

CHAPTER 19.66

SURFACE MINING AND RECLAMATION PLAN REGULATIONS

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- 19.66.010 PURPOSE AND INTENT

The City of Perris 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 geologic, topographic, climatic, biological, and social conditions are significant and therefore, may vary accordingly. The purpose and intent of this Chapter is to regulate surface mining operations as authorized by California's Surface Mining and Reclamation Act (SMARA) of 1975 (P.R.C. Sec. 2710 et seq.), as amended, hereinafter referred to as SMARA: P.R.C. Section 2207; and the *California Code of Regulations* adopted pursuant thereto (14 Cal. Admin., S. Sec. 3500 et seq.), to ensure that:

A. *Prevent Adverse Effects*

The adverse effects of surface mining operations will be prevented or minimized and that the reclamation of mined lands will provide for the beneficial, sustainable long-term productive use of the mined and reclaimed lands.

B. *Encourage Production and Conservation*

The production and conservation of minerals will be encouraged while eliminating hazards to public health and safety and avoiding or minimizing adverse effects on the environment, including but not limited to geologic subsidence, air pollution, water quality degradation, damage to biological resources, flooding, eroding, degradation of scenic quality, and noise pollution

19.66.020 INCORPORATION OF SMARA AND STATE REGULATIONS

The provisions of the California Surface Mining and Reclamation Act of 1975 (P.R.C. Sec. 2710 et seq.), P.R.C. Section 2207, and the *California Code of Regulations* implementing the Act (14 Cal. Admin., Sec 3500 et seq.), hereinafter referred to as the state regulations, as either 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 conflicting state provisions, this Chapter shall prevail.

19.66.030 APPLICABILITY

A. *Requirements for Conditional Use Permit*

Unless exempted by provisions of this Chapter, an approved conditional use permit as provided under Chapter 19.61, CONDITIONAL USE PERMITS, of this Code shall be required for all surface mining operations in all zoning districts in which surface mining is allowed; and shall be required for the expansion or substantial change of operation of any surface mine for which such expansion or changes have not been thereby approved, including any operation which meets the definition of a “nonconforming use” pursuant to Chapter 19.08, DEFINITIONS.

B. *Requirement for Reclamation Plans*

A reclamation plan shall be required for all surface mining operations in all zoning districts in which surface mining is allowed, as well as for those portions of existing surface mining operations conducted after January 1, 1976, unless a reclamation plan was approved by the City prior to that date and the person submitting that plan has accepted responsibility for carrying out the plan. Nothing in this Chapter shall be construed as requiring the filing of a reclamation plan for, or the reclamation of, mined lands on which surface mining operations were conducted legally and in compliance with all applicable City regulations prior to January 1, 1976.

19.66.040 EXEMPTIONS

A. Reclamation Plan

A reclamation plan shall not be required for any of the following activities:

1. Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster (SMARA, Sec. 2714 (a)).
2. Prospecting or, 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 (SMARA, Sec. 2714 (b)).
3. Surface mining operations that are required by federal law in order to protect a mining claim, if such operations are conducted solely for that purpose (SMARA, Sec. 2714 (c)).

B. Other

Such other surface mining operations what the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances (SMARA, Sec. 2714 (d)).

19.66.050 CONTENTS OF APPLICATIONS FOR CONDITIONAL USE PERMITS FOR SURFACE MINING OPERATIONS AND RECLAMATION PLANS

A. Conditional Use Permit and Supplemental Application

In addition to the conditional use permit (CUP) application required in Chapter 19.61 all applications for CUPs for surface mining operations shall contain the surface mining application supplement required by the Planning and Community Development Department. As many copies of the CUP and surface mining application supplement may be required shall be submitted to the Department of Planning and Community Development.

B. Copies

As many copies of the reclamation plan application as may be required shall be submitted in conjunction with all applications for CUPs for surface mining operations. For surface mining operations that are exempt from a CUP pursuant to this Chapter, the reclamation plan application shall include information concerning the mining operation that is required for processing the reclamation plan.

C. Environmental Forms

Applications shall include the necessary environmental review forms and information prescribed by the Planning and Community Development Department.

D. *Review for Completeness*

The Planning and Community Development Department will review the application package for completeness and shall, within 30 days after receipt, either accept the application as complete for the purpose of initiating permit processing or return the application as incomplete with an explanation of where the application is deficient. Resubmittal of the revised application is deficient. Resubmittal of the revised application shall start a new review time frame.

19.66.060 PROCESSING

A. *Notification*

Within 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 and Community Development Department shall notify the state geologist of the filing of the application(s) (SMARA, Sec. 2774 (e)0. 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 and Community Development Department shall also notify the State Department of transportation that the application has been received (SMARA, Sec. 2770.5).

B. *Environmental Review and Staff Review*

The Planning and Community Development Department shall process the application(s) through environmental review pursuant to the California Environmental Quality Act (CEQA) and the City's environmental review guidelines.

Subsequent to the appropriate environmental review, the Planning and Community Development Department shall prepare a staff report with recommendations for consideration by the City Council. The City's staff review committee shall assist the Planning and Community Development Department in developing appropriate recommendations.

C. *City Council Review and Approval*

The City Council shall hold at least once notice public hearing on the conditional use permit and/or reclamation plan. Prior to final approval of a reclamation plan, financial assurances (as provided in this Chapter), or any amendments to a reclamation plan, the City Council shall certify to the state

geologist that the reclamation plan complied with the applicable requirements of the state regulations and submit the plan, assurances, or amendments to the state geologist for review (SMARA, Sec. 2774 (C)). The City Council may conceptually approve the reclamation plan before submittal to the state geologist. If a conditional use permit is being processed concurrently with the reclamation plan, the City Council may also conceptually approve the CUP at this time. However, the City Council may defer action on the CUP until taking final action on the reclamation plan. If necessary to comply with permit processing deadlines, the City Council may conditionally approve the CUP with the condition that the Planning and Community Development Department shall not issue the CUP for the mining operation until financial assurances have been approved by the state geologist and final action has been taken on the reclamation plan.

The state geologist shall have 45 days to prepare written comments on the reclamation plan, if the state geologist chooses (SMARA, Sec. 2774 (d)). The City Council shall evaluate written comments received from the state geologist during the 45 day comment period. Staff shall prepare a written response describing the disposition of the major issues raised by the State for the City Council's approval. In particular, when the City Council's position is at variance with the recommendations and objections raised in the state geologist's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted (SMARA, Sec. 2774 (d)). Copies of any written comments received and responses prepared by the City Council shall be promptly forwarded to the operator.

D. Final Action

The City Council shall then take final action to approve, conditionally approve or deny the conditional use permit and/or reclamation plan. The Planning and Community Development Department shall forward a copy of each approved conditional use permit for mining operations and/or approved reclamation plan to the state geologist.

E. Annual Reports

Surface mining operators shall forward an annual status report to the state geologist and City Planning and Community Development Department on a date established by the state geologist upon forms furnished by the State Mining and Geology Board (P.R.C. Sec. 2207 (a)—(g)).

19.66.070 PERFORMANCE STANDARDS FOR RECLAMATION PLANS

A. Minimum Standards

All new or revised reclamation plans shall conform to minimum statewide performance standards required pursuant to SMARA Section 2773 (b), as adopted by the State Mining and Geology Board, including but not limited to wildlife habitat, backfilling, re0vegetation, drainage, agricultural land reclamation, equipment removal, stream protection, topsoil salvage and waste management.

B. Additional Standards

The City of Perris may impose additional performance standards developed either in review of individual projects, as warranted or through the formulation and adoption of City-wide performance standards.

19.66.080 PHASING OF RECLAMATION

Phasing of reclamation (see also, Sec. 9.60.120, Interim Management Plans for Idle Mining Operations). Reclamation activities shall be phased with respect to the phasing of the mining operation and shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance (SMARA, Sec. 2772 (f)). Interim reclamation may also be required for mined lands that have been disturbed and will be disturbed again in future operations. Reclamation may be done on an annual basis, or in stages compatible with continued 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: The beginning and expected ending dates for each phase; all reclamation activities required; criteria for measuring completion of specific reclamation activities; and estimated costs as provided in Section 19.66.100 (Financial Assurances). The City shall approve the reclamation schedule.

19.66.090 FINDINGS FOR APPROVAL

A. General Compliance

In addition to the findings for approval of conditional use permits contained in Chapter 19.54 of this code, approval of conditional use permits for surface mining operations shall include a finding that the project complies with the provisions of state regulations.

B. Reclamation Plans

For reclamation plans, the following findings shall be required:

1. That the reclamation plan complies with Section 2772, 2773 and 2773 .1 of SMARA and any other applicable provisions.
2. That the reclamation plan complies with applicable requirements of the state regulations (14 Cal Admin., Sec. 3500 et seq.).

3. 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.
4. That, through the reclamation plan, all significant adverse impacts on lands to be reclaimed as a result 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 with the surrounding natural environment, topography and other resources, or that suitable off-site development will compensate for related disturbances 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 geologist has been prepared, describing the disposition of major issues raised by the state geologist. Where the City's position is at variance with the recommendations and objections raised by the state geologist, said response shall address, in detail, why specific comments and suggestions were not accepted (SMARA, Sec. 2772 (d)).

19.66.100 FINANCIAL ASSURANCES FOR RECLAMATION PLANS

A. *Securities*

In order to ensure that reclamation will proceed in accordance with the approved reclamation plan, the City shall require as a condition of approval one or more forms of security which will be released upon satisfactory performance. The applicant may post security in the form of a corporate surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, a certificate of time deposit as part of an approved trust fund, or other method acceptable to the City and the state geologist as specified in statewide regulations adopted by the Mining and Geology Board. Financial assurances shall be made payable to the City of Perris and the state geologist (SMARA, Sec. 2773.1 (a) (4)).

B. *Utilization of Securities*

Financial assurances will be required to ensure compliance with elements of the reclamation plan including but not limited to re-vegetation and landscaping requirements; restoration of aquatic or wildlife habitat; protection of archaeological sites; restoration of water bodies and water quality; slope stability and erosion and drainage control; disposal of hazardous materials; and other mitigation measures. Financial assurances for such elements of the plan shall be monitored by the Planning and Community Development Department.

C. *Amount of Security*

The amount of the financial assurances shall be based upon the estimated costs of reclamation for each year or phase stipulated in the reclamation plan, including any maintenance of reclaimed areas as may be required. Costs estimates shall be prepared by licensed engineers and/or other qualified professionals retained by the operator and approved by the Planning Director. Financial assurances may be based upon estimates including but not necessarily limited to the volume of earth moved (cubic yards) for each year or phase of reclamation. Financial assurances to ensure compliance with re-vegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the 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.

D. *Cost Projections*

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

E. *Annual increments*

Where reclamation is accomplished in annual increments, the amount of financial assurances required for any one year shall be adjusted annually and shall be adequate to cover the full estimated costs for reclamation of any land projected to be in a disturbed condition from mining operations by the end of the following year. The estimated costs shall be the amount required to complete the reclamation on all areas that will not be subject to further disturbance, and to provide interim reclamation, as necessary, for any partially excavated areas in accordance with the reclamation plan. Financial assurances for each year shall be released upon successful completion of reclamation (including any maintenance required) of all areas that will not be subject to further disturbance and upon the operator filing additional financial assurances for the succeeding year. Financial assurances for all subsequent years of the operation shall be handled in the same manner.

F. *Multiple Year Increments*

Financial assurances for reclamation that is accomplished in multiple-year phases shall be handled in the same manner as described for annual reclamation.

19.66.110 INSPECTIONS

The Planning and Community Development Department shall arrange for inspection of a surface mining operation within 6 months of receipt of the annual report required in Section 9.60.050, to determine whether the surface mining operation is in compliance with the approved conditional use permit and/or reclamation plan, and the state regulations (SMARA, Sec. 2774 (b)). In no event shall less than one inspection be conducted in any calendar year. Said inspections may be made by a state calendar year. Said inspections may be made by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, state registered forester or other qualified specialists, as selected by the Planning and Community Development Department. All inspection shall be conducted using a form provided by the State Mining and Geology Board. The Planning and Community Development Department shall notify the state geologist within 30 days of completion of the inspection that the 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.

19.66.120 INTERIM MANAGEMENT PLANS

A. *Submittal of Interim Plans*

Within 90 days of a surface mining operation becoming idle, as defined in Chapter 19.08, DEFINITIONS, the operator shall submit to the Planning and Community Development Department an interim management plan (SMARA, Sec. 2770 (h)). Financial assurances for idle operations shall be continued as addressed in the reclamation plan or as otherwise approved through the idle mine's interim management plan.

B. *City Council Review*

Within 60 days of receipt of the interim management plan, or a longer period mutually agreed upon by the Planning and Community Development Department and the operator, the City Council shall review and approve or deny the plan in accordance with this Chapter. The operator shall have 30 days or a longer period mutually agreed upon by the operator and the Planning and Community Development Department to submit a revised plan. The City Council shall approve or deny the revised interim plan within 60 days of receipt.

C. *Duration*

The interim management plan may remain in effect for a period not to exceed 5 years, at which time the City Council may renew the plan for

another period not to exceed 5 years or require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.

19.66.130 TIME LIMITED FOR COMMENCEMENT OF USE OF CONDITIONAL USE PERMIT FOR SURFACE MINING OPERATIONS

The time limit for commencing a surface mining operation that is permitted pursuant to this Section shall be as provided in Chapter 19.61, CONDITIONAL USE PERMITS.

19.66.140 VIOLATION AND PENALTIES

If the Planning and Community Development Department, 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 permit and/or the reclamation plan, the City shall follow the procedures set forth in SMARA, Sections 2774.1 and 2774.s concerning violations and penalties, as well as those provisions of Section 19.61.060 for revocation and/or abandonment of a conditional use permit which are not preempted by SMARA.

19.66.160 FEES

The City shall establish such fees as it deems necessary to cover the reasonable costs incurred implements this Chapter and the state regulations, including but not limited to processing of applications, annual reports, inspections, monitoring, enforcement and compliance.