

DATE: 04/06/99 AGENDA ITEM # 4
() APPROVED () DENIED
() CONTINUED TO _____

TO: JAMES L. APP, CITY MANAGER
FROM: ROBERT A. LATA, COMMUNITY DEVELOPMENT DIRECTOR *RAL*
SUBJECT: CODE AMENDMENT 98006 (CITY-INITIATED)

DATE: APRIL 6, 1999

Needs: To update the Surface Mining and Reclamation Ordinance to be in accordance with current state policy.

- Facts:
1. The State Mining and Reclamation Act (SMARA) was adopted in 1976. SMARA is intended as a comprehensive surface mining and reclamation policy.
 2. SMARA requires that all lead agencies (cities or counties having surface mines within their jurisdictions) **adopt surface mining ordinances in accordance with state policy.**
 3. In an effort to ensure compliance with SMARA, the State Mining and Geology Board (SMGB) commenced reviewing lead agency SMARA ordinances in January 1998.
 4. The SMGB determined that Paso Robles' SMARA ordinance needs to be up-dated to incorporate the following categories:
 - a. Filing of annual mining reports;
 - b. Payment of annual reporting fees;
 - c. Approved financial assurances for each operation;
 - d. Lead agency annual inspections of mines;
 - e. Address the status of idle mines;
 - f. Require mine operators to adhere to SMGB minimum verifiable reclamation standards;
 - g. Penalties for non-compliance;
 - h. Lead agency requirement to prepare Statement of Findings before approving an action that would threaten the potential for mineral extraction on mineral classified lands;
 - i. Lead agency review and approve financial assurances;
 - j. Lead agency review of interim management plans;
 - k. Submit permit copies to Department of Conservation (DOC).
 5. This code amendment does not add or delete any land use conditions that were adopted by the subject ordinances. Therefore, it is ministerial in nature, and exempt from environmental review in accordance with Public Resources Code § 21080(b).
 6. The subjects identified by the SMGB have been incorporated into the attached ordinance and have been reviewed by the SMGB for compliance.

RIMC CODE:	Community Development Department
DATE:	April 6, 1999
FILE PLAN/GE CAT:	Current Planning/Parcel Maps
SUBJECT:	SMARA Ord. CC Report
LOCATION:	Development Services File Room
RETENTION:	Permanent

7. The Planning Commission, at its meeting on March 9, 1999 reviewed this code amendment and recommended that it be adopted.

Analysis and Conclusion:

Unless the City updated its ordinance, applicants for mine operations will be required to deal directly to the State of California. Having the ability to grant mining permits at a local level will facilitate application approvals.

Please note that it does not appear that this ordinance would establish any new regulations to the mining operations that currently exist in the City. They would still undergo yearly inspections as required by the SMGB.

Policy

Reference: Zoning Code; State Mining and Reclamation Act

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Impact: The proposed ordinance will not have any effect on the General Fund. Applicants would pay the City's costs for processing.

Options: After consideration of all public testimony, the City Council consider the following options:

- a. That the City Council introduce for first reading the attached Ordinance Amending Section 21.17 of the Zoning Code.
- b. Amend, modify, or reject the above option.

Attachments:

1. Draft Ordinance approving Code Amendment 98006
2. Newspaper Notice Affidavit

ORDINANCE NO. ____ N.S.
AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AMENDING SECTION 21.17 OF THE MUNICIPAL CODE
(CODE AMENDMENT 98006)

WHEREAS, the City has initiated Code Amendment 98006 to revise the regulations contained within Municipal Code Section 21.17, pertaining to the Surface Mining and Reclamation Act (SMARA); and

WHEREAS, the proposed code amendment does not add or delete any land use conditions that were adopted by the subject ordinances, therefore, it is ministerial in nature; and

WHEREAS, as described by Section 15268 of the State's Guidelines to Implement the California Environmental Quality Act, ministerial projects are exempt from environmental review; and

WHEREAS, at its meeting of March 9, 1999, the Planning Commission took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- c. Recommend that the City Council approve the proposed ordinance; and

WHEREAS, at its meeting of April 6, 1999, the City Council took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Considered the recommendation of the Planning Commission regarding this code amendment;
- c. Conducted a public hearing to obtain public testimony on the proposed ordinance;

NOW, THEREFORE, BE IT KNOWN that the Paso Robles City Council, based upon the substantial evidence presented at the above referenced public hearing, including oral and written staff reports, finds as follows:

1. The above stated facts of this ordinance are true and correct.
2. This code amendment is consistent with the City's General Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 21.17, Surface Mining and Reclamation, shall be replaced by the attached Exhibit "A":

SECTION 2. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 3. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 4. Inconsistency. To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 5. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at a regular meeting of the City Council held on April 6, 1999, and passed and adopted by the City Council of the City of El Paso de Robles on the 20th day of April, 1999, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

Duane J. Picanco, Mayor

ATTEST:

Madelyn Paasch, City Clerk

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EXHIBIT "A"

Chapter 21.17

SURFACE MINING AND RECLAMATION

Sections:

- 21.17.010 Purpose and Intent.
- 21.17.020 Definitions.
- 21.17.030 Applicability.
- 21.17.040 Vested Rights.
- 21.17.050 Process.
- 21.17.060 Findings for Approval.
- 21.17.070 Phasing of Reclamation.
- 21.17.080 Financial Assurances.
- 21.17.090 Interim Management Plans.
- 21.17.100 Annual Report Requirements.
- 21.17.110 Inspections.
- 21.17.120 Modifications to Reclamation Plans.
- 21.17.130 Violations and Penalties.
- 21.17.140 Fees.

21.17.010 Purpose and Intent.

- A. This chapter is adopted pursuant to section 2710 of the California Public Resources Code (P.R.C.).
- B. Mineral extraction is essential to the continued economic well-being of the City and to the needs of the society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety.
- C. Reclamation of mined lands as provided in this chapter will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.
- D. 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 therefor may vary accordingly.

21.17.020 Definitions.

For the purposes of this Chapter the following definitions shall apply:

- A. "Area of regional significance" means an area designated by the State Mining and Geology Board, pursuant to Public Resources Code Section 2790, 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 permanent loss of minerals that are of more than local significance.

- B. "Area of statewide significance" means an area designated by the State Mining and Geology Board, pursuant to Public Resources Code Section 2790, 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.
- C. "Budget set aside" means a financial assurance mechanism, meeting the requirements of Section 3806.2 of California Code of Regulations by which a government entity proposes to make specific identified monies within the entity's budget available to perform reclamation pursuant to the approved reclamation plan.
- D. "Exploration or prospecting" means that search for minerals by geological, geophysical, geochemical and other techniques, including, but not limited to, sampling, assaying, drilling, or any surface or underground works needed to determine the type, quality, or quantity of minerals present.
- E. "Financial assurance amount" means that amount of money necessary to conduct and complete reclamation on the mined lands in accordance with the approved reclamation plan, plus a reasonable estimate of the administrative costs and expenses which would be incurred by the lead agency or the Department of Conservation, the total which shall be calculated in accordance with Section 3804 California Code of Regulations, and shall constitute an obligation to pay by the operator.
- F. "Financial assurance" means a instrument, fund or other form of Financial assurance as provided in Section 2773.1(a) and (e) of the Public Resources Code and Article 11 of the California Code of Regulations.
- G. "Government mine" means any surface mine owned and operated by federal, state or local governmental entity.
- H. "Idle" means to curtail for a period of one year or more surface mining operations by more than ninety (90) percent of the operation's previous

maximum annual mineral production, with the intent to resume those surface operations at a future date.

- I. **"Interim management plan"** is the plan which the operator of an idle mine shall submit and gain approval for, in order to assure that the site shall be maintained in compliance with the approved reclamation plan, use permit, and applicable conditions, until the mine operation is resumed or the mine is fully reclaimed in accordance with the approved reclamation plan.
- J. **"Mined lands"** includes the surface, subsurface, and groundwater of an area in which surface mining will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or materials or property which result from, or are used in, surface mining operations are located.
- K. **"Minerals"** mean any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, water, natural gas, and petroleum.
- L. **"Mining waste"** includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, other materials or property directly resulting from, or displaced by, surface mining operations, excluding as defined in subsection T.
- M. **"Operator"** means any person who is engaged in surface mining operations himself, or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface mining operations as employee with wages as his sole compensation.
- N. **"Overburden"** means soil, rock, or other materials that lie above a natural mineral deposit or in between deposits, before or after their removal by surface mining operations.
- O. **"Person"** includes any individual, firm, association, corporation, organization, or partnership, or any city, county, district, or the state or any department or agency thereof.
- P. **"Pledge of revenue"** means a financial assurance mechanism meeting the requirements of Section 3806.1 of the California Code of Regulations by which a governmental entity proposes to make specific, identified future revenue available to perform reclamation pursuant to the approved reclamation plan.
- Q. **"Reclamation"** means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, or other adverse effects from mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable conditions 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.
- R. **"Reclamation plan"** means the plan required by the Surface mining and Reclamation Act of 1975, and meeting all the requirements of Section 2772 of the Public Resources Code, administrative guidelines and regulations adopted pursuant thereto, and ordinances of the City of El Paso de Robles adopted in accordance therewith.
- S. **"State geologist"** means the individual holding office created by Section 677, Article 3, Chapter 2 of Division 1 of the Public Resources Code.
- T. **"Stockpile"** means a volume of stored mined material which is residual or secondary material extracted during a surface mining operation and which has a demonstrated future economic value sufficient to warrant its protection and preservation.
- U. **"Surface mining operations"** means all, or 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 auger methods, dredging, and quarrying, or surface work incident to an underground mine. Surface mining operations include, but are not limited to:
 - 1. In place distillation, retorting or leaching.
 - 2. The producing and disposal of mining wastes.

3. Prospecting and exploratory activities.

4. Borrow pitting, streambed skimming, segregation and stockpiling of mined materials (and recovery of same).

21.17.030 Applicability.

A. The provisions of this chapter shall apply to all property within the City of El Paso de Robles.

B. A reclamation plan approved by the City is necessary prior to the conduct of surface mining operations and additionally, non-vested operations are required to attain a permit to mine.

C. A permit to mine for non-vested

D. The provisions of this chapter are not applicable to:

1. Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following or natural disaster (SMARA, Sec. 2714(a)).

2. Prospecting and exploration for minerals of commercial value where less than one thousand cubic yards of the overburden is removed in any one location of one acre or less. Any surface mining operation that does not involve either the removal of a total of more than one thousand cubic yards of minerals, ores, and overburden, or involve more than one acre in any one location (PRC, Sec. 2714 [d]).

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)).

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

21.17.040 Vested Rights

A. No person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit to mine, so long as the vested right continues and as long as no substantial changes have been made in the operation except in accordance with SMARA,

State regulations, and this Chapter. Where a person with vested rights has continued surface mining in the same area subsequent to January 1, 1976, he shall obtain City approval of a Reclamation Plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre and post-Act mining, the Reclamation Plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act (January 1, 1976).

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

21.17.050 Process

A. The Planning Division of the Community Development Department will review the application package for completeness and shall, within thirty (30) days after receipt, either accept or return 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 shall start a new timeframe.

B. Within thirty (30) days of acceptance of an application for a Conditional Use Permit (CUP) for surface mining operations and/or a reclamation plan as complete, the Planning Division shall notify the Director of the Department of Conservation of the filing of the application(s) (SMARA, Sec. 2774(e)). Whenever mining operation are proposed in the 100-year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the Planning Division shall notify the State Department of Transportation that an application has been received (SMARA, Sec. 2770.5).

C. The Planning Division shall process the application through environmental review pursuant to the California Environmental Quality Act (CEQA) and the City's Local CEQA Guidelines.

D. Subsequent to the appropriate environmental review, the Planning Division shall prepare a staff report with recommendations for consideration by the Planning Commission, which incorporates

input from any other affected department or agency.

- E. The Planning Commission shall hold at least one noticed public hearing on the Conditional Use Permit and/or reclamation plan.
- F. Prior to final approval of a reclamation plan, financial assurance (as provided in this Article), or any amendments to a reclamation plan, the Planning Commission shall certify to the Director of the Department of Conservation that the reclamation plan complies with the applicable requirements of the state regulations and submit the plan, assurances, or amendment to said Director for review (SMARA, Sec. 2774(c)). The Planning Commission may conceptually approve the reclamation plan before submittal to the Director of the Department of Conservation.
- G. If a Conditional Use Permit is being processed concurrently with the reclamation plan, the Planning Commission may also conceptually approve the CUP at this time. However, the Planning Commission may defer action on the CUP until taking final action on the reclamation plan. If necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve the CUP with the condition the Planning Division shall not release the mining operation for occupancy until financial assurances have been reviewed by the Director of the Department of Conservation and final action has been taken on the reclamation plan.
- H. The Director of the Department of Conservation shall have thirty (30) days to review and comment on the Reclamation Plan and forty-five (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 position of the major issues raised by the State for the Planning Commission's approval. In particular, when the Planning Commission's position is at the variance with recommendations and objections raised in the State's comments, the written response shall address, in detail, why specific comments received and responses prepared by the Planning Commission shall be promptly forwarded to the operator/applicant.
- I. The Planning Commission shall then take action to approve, conditionally approve, or deny the

Conditional Use Permit and/or reclamation plan. The Planning Commissions action shall be final, subject to appeal as provided in Section 21.23A.

- J. The Planning Division shall forward a copy of each approved Conditional Use Permit for mining operations and/or approved reclamation plan to the Director of the Department of Conservation.
- K. A copy of the final approved reclamation plan shall be kept on-site at all times.
- L. Annual reports shall comply with section 21.17.100 of this Article.

21.17.060 Findings for Approval

In addition to any findings for the approval Conditional Use Permits contained in the City's Zoning Code, approval for surface mining operations shall include a finding that the project complies with the provisions of State law and regulations.

- A. For reclamation plans, the following findings shall be made by the reviewing authority prior to approval:
 - 1. The reclamation plan complies with Sections 2772, 2773, and 2773.1 of SMARA and any other applicable provisions;
 - 2. The reclamation plan complies with applicable requirements of Title 14, Chapter 8, Section 3500 et seq. Of the California Code of Regulations;
 - 3. The reclamation plan and potential use of reclaimed land pursuant to the Plan are consistent with this Article and the City's General Plan;
 - 4. Through implementation of 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. The land and/or resources to be reclaimed will be restored to a condition that is compatible with the surrounding environment;
 - 6. That the reclamation plan and potential use of reclaimed land pursuant to the Plan are consistent with any applicable air quality and/or water quality resources plan and/or that suitable off-site development will

compensate for related disturbances to resource values existing after reclamation is completed;

7. The reclamation plan will restore the mined lands to a usable condition which is adaptable for alternative land uses consistent with the General Plan and any other applicable plan or element;
8. A written response to the Director of the Department of Conservation has been prepared, describing the disposition of major issues raised by the Director. Where the City's position is at variance with the recommendations and objections raised by the Director, said response shall address, in detail, why specific comments and suggestions were not accepted (PRC, Sec. 2774).

21.17.070 Phasing of Reclamation

- A. 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); see also Sec. 21.17.090. Interim Management Plans).
- B. Interim reclamation may also be required for mined lands that have been disturbed and will be disturbed again in future operations if it is determined to be necessary to ensure the success of final reclamation or for health and safety purposes. Reclamation may be done on an annual basis, or in stages compatible with continuing operations, or on completion of all excavation, removal, or fill as approved by the City. Each phase of reclamation shall be specifically described in the reclamation plan and shall include: the approximate length of time for completion of each phase; all reclamation activities required; criteria for measuring completion of specific reclamation activities; and estimated costs as provided in Sec. 21.17.080 (Financial Assurances for Reclamation Plans). The City shall approve the reclamation schedule.

21.17.080 Financial Assurances

- A. In order to ensure that reclamation will proceed in accordance with the approved reclamation plan, the City shall require, as a conditional of approval, one or more forms of security which will be released upon satisfactory performance. The

applicant shall 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 Department of Conservation as specified statewide regulations adopted by the State Mining and Geology Board. Financial assurances shall be made payable to the City of Paso Robles and Department of Conservation (SMARA, Sec. 2773.1(a)(4)).

- B. Financial assurances shall be required to ensure compliance with elements of the reclamation plan including but not limited to revegetation and landscaping requirements; 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 reclamation plan shall be monitored by the Planning Division.
- C. Financial assurances shall not be released until written notification has been made by the Planning Director to the mining operator and the Director of the Department of Conservation that reclamation has been completed in accordance with the approved reclamation plan (SMARA, Sec 2773.1(c)).
- D. The amount of financial assurances shall be based upon the estimated costs of reclamation for each year or phase stipulated in the reclamation plan, including any irrigation and maintenance of reclaimed areas as may be required. Cost estimates shall be prepared by a licensed engineer and/or other qualified professionals retained by the operator; such estimates shall be 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 revegetation, restoration of 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.

- E. In projecting final 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 on the site.

- F. 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 operation 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.
- G. Financial assurances for reclamation that is accomplished in multiple-year phases shall be handled in the same manner as described for annual reclamation.
- H. If a change of ownership occurs, the existing financial assurances remains in force until a replacement financial assurance is approved by the lead agency.

21.17.090 Interim Management Plans

- A. Within ninety (90) days of a surface mining operation becoming idle, as defined in this Article, the operator shall submit to the Planning Division an interim management plan (SMARA, Sec. 2770(h)). The interim management plan shall fully comply with requirements of SMARA, Sec. 2770(h) and shall provide measures the operator will implement to maintain the site in compliance with SMARA, including, but not limited to, all conditions of the Conditional Use Permit and/or reclamation plan approval. The interim management plan shall be processed as a minor amendment to the reclamation plan and shall not be considered a project for the purposes of environmental review (SMARA, Sec. 2770(h)).

- B. The Director of the Department of Conservation shall have forty-five (45) days to prepare written comments on the interim management plan, if he/she so chooses.
- C. 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.
- D. Within sixty (60) days of receipt of the interim management plan, or a longer period mutually agreed upon by the Planning Division and the operator, the Community Development Director shall review and approve or deny the plan in accordance with this Article. The operator shall have thirty (30) days or longer period mutually agreed upon by the operator and Planning Director to submit a revised plan.
- E. The interim management plan may remain in effect for a period not to exceed five (5) years, at which time the Planning Commission may renew the plan for another period not to exceed five (5) years or require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.

21.17.100 Annual Report Requirements

- A. Surface mining requirements shall forward an annual surface mining report to the State Department of Conservation and to the City Planning Division on a date established by the State Department of Conservation, upon forms furnished by the State Mining and Geology Board (P.R.C. Sec. 2207 (a-g)).
- B. New mining operations shall file an initial surface mining report and any applicable filing fees with the State Department of Conservation within thirty (30) days of permit approval, or before commencement of operations, whichever is sooner.
- C. 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.

21.17.110 Inspections

- A. The Planning Division shall arrange for inspection of a surface mining operation within six (6) months of receipt of the Annual Report required in Section 21.17.100, to determine whether the surface mining operation is in compliance with the

approved Site Approval and/or reclamation plan, approved financial assurances, and State regulations.

- B. 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 forester, or other qualified specialist who has not been employed by the mining operation in any capacity during the previous twelve (12) months, as selected by the Planning Division. All inspections shall be conducted using a form provided by the State Mining and Geology Board. The Planning Division shall notify the Director of the Department of Conservation within thirty (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.

21.17.120 Modification to Reclamation Plans

- A. Requests for modifications of approved reclamation plans shall be processed in the same manner as original applications for reclamation plan reviews unless they are determined to be minor modifications.
- B. Applications for minor modifications may be submitted in connection with the following, as long as it is not in incompatible with existing conditions and/or plans.
1. To allow the minor recontouring of final topography, providing slope stability is maintained and substantiated; effecting no more than 10% of the site.
 2. To allow minor modification or addition of site access.
 3. To allow a minor substitution in the reclamation plan, provided it does not substantially alter the intended end use described in the approved reclamation plan.
 4. To allow minor technological and/or administrative changes in methods used to achieve reclamation.
 5. To allow measures to be taken which will ensure and/or maintain public safety (e.g. fences, gates, signs, or hazard removal)

provided it does not substantially alter the intended end use described in the approved reclamation plan.

6. To allow minor modifications to a previously approved phasing plan.
7. To allow interim management plans.

21.17.130 Violations and Penalties

If the Planning Division, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface operation is not in compliance with this Article, the applicable permit and/or the reclamation plan, the City may follow the administrative procedures set forth in SMARA, sections 2774.1 and 2774.2 concerning violations and penalties, including penalties assessed for late reporting pursuant to P.R.C. Section 2207; however, such remedy is in addition to all of the provisions and remedies of this Code, State law, and any law cognizable at common law or in equity, and nothing in this Article shall be interpreted or construed to supercede or limit any and all other remedies, whether administrative, civil or criminal.

21.17.140 Fees

The City shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this Article and the State Regulations, including but not limited to processing of applications, annual reports, inspections, monitoring, enforcement and compliance. Reasonable costs include but are not limited to the applicant paying the costs of hiring a third-party civil engineer to oversee compliance with the provisions of this chapter.

(El Paso De Robles 2-99)

PROOF OF PUBLICATION

LEGAL NEWSPAPER NOTICES

PLANNING COMMISSION/CITY COUNCIL
PROJECT NOTICING


Newspaper: TELEGRAM-TRIBUNE

Date of Publication: February 24, 1999

Meeting Date: March 9, 1999
(Planning Commission)
April 6, 1999
(City Council)

Project: Surface Mining and Reclamation

I, Lonnie Dolan, employee of the Community Development Department, Planning Division, of the City of El Paso de Robles, do hereby certify that this notice is a true copy of a published legal newspaper notice for the above named project.

Signed: 
Lonnie Dolan

forms/newsaffi.691

NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN that the Planning Commission and City Council of the City of El Paso de Robles will hold Public Hearings to consider Code Amendment 98006, filed by The City of Paso Robles, to modify Section 21.17, Surface Mining and Reclamation. The modifications of the Ordinance are required by the State to bring the code up to current compliance.
These hearings will take place in the Conference Room at the Paso Robles Library/City Hall, 1000 Spring Street, Paso Robles, California, at the hour of 7:30 PM on the following dates:
Planning Commission - Tuesday, March 9, 1999
City Council - Tuesday, April 6, 1999
All interested parties may appear and be heard at the above hearings.
This code amendment does not add or delete any land use conditions that were adopted by the subject ordinances. Therefore, it is ministerial in nature, as described by Section 15369 of the State's Guidelines to Implement the California Environmental Quality Act, and is exempt from environmental review in accordance with Public Resources Code Section 21080(b).
Comments on the proposed Code Amendment may be mailed to the Community Development Department, 1000 Spring Street, Paso Robles, CA 93448 provided that such comments are received prior to the time of the respective hearings.
If you challenge the Code Amendment in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission or City Council at, or prior to, the public hearing.
Darren R. Nash, Assistant Planner
Feb. 26, 1999 6130074