. The Community Development Director shall forward a copy of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within 45 days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the City has reason to determine that additional costs may be incurred. The Community Development Director shall have the discretion to approve the financial assurance if it meets the requirements of this Article, SMARA, and State regulations.
- (d) The amount of the financial assurance shall be based upon the estimated costs of reclamation for the years or phases stipulated in the approved Reclamation Plan, including any maintenance of reclaimed areas as may be required, subject to the adjustment for the actual amount required to reclaim lands disturbed by surface mining activities in the upcoming year. Cost estimates should be prepared by a California registered Professional Engineer and/or other similarly licensed and qualified professionals retained by the operator and approved by the Community Development Director. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved Reclamation Plan, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs. Financial assurance to ensure compliance with any applicable element of the approved Reclamation Plan shall be based upon cost estimates that include but may not be limited to labor equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator other than the permittee. A contingency factor of ten percent (10%) shall be added to the cost of financial assurances.
- (e) In projecting the cost 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.
- (f) The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required).
- (g) The amount of financial assurances required of a surface mining operation for one year shall be adjusted annually to account for new lands disturbed by surface mining



operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.

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

#### Sec. 88-1855.1. Interim Management Plans

- (a) Within 90 days of a surface mining operation becoming idle, the operator shall submit to the Community Development Department, a proposed Interim Management (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including, but not limited to all conditions of approval of the CUP, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the Community Development Department, and shall be processed as an amendment to the Reclamation Plan. IMP's shall not be considered a project for the purposes of environmental review.
- (b) Financial assurances for idle operations shall be maintained as though the operation were active.
- (c) Upon receipt of a complete proposed IMP, the Community Development 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 by the Planning Commission.
- (d) Within 60 days of receipt of the proposed IMP, (or a longer period mutually agreed upon by the Community Development Director and the operator) the Planning Commission shall approve or deny the revised IMP within sixty (60) days of receipt in accordance with the Article. The operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator and the Community Development Director, to submit a revised IMP. The Planning Commission shall approve or deny the revised IMP within sixty (60) days of receipt.
- (e) The IMP may remain in effect for a period not to exceed five years, at which time the Planning Commission may renew the IMP for another period not to exceed five years or require the surface mining operator to commence reclamation in accordance with its approved Reclamation Plan.

**Sec. 88-1860. Periodic Review.**

The PRC § 2774 requires that inspections of surface mines be conducted not less than annually. As a condition of approval for the Conditional Use Permit or the reclamation plan or both, a schedule for periodic inspections of the site shall be established to evaluate continuing compliance with the permit and the reclamation plan.

**Secs. 88-1865 - 88-1870. Reserved.”**

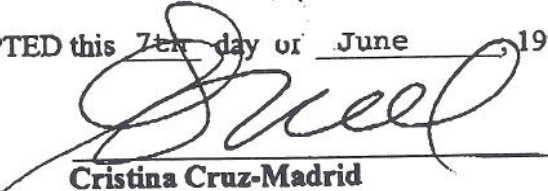
**SECTION 2:** The City Council hereby determines that this recommendation and adoption of the proposed ordinance pursuant to the City of Azusa implementing procedures and the State California Environmental Quality Act (CEQA) Guidelines will not have a significant impact on the environment, and is Categorically Exempt pursuant to Class 8 of the CEQA Guidelines and the City of Azusa Local Guidelines for Implementing CEQA.

**SECTION 3:** This ordinance shall be in full force and effect thirty days after its passage.

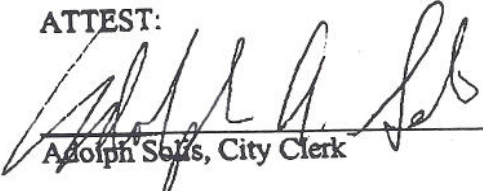
**SECTION 4:** A summary of this Ordinance shall be published in the manner required by law.



PASSED, APPROVE AND ADOPTED this 7<sup>th</sup> day of June, 1999.

  
Cristina Cruz-Madrid  
Mayor

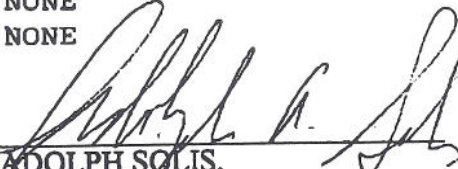
ATTEST:

  
Adolph Solis, City Clerk

I Adolph Solis, City Clerk of the City of Azusa hereby certify that the foregoing Ordinance No 99-010 was duly introduced and placed upon its first reading at a regular meeting of the City Council of the City of Azusa at a regular meeting thereof held on the 17<sup>th</sup> day of May 1999, and that thereafter, said ordinance was duly adopted and passed at a regular meeting of 6/7/99, by the following vote of the Council:

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

AYES:                    COUNCIL MEMBERS: HARDISON, STANFORD, ROCHA, BEEBE, MADRID  
NOES:                    COUNCIL MEMBERS: NONE  
ABSENT:                 COUNCIL MEMBERS: NONE  
ABSTAIN:                COUNCIL MEMBERS: NONE

  
ADOLPH SOLIS,  
City Clerk

APPROVED AS TO FORM

  
Sonia R. Carvalho  
City Attorney

