

Adopted: September 5, 2000
Effective: October 6, 2000

City of San Bernardino
City Council

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ORDINANCE NO. MC-1084

AN ORDINANCE OF THE CITY OF SAN BERNARDINO MODIFYING CHAPTER 19.68 (SURFACE MINING AND LAND RECLAMATION REGULATIONS) OF THE SAN BERNARDINO MUNICIPAL CODE (DEVELOPMENT CODE) TO MODIFY TEXT RELATED TO REQUIREMENTS AND POLICIES.

THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN BERNARDINO DO ORDAIN AS FOLLOWS:

SECTION 1. Chapter 19.68, Sections 19.68.010 through 19.68.190 of the Municipal Code (Development Code) is amended to modify text related to Surface Mining and Land Reclamation requirements and policies.

Chapter 19.68, Sections 19.68.010 through 19.68.190 are hereby amended to read as shown on Exhibit "A" attached hereto and incorporated herein by reference.

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1 AN ORDINANCE . . . AMENDING CHAPTER 19.68 (SURFACE MINING AND
 2 LAND RECLAMATION REGULATIONS), SECTIONS 19.68.010 & 19.68.190 OF THE
 3 SAN BERNARDINO MUNICIPAL CODE (DEVELOPMENT CODE) TO MODIFY
 4 TEXT RELATED TO REQUIREMENTS AND POLICIES.

5 I HEREBY CERTIFY that the foregoing ordinance was duly adopted by the Mayor and
 6 Common Council of the City of San Bernardino at a joint regular meeting thereof, held
 7 on the 5th day of September, 2000, by the following vote to wit:

8 Council Members:	AYES	NAYS	ABSTAIN	ABSENT
9 ESTRADA	_____	_____	_____	<u>X</u>
10 LIEN	<u>X</u>	_____	_____	_____
11 MC GINNIS	<u>X</u>	_____	_____	_____
12 SCHNETZ	<u>X</u>	_____	_____	_____
13 SUAREZ	<u>X</u>	_____	_____	_____
14 ANDERSON	<u>X</u>	_____	_____	_____
15 MC CAMMACK	<u>X</u>	_____	_____	_____

17 Rachel G. Clark
 18 City Clerk

19 The foregoing ordinance is hereby approved this 6th day of September,
 20 2000

21 Judith Valles
 22 JUDITH VALLES, Mayor
 23 City of San Bernardino

24 Approved as to form
 and legal content:

25 JAMES F. PENMAN
 26 City Attorney

27 By: James F. Penman
 28

CHAPTER 19.68
SURFACE MINING AND LAND RECLAMATION

<u>Section</u>		<u>Page</u>
19.68.010	Purpose and Intent	IV-69
19.68.020	Mineral Resource Protection	IV-70
19.68.030	Definitions	IV-70
19.68.040	Incorporation by Reference	IV-72
19.68.050	Scope	IV-72
19.68.060	Vested Rights	IV-74
19.68.070	Standards for Reclamation	IV-74
19.68.080	Statement of Responsibility	IV-75
19.68.090	Process	IV-75
19.68.100	Review by Planning Commission	IV-76
19.68.110	Findings for Approval	IV-77
19.68.120	Financial Assurances	IV-78
19.68.130	Interim Management Plans	IV-79
19.68.140	Annual Report Requirements	IV-80
19.68.150	Inspections	IV-80
19.68.160	Violations and Penalties	IV-81
19.68.170	Appeals	IV-81
19.68.180	Fees	IV-81
19.68.190	Severability	IV-81

19.68.010 PURPOSE AND INTENT

1. 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 and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The City also recognizes that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications therefore may vary accordingly.
2. The purpose and intent of this Chapter is to ensure the continued availability of important mineral resources, while regulating surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710 et seq.), as amended, hereinafter referred to as "SMARA", Public Resources Code (PRC) Section 2207 (relating to annual reporting requirements), and State Mining and Geology Board regulations (hereinafter referred to as "State regulations") for surface mining and reclamation practice (California Code of

SURFACE MINING AND LAND RECLAMATION - 19.68

Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.), to ensure that:

- A. Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.
 - B. The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.
 - C. Residual hazards to the public health and safety are eliminated.
3. In the event that the State amends SMARA to the extent that it adds to or conflicts with this Chapter, State law shall prevail.

19.68.020 MINERAL RESOURCE PROTECTION

1. Mine development is encouraged in compatible areas before encroachment of conflicting uses. Mineral resource areas that have been classified by the State Department of Conservation's Division of Mines and Geology or designated by the State Mining and Geology Board, 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 for consistency with the City's General Plan.
2. In accordance with PRC §2762, the City's General Plan and resource maps will be updated to reflect mineral information (classification and/or designation reports) within 12 months of receipt from the State Mining and Geology Board of such information. Land use decisions within the City will be guided by information provided on the location of identified mineral resources of regional significance. Conservation and potential development of identified mineral resource areas will be considered and encouraged. Recordation on property titles of the presence of important mineral resources within the identified mineral resource areas may be encouraged as a condition of approval of any development project in the impacted area. Prior to approving a use that would otherwise be incompatible with mineral resource protection, conditions of approval may be applied to encroaching development projects to minimize potential conflicts.

19.68.030 DEFINITIONS

The definitions set forth in this section shall govern the construction of this chapter.

Area of Regional Significance. An area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible

land uses, could result in the premature loss of minerals that are of more than local significance.

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.

Compatible Land Uses. Land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, and open space.

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.

Incompatible Land Uses. Land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.

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.

Minerals. Any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

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

Reclamation. The combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to

affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

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 of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations include, but are not limited to, inplace distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, streambed skimming, and segregation and stockpiling of mined materials (and recovery of same).

19.68.040 INCORPORATION BY REFERENCE

The provisions of SMARA (PRC §2710 et seq.), PRC Section 2207, and State regulations CCR §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 Chapter are more restrictive than correlative State provisions, this Chapter shall prevail.

19.68.050 SCOPE

1. Except as provided in this Chapter, no person shall conduct surface mining operations unless a permit, Reclamation Plan, and financial assurances for reclamation have first been approved by the City. Any applicable exemption from this requirement does not automatically exempt a project or activity from the application of other regulations, ordinances or policies of the City, including but not limited to, the application of the California Environmental Quality Act (CEQA), the requirement of the Conditional Use Permit or other permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be permitted under the law. The provisions of this Chapter shall apply to all lands within the City, public and private.
2. 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,

SURFACE MINING AND LAND RECLAMATION - 19.68

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", Public Resources Code, Division 13, §21000 et seq.).
 - (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 general plan or 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 with an appropriate Land Use Designation commensurate with the activity, according to the City's General Plan and Development Code.
 - (2) None of the minerals being processed are being extracted onsite.
 - (3) All reclamation work has been, or is being completed pursuant to the approved Reclamation Plan for any mineral extraction activities that occur 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. (Otherwise known as "assessment work").

SURFACE MINING AND LAND RECLAMATION - 19.68

- F. Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.
- G. Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.
- H. Road construction and maintenance for timber or forest operations if the land is owned by the same person or entity, and if the excavation is conducted adjacent to timber or forest operation roads. This exemption is only available if slope stability and erosion are controlled in accordance with Board regulations and, upon closure of the site, the person closing the site implements, where necessary, re-vegetation measures and post-closure 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.

19.68.060 VESTED RIGHTS

- 1. No person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit to mine, so long as the vested right continues and as long as no substantial changes have been made in the operation except in accordance with SMARA, State regulations, and this Chapter. Where a person with vested rights has continued surface mining in the same area subsequent to January 1, 1976, he shall obtain City approval of a Reclamation Plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-Act mining, the Reclamation Plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act (January 1, 1976).
- 2. All other requirements of State law and this Chapter shall apply to vested mining operations.

19.68.070 STANDARDS FOR RECLAMATION

- 1. All Reclamation Plans shall comply with the provisions of SMARA (§2772 and §2773) and State regulations (CCR §3500-3505). Reclamation Plans approved after January 15, 1993, Reclamation Plans for proposed new mining operations, and any substantial amendments to previously approved Reclamation Plans, shall also comply with the requirements for reclamation performance standards (CCR §3700-3713).
- 2. The City may impose additional performance standards as developed either in review of individual projects, as warranted, or through the formulation and adoption of Citywide performance standards.

3. Reclamation activities shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that may be disturbed again in future operations. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the City. Each phase of reclamation shall be specifically described in the Reclamation Plan and shall include (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) criteria for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation.

19.68.080 STATEMENT OF RESPONSIBILITY

The property owner or mining operator shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be retained by the Planning Division in the mining operation's permanent record. Upon sale or transfer of the land or operations, the new property owner or operator shall submit a signed statement of responsibility to the Planning Division for placement in the permanent record, prior to beginning mining operations.

19.68.090 PROCESS

1. Applications for a Conditional Use Permit for surface mining and land reclamation projects shall be made on forms provided by the Planning Division. Said application shall be filed in accord with this Chapter and procedures to be established by the Development Services Director. The forms for Reclamation Plan applications shall require, at a minimum, each of the elements required by SMARA (§2772-2773) and other State regulations, and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed Reclamation Plan, to be established at the discretion of the Development Services Director. As many copies of the Conditional Use Permit application as may be required by the Development Services Director shall be submitted to the Planning Division of the Development Services Department.
2. As many copies of a Reclamation Plan application as may be required shall be submitted in conjunction with all applications for Conditional Use Permits for surface mining operations.
3. Applications shall include all required environmental review forms and information prescribed by the Development Services Director.
4. Within thirty (30) days of acceptance of an application for a Conditional Use Permit for surface mining operations and/or a Reclamation Plan as complete, the Planning Division shall notify the State Department of Conservation of the filing of the application(s). Pursuant to PRC §2774(d), the State Department of Conservation shall be given 30 days to review and comment on the Reclamation Plan and 45 days to review and comment on the financial assurance.

SURFACE MINING AND LAND RECLAMATION - 19.68

Whenever 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 within one mile, upstream or downstream, of any state highway bridge, the Planning Division shall also notify the State Department of Transportation that the application has been received.

5. The Planning Division shall process the application(s) through environmental review pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the City's environmental review guidelines.
6. Prior to final approval of a Reclamation Plan, financial assurances (as provided in this Chapter), or any amendments to the Reclamation Plan or existing financial assurances, the Development Services Director shall certify to the State Department of Conservation that the Reclamation Plan and/or financial assurance complies with the applicable requirements of State law, and submit the plan, assurance, or amendments to the State Department of Conservation for review. If a Conditional use Permit is being processed concurrently with the Reclamation Plan and it becomes necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve the Conditional Use Permit with the condition that the Planning Division shall not issue the Conditional Use Permit for the mining operations until cost estimates for financial assurances have been reviewed by the State Department of Conservation and final action has been taken on the Reclamation Plan and financial assurances.

19.68.100 REVIEW BY PLANNING COMMISSION

1. Upon completion of the required environmental studies and the filing of all documents required by this Development Code, a public hearing will be scheduled for Planning Commission consideration regarding the Reclamation Plan and the companion Conditional Use Permit for the proposed or existing surface mining operation pursuant to Chapter 19.52 (Hearings and Appeals)
2. The Planning Commission shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. Staff shall prepare a written response describing the disposition of the major issues raised by the State for the Planning Commission's approval. In particular, when the Planning Commission's position is at variance with the recommendations and objections raised in the State's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. The Planning Commission staff report including the staff prepared responses to the State Department of Conservation, along with the minutes of the public hearing shall constitute the written response to the state.
3. The Planning Commission shall then take action to approve, conditionally approve, or deny the Conditional Use Permit and/or Reclamation Plan, and to approve the financial assurances pursuant to PRC §2770(d).

4. The Planning Division shall forward a copy of each approved Conditional Use Permit for mining operations and/or approved Reclamation Plans, and a copy of the approved financial assurances to the State Department of Conservation within 30 days of approval.

19.68.110 FINDINGS FOR APPROVAL

1. **Conditional Use Permits.** In addition to the findings required by the City's Development Code, Chapter 19.36.050, Findings for Conditional Use Permits for surface mining operations shall include a finding that the project complies with the provisions of SMARA and State regulations.
2. **Reclamation Plans.** The Planning Commission may only approve Reclamation Plans, if all of the following findings are made in the affirmative:
 - A. That the Reclamation Plan complies with SMARA Sections 2772 and 2773, and any other applicable provisions;
 - B. That the Reclamation Plan complies with applicable requirements of State regulations (CCR §3500-3505 and §3700-3713).
 - C. That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are consistent with this Chapter and the City's General Plan and any applicable resource plan or element.
 - D. 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.
 - E. That the land and/or resources such as water to be reclaimed will be reclaimed 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.
 - F. That the Reclamation Plan will restore the mined lands to a usable condition which is readily adaptable for alternative land uses consistent with the General Plan and applicable resource plan.
 - G. 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.

19.68.120 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 security 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 acceptable to the City and the State Mining and Geology Board 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 San Bernardino and the State Department of Conservation.
2. 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, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, removal of equipment and buildings which are not part of the approved end use, and other measures, if necessary.
3. Cost estimates for the financial assurance shall be submitted to the Planning Division for review and approval prior to the operator securing financial assurances. The Planning Division shall forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within 45 days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the City has reason to determine that additional costs may be incurred. The Planning Director shall have the discretion to approve the financial assurance if it meets the requirements of this Chapter, SMARA, and State regulations.
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 activities since January 1, 1976, and new lands to be disturbed by surface mining activities in the upcoming year. Cost estimates should be prepared by the mine operator, a licensed engineer or other professional experienced in the reclamation of mined lands, approved by the Director of Development Services. 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 permitter. A contingency factor of ten percent (10%) shall be added to the cost of financial assurances to cover

SURFACE MINING AND LAND RECLAMATION - 19.68

the Lead Agency's reasonable expenses for the administrative and legal fees required to foreclose on the financial assurance instrument.

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 giving credit for 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. The annual SMARA inspection by the Lead Agency shall, in most cases, be used to validate the submitted estimate.
8. Revisions to financial assurances shall be submitted to the Planning Division 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.

19.68.130 INTERIM MANAGEMENT PLANS

1. Within 90 days of a surface mining operation becoming idle, the operator shall submit to the Planning Division a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all Conditions of Approval conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the Planning Division, and shall be processed as an amendment to the Reclamation Plan. IMP's shall not be considered a project for the purposes of environmental review.
2. Financial assurances for idle operations shall be maintained as though the operation were active, or as otherwise approved through the idle mine's IMP.
3. Upon receipt of a complete proposed IMP, the Planning Division shall forward the IMP to the State Department of Conservation for review. The IMP shall be submitted to the State Department of Conservation at least 30 days prior to approval by the Director of Development Services.

SURFACE MINING AND LAND RECLAMATION - 19.68

4. Within 60 days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Development Services Director and the operator, the Director shall review and approve or deny the IMP in accordance with this Chapter. The operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator and the Director of Development Services, to submit a revised IMP. The Development Services Director shall approve or deny the revised IMP within sixty (60) days of receipt. If the Director of Development Services denies the revised IMP, the operator may appeal that action to the Planning Commission.
5. The IMP may remain in effect for a period not to exceed five years, at which time the Director of Development Services 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.

19.68.140 ANNUAL REPORT REQUIREMENTS

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

19.68.150 INSPECTIONS

1. The Planning Division shall arrange for inspection of a surface mining operation within six months of receipt of the Annual Report required in Section 19.68.140, to determine whether the surface mining operation is in compliance with the approved Conditional Use Permit and/or Reclamation Plan, approved financial assurances, and State regulations. In no event shall less than one inspection be conducted in any calendar year. Said inspections may be made by a licensed engineer or other professional experienced in the reclamation of mined lands, or other qualified specialists, as selected by the Director of the Development Services Department. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.
2. The Planning Division shall notify the State Department of Conservation within thirty (30) days of completion of the inspection that said inspection has been conducted, and shall forward a copy of said inspection notice and any supporting documentation to the mining operator. The operator shall be solely responsible for the reasonable cost of such inspection.

19.68.160 VIOLATIONS AND PENALTIES

If the Planning 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 Chapter, the applicable Conditional Use Permit, any required permit and/or the Reclamation Plan, the City shall follow the procedures set forth in Public Resources Code, Sections 2774.1 and 2774.2 concerning violations and penalties, as well as those provisions of the City Development Code for revocation of a Conditional Use Permit which are not preempted by SMARA.

19.68.170 APPEALS

Any person aggrieved by an act or determination of the Planning Division in the exercise of the authority granted herein, shall have the right to appeal to the Planning Commission or the City Council, whichever is the next higher authority. An appeal shall be filed on forms provided, within fifteen (15) calendar days after the rendition, in writing, of the appealed decision.

19.68.180 FEES

The City shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this Chapter and the State regulations, including but not limited to, processing of applications, annual reports, inspections, monitoring, enforcement and compliance. Such fees shall be paid by the operator, as required by the City, at the time of filing of the Conditional Use Permit application, Reclamation Plan application, and at such other times as are determined by the City to be appropriate in order to ensure that all reasonable costs of implementing this Chapter are borne by the mining operator.

19.68.190 SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Chapter.

