

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE)ss  
CITY OF SAN JACINTO )

ORDINANCE NO. 04-08

**AN ORDINANCE OF THE CITY OF SAN JACINTO, CALIFORNIA, ADDING  
CHAPTER 8.56 TO THE SAN JACINTO MUNICIPAL CODE CONCERNING  
SURFACE MINING AND RECLAMATION**

**WHEREAS**, the City of San Jacinto ("City") is authorized by California Constitution, Article IX, Section 7 to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

**WHEREAS**, the City Council has determined that the public health, safety and welfare of the residents of the City will be promoted and the environmental settings of the City will be preserved and maintained through the adoption of an ordinance regulating surface mining and reclamation activities.

**THE CITY COUNCIL OF THE CITY OF SAN JACINTO DOES ORDAIN AS  
FOLLOWS:**

**Section 1.** The City Council hereby adopts the recitals of this Ordinance as true and correct and such recitals are hereby incorporated by reference as though fully set forth in the text of this Ordinance.

**Section 2.** Chapter 8.56 is hereby added to the San Jacinto Municipal Code to read as follows:

**"Chapter 8.56**

**Surface Mining and Reclamation**

**Sections:**

- 1.0 Purpose and Intent
- 2.0 Definitions
- 3.0 Incorporation by Reference
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- 13.0 Interim Management Plans
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### **§1.0 Purpose and Intent**

The City of San Jacinto recognizes that the extraction of minerals is essential to the continued economic well-being of the City of San Jacinto 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 of San Jacinto also recognizes that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications therefore may vary accordingly.

The purpose and intent of this 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 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.

## **§2.0 Definitions**

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

Abandon or Abandonment means to cease surface mining prior to completion of required reclamation, or to cease surface mining whether or not actual reclamation has commenced, or both. Unless review of an interim management plan is pending before the Staff, or an appeal is pending, a surface mining operation which remains idle for over one (1) year after becoming idle as defined in PRC Section 2727.1, without obtaining approval of an interim management plan shall be considered abandoned.

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.

Bench means a relatively level step excavated into earth material on which fill may be placed.

Berm means an elongated earthen structure which acts as a barrier, to make it difficult for a vehicle to cross, to act as a visual screen or to redirect the flow of water.

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

CEQA means the California Environmental Quality Act, Public Resources Code Section 21000 et. Seq.

City The City of San Jacinto.

City Council The City of San Jacinto City Council.

Code The City of San Jacinto zoning ordinance.



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

Director The City of San Jacinto Community Development Director.

Excavation means the mechanical removal of earth material.

Farming means the management and/or cultivation of land for the production of crops and livestock.

Financial assurance means an assurance that a surface mining operation will be reclaimed in accordance with the approved reclamation plan. The financial assurance may take the form of surety bonds, trust funds, irrevocable letters of credit or other financial assurance mechanisms acceptable to both the City and the State Mining and Geology Board (SMGB) as specified in State regulations.

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.

Highwall means the unexcavated face of exposed overburden and ore in a surface mine.

Highwind Conditions Wind conditions where sustained wind velocities exceed 35 mph for a minimum period of one hour.

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.

Lead Agency means the City of San Jacinto which has the primary responsibility for enforcing SMARA.



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.

Mining Waste means 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.

Minor Modification means an amendment to a reclamation plan involving insignificant changes and does not require review under CEQA.

Planning Commission The Planning Commission of the City of San Jacinto.

OMR means the Office of Mine Reclamation in the Department of Conservation, State of California.

On-site Construction means the construction of buildings, roads or other improvements including landscaping, excavation and grading required to prepare a site for construction of structures, landscaping or other land improvements, and which is beneficially modified by such construction, is not deemed to be a surface mining operation. Additionally, all required permits for the construction, landscaping, or related land improvements must be obtained from the City in accordance with applicable provisions of State law and locally adopted plans and ordinances.

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.

Overburden means 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.

Person means any individual, firm, association, corporation, organization, or partnership, or any city, county, district or state or any department or agency thereof.

PRC means the Public Resources Code.

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.

Reclamation Plan A plan meeting the specific requirements for reclamation pursuant to Section 7.0 providing for the reclamation of any lands affected by a mining operation, as approved by the City.

SMARA means the Surface Mining and Reclamation Act of 1975 and subsequent amendments, Public Resources Code Section 2710 et. seq.

Staff The staff of the Community Development Department.

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

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, in-place 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).

Use Permit A conditional use permit pursuant to Article 17 of the City of San Jacinto's zoning ordinance.

Topsoil means the upper part of the soil profile that is relatively rich in humus, which is typically known as the "A-horizon" of the soil profile.



### **§3.0 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.

### **§4.0 Scope**

Except as provided in this Chapter, no person shall conduct surface mining operations unless a use permit, Reclamation Plan, and financial assurances for reclamation have first been approved by the City. Any applicable exemption from this requirement does not automatically exempt a project or activity from the application of other regulations, ordinances or policies of the City, including but not limited to, the application of CEQA, the requirement of a 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.

This Chapter shall not apply to the following activities, subject to the above-referenced exceptions:

(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", 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 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 by the City.

(3) None of the minerals being processed is 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 State Mining and Geology 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 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.



(i) 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 State Mining and Geology Board regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation 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.

(j) Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to, and necessary for, ongoing operations for the extraction of oil or gas that comply with all of the following conditions: (1) the operations are being conducted in accordance with Division 3 (commencing with Section 3000); (2) the operations are consistent with the [City's/County's] general plan or zoning applicable to the site; (3) the earthmoving activities are within oil or gas field properties under a common owner or operator; and, (4) no excavated materials are sold for commercial purposes.

#### **§5.0 Vested Rights**

No person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a use 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).

All other requirements of State law and this Chapter shall apply to vested mining operations.

#### **§6.0 Process**

(a) Applications for a use permit or Reclamation Plan for surface mining or land reclamation projects shall be made on forms provided by the Community Development Department. Said application shall be filed in accord with this Chapter and procedures to be established by the Director. The forms for Reclamation Plan applications shall require, at a minimum, each of the elements required by SMARA (§§2772-2773) and

State regulations, and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed Reclamation Plan, to be established at the discretion of the Director. As many copies of the use permit application as may be required by the Director shall be submitted to the Community Development Department.

(b) As many copies of a Reclamation Plan application as may be required by the Director shall be submitted in conjunction with all use permit applications for surface mining operations. For surface mining operations that are exempt from a use permit pursuant to this Chapter, the Reclamation Plan application shall include information concerning the mining operation that is required for processing the Reclamation Plan. All documentation for the Reclamation Plan shall be submitted to the City at one time.

(c) Applications shall include all required environmental review forms and information prescribed by the Director.

(d) Upon completion of the environmental review procedure and filing of all documents required by the Director, consideration of the use permit or Reclamation Plan for the proposed or existing surface mine shall be completed pursuant to Article 17 of the City of San Jacinto Zoning Ordinance at a public hearing before the Planning Commission, and pursuant to Section 2774 of the Public Resources Code.

(e) Within thirty (30) days of acceptance of an application for a use permit for surface mining operations and/or a Reclamation Plan as complete, the Community Development Department shall notify the State Department of Conservation of the filing of the application(s). 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 Community Development Department shall also notify the State Department of Transportation that the application has been received.

(f) The Community Development Department 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.

(g) Subsequent to the appropriate environmental review, the Community Development Department shall prepare a staff report with recommendations for consideration by the Planning Commission.

(h) The Planning Commission shall hold at least one noticed public hearing on the use permit and/or Reclamation Plan.



(i) 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 Planning Commission 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. The Planning Commission may conceptually approve the Reclamation Plan and financial assurance before submittal to the State Department of Conservation. If a use permit is being processed concurrently with the Reclamation Plan, the Planning Commission may simultaneously also conceptually approve the use permit. However, the Planning Commission may defer action on the use permit until taking final action on the Reclamation Plan and financial assurances. If necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve the Site Approval with the condition that the Community Development Department shall not issue the use permit for the mining operations until cost estimates for financial assurances have been reviewed by the State Department of Conservation and final action has been taken on the Reclamation Plan and financial assurances.

Pursuant to 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. The Planning Commission shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. Staff shall prepare a written response describing the disposition of the major issues raised by the State for the Planning Commission's approval. In particular, when the Planning Commission's position is at variance with the recommendations and objections raised in the State's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the Planning Commission shall be promptly forwarded to the operator/applicant.

(j) The Planning Commission shall then take action to approve, conditionally approve, or deny the use permit and/or Reclamation Plan, and to approve the financial assurances pursuant to PRC §2770(d).

(k) The Planning Department shall forward a copy of each approved use permit for mining operations and/or approved Reclamation Plan, and a copy of the approved financial assurances to the State Department of Conservation. By July 1 of each year, the Planning Department shall submit to the State Department of Conservation for each active or idle mining operation a copy of the use permit or Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year.

## **§7.0 Standards for Reclamation**

(a) Time Limitation: Reclamation shall in all cases be completed within the time schedule set forth in the conditions of a Use Permit, Reclamation Plan only or amendment thereof. All recontouring, revegetation and or reclaiming efforts shall be phased to commence immediately upon completion of mining operation in any given area.

(b) Applicability of Standards. Reclamation of mined lands shall be implemented in conformance with the standards in this Section. The standards set forth in subsections 7.0 (d) through (m) shall apply to each mining operation for which a Reclamation Plan was approved on or after January 15, 1993, to the extent that:

(1) They are consistent with required mitigation identified in conformance with California Environmental Quality Act, provided that such mitigation is at least as stringent as the standards specified in this Section; and

(2) They are consistent with the planned or actual subsequent use or uses of the mining site; and

(3) Where an applicant demonstrates to the satisfaction of the Director that an exception to the standards specified in this section is necessary based upon the approved end use or uses, the Director may approve a different standard for inclusion in the approved Reclamation Plan. Where the Director allows such an exception, the approved Reclamation Plan shall specify verifiable, site-specific standards for reclamation. The Director may set standards which are more stringent than the standards set forth in this section; however, in no case may the Director approve a Reclamation Plan which sets any standard which is less stringent than the comparable standard specified in this section.

(4) When substantial amendment is proposed to a Reclamation Plan which was approved prior to January 15, 1993, the standards set forth in this section shall be applied by the Director in approving or denying approval of the amended Reclamation Plan.

(c) Mined lands for which a Reclamation Plan was approved between September 1, 1972, and January 15, 1993, shall be reclaimed pursuant to standards of the approved Reclamation Plan, including any amendments thereto authorized by Section 12.0.

(d) Performance Standards for Wildlife Habitat: Wildlife and wildlife habitat shall be protected in accordance with the following standards:



(1) Rare, threatened or endangered species as listed by the California Department of Fish and Game (California Code of Regulations, Title 14, Sections 670.2-670.5), the U.S. Fish and Wildlife Service (50 CFR 17.11 and 17.12), or species of special concern as listed by the California Department of Fish and Game in the Special Animal List, Natural Diversity Data Base, shall be protected and their respective habitat conserved as prescribed by the Federal Endangered Species Act, 16 USC Section 1531, et seq., and the California Endangered Species alternatives, mitigation shall be proposed by the owner(s) and/or operator(s) in accordance with the provisions of the California Endangered Species Act, Fish and Game Code Section 2050 et seq., and the Federal Endangered Species Act, 16 USC Section 1531, et seq.

(2) Wildlife habitat shall be established on disturbed land in a condition at least as good as that which existed before the lands were disturbed by the mining operation, unless the proposed end use or uses precludes its use as wildlife habitat or the approved Reclamation Plan establishes a different habitat type than that which existed prior to mining.

(3) Wetland habitat should be avoided. Any wetland habitat impacted as a consequence of mining operations shall be mitigated at a ratio to wetland habitat acreage and wetland habitat value as determined by the Director.

(e) Performance Standards for Backfilling, Regrading, Slope Stability and Recontouring:

(1) Where backfilling is proposed for urban uses (e.g., roads, building sites or other improvements sensitive to settlement), the fill shall be compacted in accordance with Section 7010, Chapter 70 of the 1991 edition of the Uniform Building Code published by the International Conference of Building Officials, standards set forth in the City's Grading Ordinance (whichever standard is stricter), as appropriate for the approved end use.

(2) Where backfilling is required for resource conservation purposes (e.g., agricultural, fish and wildlife habitat, wildland conservation), fill material shall be backfilled to the standards required for the resource conservation use involved.

(3) Piles or dumps of mining waste products, by-products or overburden shall be stockpiled in such a manner as to facilitate phased reclamation. Such piles or dumps shall be segregated from topsoil and topsoil substitutes or growth media salvaged for use in reclamation.

(4) Final reclaimed fill slopes, including permanent piles or dumps of mining waste products, by-products, rock and over-burden, shall not exceed 2:1 (horizontal: vertical), except when a site-specific geologic and engineering analysis demonstrates that the proposed final slope will have a minimum factor of safety that is suitable for the proposed end use, and when the proposed final slope can be successfully revegetated.

(5) At closure, all fill slopes, including permanent piles or dumps of mining waste products, by-products and overburden shall conform with the surrounding topography and/or approved end use or uses.

(6) Final cut slopes, including highwalls or quarry faces of a mining operation, shall have a minimum slope stability factor of safety that is suitable for the proposed end use with a static stability factor of safety not less than 1.5 and a Pseudo-static stability factor of safety between 1.1 to 1.2, and shall be no steeper than 1.5:1 (33 degrees) and shall be benched at a 30-foot vertical interval and shall conform with the surrounding topography and/or approved end use or uses. Final cut slopes, including highwalls and quarry faces of a hard rock mining operation, may be steeper than 1.5:1 (33 degrees) and have a greater bench interval than 30 feet if it can be demonstrated that a steeper slope or different bench interval or no benches, is geologically stable, has a minimum slope stability factor of safety that is suitable for the proposed end use with a static stability factor of safety not less than 1.5 and a Pseudo-static stability factor of safety between 1.1 to 1.2, and conforms with the surrounding topography and/or approved end use, or uses, and does not create a threat to public health and safety, adversely affect a natural resource or reduce the feasibility of reclamation of a mining site.

(7) Permanent placement of piles or dumps of mining waste and overburden shall not occur within wetlands unless mitigation acceptable to the City and California Department of Fish and Game has been proposed to offset wetland impacts and/or losses.

(f) Performance Standards for Revegetation.

(1) Revegetation shall be part of the approved Reclamation Plan, unless it is not consistent with the approved end use or uses. A native species vegetative cover suitable for the proposed end use or uses and capable of self-regeneration without continued dependence on irrigation, soil amendments or fertilizers shall be established on disturbed land (including roads, ponds, streambeds, and other areas used in the mining operation) unless introduced species are consistent with the approved Reclamation Plan or unless native species prove infeasible. Vegetative cover or density, and species-richness shall be, where appropriate, sufficient to stabilize the surface against effects of long-term erosion and shall be similar to naturally occurring habitats in the surrounding area. The vegetative density, cover and species richness of naturally occurring habitats shall be documented in baseline studies carried out prior to



the initiation of mining activities. However, for areas that will not be reclaimed to prior conditions, the use of data from reference areas in lieu of baseline site data is permissible.

(2) Where surface mining activities result in compaction of the soil, ripping, disking or other means shall be used in areas to be revegetated to eliminate compaction and to establish a suitable root zone in preparation for planting.

(3) Prior to closure, all access roads, haul roads and other traffic routes to be reclaimed shall be stripped of any remaining roadbase materials, prepared in accordance with Subsection 7.0 (f) (5) covered with suitable growth media or top soil, and revegetated, unless these roads are consistent with an approved end use or uses.

(4) Temporary access for exploration or other short-term uses on arid lands shall not disrupt the soil surface except where necessary to gain safe access. Barriers shall be installed when necessary to prevent unauthorized vehicular traffic from interfering with the reclamation of temporary access routes.

(5) Native species shall be used for revegetation, except when introduced species are consistent with the approved Reclamation Plan or native species prove infeasible. Areas to be developed for industrial, commercial or residential use shall be revegetated for the interim period, as necessary, to control erosion. In this circumstance, non-native plant species may be used if they are not noxious weeds and if they are species known not to displace native species in the area.

(6) Planting shall be conducted during the most favorable period of the year for plant establishment.

(7) Soil stabilizing practices shall be used where necessary to control erosion and for successful plant establishment. Irrigation may be used when necessary to establish vegetation.

(8) If irrigation is used, the operator must demonstrate that the vegetation has been self-sustaining without irrigation for a minimum of two years prior to release of the financial assurances by the Director, unless an artificially maintained landscape is consistent with the end use.

(9) Noxious weeds shall be managed: (i) When they threaten the success of the proposed revegetation; (ii) To prevent spreading to nearby areas; and (iii) To eliminate fire hazard.

(10) If recommended by the botanist, horticulturist or plant ecologist, plants and seed shall be propagated from sources on the site. If purchased, seed should be from

a local source. A local source is defined as being as close as possible to the same geographic location or watershed, elevation, aspect and soil type as the project.

(11) The revegetation plan shall provide for re-establishing or enhancing any rare and endangered or locally unique plant communities disturbed by any mining operation.

(12) Success of revegetation shall be judged based upon the effectiveness of the vegetation for the approved end use or uses and by comparing the quantified measures of vegetative cover, density and species-richness of the reclaimed mined lands to similar parameters of naturally occurring vegetation in the area. Either baseline data or data from nearby reference areas may be used as the standard for comparison. Quantitative standards for comparisons shall be made until performance standards are met provided that, during the last two years, there has been no human intervention, including, for example, irrigation, fertilization, or weeding. Standards for success shall be based on expected local recovery rates. Valid sampling techniques for measuring success shall be specified in the approved reclamation plan. Sample sizes must be sufficient to produce at least an 80 percent confidence level. Standard statistical methods in commonly available literature may be utilized for determining an 80 percent confidence level on a site-by-site basis.

(13) Protection measures, such as fencing of revegetated areas and/or the placement of cages over individual plants shall be used in areas where grazing, trampling, herbivory or other causes threaten the success of the proposed revegetation. Fencing shall be maintained until revegetation efforts are successfully completed.

(g) Performance Standards for the Removal of Buildings, Structures and Equipment: All equipment, supplies and other materials shall be stored in designated areas (as shown in the Use Permit or Reclamation Plan). All mining waste shall be disposed of in accordance with State and Local health and safety ordinances. All buildings, structures and equipment shall be dismantled and removed prior to final mine closure or within six months of termination of the mining operation (whichever is earlier) except those buildings, structures and equipment approved in the reclamation plan as necessary for the end use or uses.

(h) Performance Standards for Topsoil Salvage, Maintenance and Redistribution. When the approved Reclamation Plan calls for revegetation or cultivation of disturbed lands, the following performance standards shall apply to topsoil salvage, maintenance and redistribution activities:

(1) All salvageable topsoil suitable for revegetation shall be removed as a separate layer from areas to be disturbed by mining operations. Topsoil and vegetation removal shall not precede surface mining activities by more than one year, unless a longer time period is approved by the Director.



(2) The location of topsoil stockpiles shall be shown in the Reclamation Plan. If the amount of topsoil needed to cover all surfaces to be revegetated is not available on site, other suitable material capable of sustaining vegetation (such as subsoil) shall be removed as a separate layer for the use as a suitable growth media. Topsoil and suitable growth media shall be maintained in separate stockpiles.

(3) Soil salvage operations and phases of reclamation shall be carried out in accordance with a schedule that: (i) is set forth in the approved Reclamation Plan; (ii) minimizes the area disturbed; and (iii) is designed to achieve maximum revegetation success allowable under the mining plan.

(4) Topsoil and suitable growth media shall be redistributed in a manner that results in a stable, uniform thickness consistent with the approved end use, site configuration and drainage patterns.

(i) Performance Standards for Surface Drainage Control

(1) All final surface drainage control measures shall be designed for a 10-year storm, 6-hour duration and shall be incorporated into the Reclamation Plan. Passive drainage control measures such as broad berms and swales are encouraged.

(2) Surface mining and reclamation activities shall be conducted to protect on-site and downstream beneficial uses of water in accordance with the Porter-Cologne Water Quality Control Act, Water Code Section 13000, et. seq., and the Federal Clean Water Act, 33 USC Section 1251, et. seq.

(3) The quality of water, recharge potential and storage capacity of ground water aquifers which are the source of water for domestic, agricultural or other uses dependent on the water, shall not be diminished, except as allowed in the approved Reclamation Plan.

(4) Erosion and sedimentation shall be controlled during all phases of construction, operation, reclamation and closure of a surface mining operation to minimize siltation of lakes and watercourses, as required by the Regional Water Quality Control Board or the State Water Resources Control Board.

(5) Surface runoff and drainage from surface mining activities shall be controlled by berms, silt fences, sediment ponds, revegetation, hay bales or other erosion control measures to ensure that surrounding land and water resources are protected from erosion, gullyng, sedimentation and contamination. Erosion control methods shall be designed to handle runoff from not less than the 10 year/6 hour intensity storm event.

(6) Where natural drainages are covered, restricted, rerouted or otherwise impacted by surface mining activities, mitigating alternatives shall be proposed and specifically approved in the Reclamation Plan to assure that runoff shall not cause increased erosion or sedimentation.

(7) When stream diversions are required, and the stream is within the jurisdiction of the following agencies, they shall be constructed in accordance with:

(i) The stream and lake alteration agreement between the operator and the Department of Fish and Game; and

(ii) The requirements of the Federal Clean Water Act, Section 301 (33 USC 1311) and Section 404 (33 USC 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403).

(8) When no longer needed to achieve the purpose for which they were authorized, all temporary stream channel diversions shall be removed and the affected land reclaimed.

#### **§8.0 Permit Operational Standards**

(a) Each property owner of a mining site, the applicant and the operator shall execute, date and return to the Director two copies of a Declaration of Restrictions binding each to comply with each and every term and condition of the Use Permit or Reclamation Plan only. Each such Declaration of Restrictions regarding an approval, shall be executed by each signatory in such manner and formality as shall enable its recordation with the County Recorder, binding each and any successor(s) to comply with each such approval and every term and conditions thereof. Said Declaration of Restrictions shall be in the form prepared by the Director and shall be filed for recordation within 90 days of the effective date of said approval. No map larger than 8-1/2 inches by 11 inches shall be recorded as part of said Declaration of Restrictions; rather, any such map may be referred to the Declaration of Restrictions as being on file in the Community Development Department.

(b) The standards and/or conditions set forth in this subsection shall be imposed on each Use Permit or Reclamation Plan only or any amendment and to establishment, operation and maintenance of the uses approved or certified thereby.

(1) Noise and Vibration. All facilities and equipment shall be constructed, maintained and operated in compliance with the City's noise ordinance.



## (2) Air Pollution.

(i) Each mining operation and reclamation activity shall be conducted in compliance with the requirements of the South Coast Air Quality Management District.

(ii) Removal of vegetation shall only be permitted in accordance with the approved Mining Plan.

(iii) Each mining operation shall be conducted so as to minimize dust, particulate matter (PM<sub>10</sub>), crystalline silica and any other potentially significant effect of wind erosion.

(iv) Each interior road within the mining site shall be surfaced, treated or watered frequently enough to preclude wind and traffic generated dust from creating a nuisance affecting any nearby property or public road.

(v) Each exterior entrance road shall be maintained reasonably free of dust and debris resulting from any mining operation. Each truck departing the mining site shall be loaded, wetted down or tarped in such a manner so as to comply with all state or federal laws and minimize spillage on any haul route.

(vi) In a dry weather period during High Wind Conditions, each mining operation on an exposed slope shall be curtailed. Stockpiled sand products shall be watered or treated in a manner approved by the Director during periods of High Wind Conditions so as to minimize off-site dust nuisance to nearby property.

(vii) Each area vegetated with native species or communities, in either existing or reclaimed portions of any mining site shall be protected from dust nuisance by a method approved by the Director.

## (3) Water

(i) The use and discharge of water shall be conducted in compliance with all applicable City, County, State and Federal laws.

(ii) Unless specifically described in a drainage and/or erosion control plan approved by the Director, no runoff from the mining site shall be discharged into any natural watercourse.

(iii) The lowest elevation of any mining operation at any time shall be 20 feet above the peak groundwater elevation unless the Planning Commission determines that a lower or higher elevation will ultimately benefit the recharge of the aquifer. Peak groundwater elevation is defined as the historic high groundwater elevation for the site or surrounding area over the past 50 years.

(iv) The groundwater recharge capacity of each aquifer or spring within the mining site shall be maintained at a pre-approval level.

(v) If the Director determines that reasonable cause exists to suspect adverse impacts from a mining operation on groundwater supply, aquifer, sole source aquifer or spring, a complete hydrogeological report shall be prepared. However, if the potential impacts are limited, the Director may limit the report to address only the limited impacts identified.

#### (4) Drainage and Erosion Control

(i) Drains, facilities and devices to control storm water runoff shall be constructed and maintained as required in order to prevent erosion and prevent the deposit of sand, silt or other materials into any natural watercourse or onto any property not owned or controlled by any owner or operator of a mining site. Prior to the construction of any settling pond, slurry pond, water reservoir or storm drainage facility, engineered drainage plans (based on a 10-year storm [six hour duration]), which conform with the requirements of each applicable approval shall be submitted to the Director for review and approval.

(ii) Each settling basin, drainageway, culvert, pump, pipeline and other drainage and erosion control features shall be maintained as necessary to assure that each is functioning properly as designed.

(iii) Runoff originating from the mining site, stockpiles, unpaved on-site roads or other disturbed areas shall be contained on-site except as permitted under the Use Permit or Reclamation Plan only or amendment thereof. Runoff leaving any mining site shall comply with the requirements of the Regional Water Quality Control Board. Monitoring of runoff discharged by an independent laboratory and/or installation of a continuous monitoring device may be required as a condition of such Use Permit or Reclamation Plan only or amendment thereof. The results of such required monitoring shall be submitted to the Director within thirty (30) days after the monitoring results are obtained and shall also be included in the annual report.

(iv) All necessary measures shall be taken to prevent access to the mining site by off road vehicles and persons not associated with the mining operation or authorized by any approval.

(v) Each Operator shall minimize the surface area of the mining site which is stripped, mined or otherwise disturbed at any given time to the greatest extent compatible with reasonable mining and marketing requirements.

(vi) Mining operation and reclamation shall be conducted to protect on-site and downstream beneficial uses of water in accordance with State and Federal law,



including (without limitation) Porter-cologne Water Quality Control Act, California Water Code Section 13000 et. seq., and the Federal Clean Water Act, 33 USC Section 1251, et. seq., and their respective successor laws.

(vii) The quality of water, recharge potential and storage capacity of groundwater aquifers which are the source of water for domestic, agricultural or other uses dependent on the water, shall not be diminished, except as allowed in the applicable Use Permit or Reclamation Plan only or amendment thereof.

(viii) Erosion and sedimentation shall be controlled during construction, operation, reclamation and closure of a mining operation to minimize siltation of lakes and watercourses and to ensure that land and water resources are protected from erosion, gullyng, sedimentation and contamination.

(ix) Where natural drainages are covered, restricted, rerouted or otherwise impacted by a mining operation mitigation measures and/or alternatives shall be required in the Use Permit or Reclamation Plan only or amendment thereof to assure that runoff shall cause increased erosion or sedimentation or other adverse environment impacts.

(x) When stream diversions are required, and the stream is within the regulatory jurisdiction of the following Agencies, they shall be constructed in accordance with:

(A) The requirements and State law, including (without limitation) the stream and lake alteration agreement between the operator and the Department of Fish and Game; and

(B) The requirements of the federal law, including (without limitation) Federal Clean Water Act, Sections 301 (33 U.S.C. 1311) and Section 404 (33 U.S.C. Section 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(C) When no longer needed to achieve the purpose for which they were authorized, all temporary stream channel diversions shall be removed and the affected land reclaimed.

#### (5) Setbacks

(i) Each building, structure, facility and mining operation shall be located no closer to property boundaries than as shown on the applicable approved mining plan. The minimum setback (excepting entrance roads) shall be 50 feet.

(ii) Notwithstanding (i) above, no crushing plant or other apparatus for the processing of any material shall be located within 200 feet of the boundary line of any property in a residential zoning district. However, if such a facility is placed below contiguous ground level, it may be located not less than 100 feet from such boundary line.

(iii) Prior to excavating, clearing or otherwise disturbing the land within 200 feet of a mining site boundary, a licensed surveyor or civil engineer employed by the operator shall provide survey markers at 200 foot intervals along both the mining site boundary line and the 50 foot setback line. Each marker shall be maintained in place until a clear, readily identifiable, working face is established at an approved setback line.

#### (6) Sensitive Habitat Protection

(i) Each sensitive habitat for rare, endangered, threatened, or unique wildlife or plants or communities thereof, located on the mining site shall be mapped and appropriate conditions imposed to assure that mining operation and reclamation reasonably preserve such sensitive habitat(s).

(ii) Mining operation and reclamation shall be conducted to protect sensitive habitats in accordance with the California Endangered Species Act, California's Fish and Game Code Section 2050 et. seq., and the Federal Endangered Species Act, 16 U.S.C. Section 1531 et. seq., or the respective successor laws.

(7) Days and Hours of Operation. The Planning Commission may limit the hours and days of any mining operation except in the following situations:

(i) Where otherwise required by a public authority having superior jurisdiction;

(ii) Where otherwise necessary due to a declared public emergency;

(8) Off-Street Parking Requirements. Off-street parking shall be provided on the mining site for all equipment and for all employee vehicles.

(9) Posting of Signs and Construction of Fence. Within 90 days after a Use Permit or Reclamation Plan has been granted and continuously thereafter, the outer boundaries of the mining site shall be posted with signs providing notice of approved mining operations to the public. Each sign shall state in letters of not less than four inches in height: "Use Permit Number \_\_\_\_\_" and in letters of not less than one inch in height: "THIS PROPERTY MAY BE USED FOR THE MINING AND PROCESSING OF ROCK, SAND, GRAVEL OR MINERALS. THE HOURS OF OPERATION AND MAINTENANCE ARE AS FOLLOWS: \_\_\_\_\_". Each sign shall be maintained in legible condition at all times. The entire mining site may be



fenced for safety and maintained by the owner or operator, to the extent and in the manner required by the Planning Commission.

(10) Construction of Buildings and Processing Plants. In addition to the Use Permit or Reclamation Plan, obtained pursuant to this Chapter, a building permit shall be required for the construction of new buildings stationary processing plants and other mining related permanent structures.

(11) Timing of Mining Operation and Reclamation. A time schedule including a final completion date for reclamation shall be specified.

(12) Reclamation Access. Access for City or State to the mining site to perform reclamation if the operator does not comply with the requirements of the Reclamation Plan shall be granted by the owner and/or operator in the Use Permit.

### **§9.0 Statement of Responsibility**

The person submitting the Reclamation Plan shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be kept by the Community Development Department in the mining operation's permanent record. Upon sale or transfer of the operation, the new operator shall submit a signed statement of responsibility to the Community Development Department for placement in the permanent record.

### **§10.0 Findings for Approval**

(a) Use Permits. In addition to any findings required by the Zoning Ordinance, use permits 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 §2772 and §2773, and any other applicable provisions;

(2) That the Reclamation Plan complies with applicable requirements of State regulations (CCR §§3500-3505, and §§3700-3713).

(3) That the Reclamation Plan and potential use or uses 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.

(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 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.

(7) That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that Department. Where the City's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

#### **§11.0 Financial Assurances**

(a) To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the City shall require as a condition of approval 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 Jacinto 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, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if necessary by the Director.

(c) Cost estimates for the financial assurance shall be submitted to the Community Development Department for review and approval prior to the operator securing financial assurances. The Director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of 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 Director shall have the discretion to approve the financial assurance if it meets the requirements of this Chapter, SMARA, and State regulations.



(d) The amount of the financial assurance shall be based upon the estimated costs of reclamation for the years or phases stipulated in the approved Reclamation Plan, including any maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities since January 1, 1976 and new lands to be 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 Director. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved Reclamation Plan, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs. Financial assurances to ensure compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved Reclamation Plan shall be based upon cost

estimates that include but may not be limited to labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator other than the permittee. A contingency factor of ten percent (10%) shall be added to the cost of financial assurances.

(e) In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, the City or State Department of Conservation may need to contract with a third party commercial company for reclamation of the site.

(f) The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required).

(g) The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.

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

## **§12.0 Minor Reclamation Plan Modifications.**

- (A) The Director may review and approve minor plan modifications to approved reclamation plans without public notice or consultation with the Department of Conservation. A minor modification to a reclamation plan may be approved only if it meets the following standards:
- (1) To allow the minor recontouring of final topography affecting no more than ten percent (10%) of the site, provided that slope stability is maintained and documentation provided;
  - (2) To allow minor modifications to existing on-site roads and encroachments directly from the site to a public road, but not including new off-site roads;
  - (3) To allow a minor substitution in the reclamation plan such as a substitution in the type and/or number of plant species, minor change in topsoil treatment, etc., provided it does not substantially alter the intended end-use(s) described in the approved reclamation plan;
  - (4) To allow minor technological or administrative changes in methods used to achieve reclamation;
  - (5) To allow measures to be taken which will ensure or maintain public safety (e.g. fences, gates, signs, or hazard removal), provided such measures do not substantially alter the intended end-use(s) described in the approved reclamation plan;
  - (6) To allow minor modifications to a previously approved phasing plan;
  - (7) To allow compliance with the requirements of other public agencies, provided the requirements are not inconsistent with the approved Permit;
  - (8) A minor modification shall not include changing the end use(s) of the land.
- (B) Applications for a minor modification shall be made on a form provided by and filed with the Community Development Department, together with the appropriate filing fee.
- (C) Prior to approval of a minor modification, the Director shall make the following written findings which shall include the reasons for the findings:
- (1) The minor modification is consistent with the approved Permit and does not represent a significant change to the approved reclamation plan for the subject surface mining operations.



(2) The minor modification is not subject to CEQA.

- (D) The Director shall approve, conditionally approve, or disapprove an application for a minor modification within forty-five (45) days to accepting the application as complete, and give notice by mail of the decision, including any conditions of approval, to the applicant and any interested parties that have formally requested such notice in writing.
- (E) The decision of the Director regarding a minor modification of a Permit shall be appealable to the Planning Commission within ten (10) days of said decision. The decision of the Planning Commission regarding the appeal shall be appealable to the City Council within ten (10) calendar days of said decision. Appeals must be in writing together with the appropriate appeal fee.
- (F) Within thirty (30) days of final action, the Director shall send a copy of an approved minor modification to the Department of Conservation.

### **§13.0 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 Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all use permit conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the Community Development Department, and shall be processed as an amendment to the Reclamation Plan. IMPs 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 or otherwise approved through the idle mine's IMP.

(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 Director.

(d) Within 60 days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Planning 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, to submit a revised IMP. The Director shall approve or deny the revised IMP within sixty (60) days of receipt. If the Director denies the revised IMP, the operator may appeal that action to the Planning Commission.

(e) The IMP may remain in effect for a period not to exceed five years, at which time the Director 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.

#### **§14.0 Annual Report Requirements**

Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the City Community Development Department 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 use 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.

#### **§15.0 Inspections**

The Director shall arrange for inspection of a surface mining operation within six months of receipt of the Annual Report required in Section 14, to determine whether the surface mining operation is in compliance with the approved 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 state-registered geologist, state-registered civil engineer, state - licensed landscape architect, or state - registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months, or other qualified specialists, as selected by the Director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

The Community Development Department 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.

#### **§16.0 Violations and Penalties**

If the 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 use permit, any required permit and/or the Reclamation Plan, the City shall follow the procedures set forth in Public Resources Code, §2774.1 and §2774.2 concerning violations and penalties, as well as those provisions of the Code for revocation and/or abandonment of a use permit which are not preempted by SMARA.



### **§17.0 Appeals**

Any person aggrieved by an act or determination of the Community Development Department and/or the Planning Commission 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 in writing accompanied by the applicable appeal fee within fifteen (15) calendar days of the decision.

### **§18.0 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 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.

### **§19.0 Public Records**

Reclamation plans, reports, applications, and other documents submitted pursuant to this Chapter are public records, unless it can be demonstrated to the satisfaction of the Director that the release of such information, or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The Director shall identify such proprietary information as a separate part of the application. Proprietary information shall be made available only to the Department of Conservation and to persons authorized in writing by the operator and by the owner.

### **§20.0 Mineral Resource Protection**

Mine development is encouraged in compatible areas before encroachment of conflicting uses. Mineral resource areas that have been classified by the State Department of Conservation's Division of Mines and Geology or designated by the State Mining and Geology Board, 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.

In accordance with PRC §2762, the City's General Plan and resource maps will be prepared to reflect mineral information (classification and/or designation reports) within 12 months of receipt from the State Mining and Geology Board of such information. Land use decisions within the City will be guided by information provided on the location of identified mineral resources of regional significance. 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.

**§21.0 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.

**Section 3.** This Ordinance shall take effect 30 days after its final passage.

**Section 4.** The City Council hereby finds that the adoption of this Ordinance will not have a significant effect on the environment for the following reasons:

- A. Pursuant to a determination by the City that the approval of this Ordinance is exempt from further review under the California Environmental Quality Act because, pursuant to Title 14 of the California Code of Regulations Section 15308, the adoption of this Ordinance constitutes an action taken by the City to assure the maintenance, restoration, enhancement and protection of the environment and involves procedures for the protection of the environment.

**Section 5:** The City Clerk shall certify the adoption of this Ordinance and cause the same or a summary thereof to be published in the County of Riverside, State of California.

**Introduced** at a regular meeting of the City Council on the 2nd day of September, 2004.

**APPROVED and ADOPTED** at a regular meeting of the City Council on 18<sup>th</sup> day of November, 2004 by the following vote:

Ayes:	Carlson-Buydos, Conner, Shaw, Stubblefield, Ayres
Nays:	None
Absent:	None
Abstain:	None

City of San Jacinto

  
\_\_\_\_\_  
Jim Ayres, Mayor



**ATTEST:**

Dorothy L. Chouinard  
Dorothy L. Chouinard, City Clerk

**CERTIFICATION**

**STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE)ss  
CITY OF SAN JACINTO )**

I, Dorothy L. Chouinard, hereby certify that the attached is a true copy of Ordinance No. 04-08 introduced, and approved at regular meeting on September 2, 2004. Ordinance No. 04-21 was approved and adopted following the second reading by the City Council of the City of San Jacinto, California, at a regular meeting held November 21, 2004.

Witness my hand and official seal of the City of San Jacinto this 22<sup>nd</sup> day of November, 2004.

Dorothy L. Chouinard  
Dorothy L. Chouinard, City Clerk