

ORDINANCE NO. 12513
(New Series)

DEC 4 1978

O.79-78

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1,
DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE
BY ADDING SECTION 101.0506.1 REGARDING
CONDITIONAL USE PERMITS AND RECLAMATION PLANS
FOR NATURAL RESOURCES DEVELOPMENT.

BE IT ORDAINED, by the Council of The City of San Diego,
as follows:

Section 1. That Chapter X, Article 1, Division 5 of the
San Diego Municipal Code be, and it is hereby amended by
adding Section 101.0506.1 to read as follows:

SEC. 101.0506.1 REQUIREMENTS FOR PROCESSING CONDITIONAL
USE PERMITS AND RECLAMATION PLANS FOR
NATURAL RESOURCES DEVELOPMENT.

A. PURPOSE AND INTENT.

1. These requirements are adopted pursuant
to the California Surface Mining and Reclamation Act
of 1975, Chapter 9, Public Resources Code.

2. The City hereby finds and declares 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.

3. The City further finds that the reclamation
of mined lands, as provided in this ordinance, will
permit the continued mining of minerals and will
provide for the protection and subsequent beneficial
use of the mined and reclaimed land.

4. The City further finds 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 therefor may vary accordingly.

B. DEFINITIONS.

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

2. "Mined Lands" - includes the surface, subsurface and groundwater of an area in which surface mining operations will be, are being or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste and areas in which structures, facilities, equipment, machines, tools or other materials or property which result from, or are used in, surface mining operations.

3. "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.

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

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

6. "Overburden" - 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.

7. "Permit" - any formal authorization from, or approval by, the City, the absence of which would preclude surface mining operations.

8. "Person" - any individual, firm, association, corporation, organization or partnership, or any city, county, district or the state or any department or agency thereof.

9. "Reclamation" - the process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion and other adverse effects from surface mining operations, including adverse

12513

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 minelands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization or other measures.

10. "State Board" - State Mining and Geology Board in the Department of Conservation, State of California.

11. "State Geologist" - individual holding office as structured in Section 677 of Article 3, Chapter 2 of Division 1 of the Public Resources Code.

12. "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 shall include, but are not limited to:

a. In-place distillation, retorting or leaching.

b. The production and disposal of mining waste.

12513

c. Prospecting and exploratory activities.

C. SCOPE.

1. The provisions of this section shall apply to the incorporated areas of The City of San Diego.

2. The provisions of this section are not applicable to:

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. Prospecting and exploration for minerals of commercial value where less than 1,000 cubic yards of overburden is removed in any one location of one acre or less.

c. Any surface mining operation that does not involve either the removal of a total of more than 1,000 cubic yards of minerals, ores and overburden, or involve more than one acre in any one location.

d. 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.

D. CONDITIONAL USE PERMIT AND RECLAMATION PLAN REQUIREMENTS.

1. Any person who proposes to engage in surface mining operations as defined in this section shall, prior to the commencement of such operations, obtain (a) a conditional use permit to mine, and (b) approval

12513

of a reclamation plan, in accordance with the provisions set forth in this section and as further provided in Article 5, California Surface Mining and Reclamation Act of 1975. A fee, as established for the permitted uses in the fee ordinance, shall be paid to The City of San Diego at the time of filing.

As a condition of the approval of a conditional use permit or a reclamation plan as described herein, the owner of land on which surface mining operations are to be conducted shall agree to permit the City to enter the property for the purpose of inspection and performing such work of reclamation as may be required under such permit or plan. The permit shall be binding upon subsequent owners and will terminate only upon the termination of the permit or plan. The permit shall be in a form approved by the Planning Director and City Attorney.

All applications for a reclamation plan for surface mining operations shall be made on forms provided by the City Planning Department.

2. No person who has obtained a vested right to conduct a surface mining operation prior to January 1, 1976, shall be required to secure a conditional use permit pursuant to the provisions of the section as long as such vested right continues, provided that no substantial change is made in that

operation except in accordance with the provisions of this section. A person shall be deemed to have such vested rights if, prior to January 1, 1976, he has in good faith and in reliance upon a permit or other authorization, if such permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and necessary materials. Expenses incurred in obtaining the enactment of a resolution in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials.

A person who has obtained a vested right not pursuant to a conditional use permit to conduct surface mining operations prior to January 1, 1976, shall submit to the City Planning Department a reclamation plan for operations to be conducted after January 1, 1976, unless a reclamation plan was approved by the Planning Commission of The City of San Diego prior to January 1, 1976, and the person submitting that plan has accepted responsibility for reclaiming the mined lands in accordance with that plan. All vested-rights operators shall submit an application for reclamation plan approval within one year of City Council adoption by ordinance of this section. The Planning Director shall notify in writing each vested-rights operator of the due date for his application at least three hundred (300) days prior to the date of submittal. Nothing in this document shall require the filing of a

12513

reclamation plan for, or the reclamation of, mined lands on which surface mining operations were conducted prior to, but not after, January 1, 1976.

3. The State Geologist shall be notified of the filing of all conditional use permit applications to mine.

4. This section shall be continuously reviewed and revised, as necessary, in order to ensure that it is in accordance with the state policy for mined lands reclamation.

5. The Planning Director may approve one request per operator for a 60-day extension of time for submittal of a reclamation plan approval application, provided the request is submitted at least thirty (30) days prior to the due date for application submittal. The Planning Director may approve such an extension of time only if the public interest is not harmed thereby and if the applicant has been delayed by circumstances beyond his control.

E. REVIEW PROCEDURE. The Planning Commission shall review all conditional use permit applications and reclamation plan approval applications and shall schedule a public hearing prior to approval. Such public hearing shall be held by the Planning Commission for the purpose of consideration of the issuance of a conditional use permit for the proposed surface mining operation and/or approval of a reclamation plan.

12513

F. SUCCESSOR IN INTEREST. Whenever any surface mining operation or portion of an operation subject to this ordinance is sold, assigned, conveyed, exchanged or otherwise transferred, the successor in interest shall be bound by the provisions of any reclamation plan approved pursuant to the provisions of this section.

G. PUBLIC RECORDS. Reclamation plans, reports, applications and other documents submitted pursuant to this section are public records unless it can be demonstrated to the satisfaction of the City Attorney that the release of such information, or part thereof, would reveal production, reserves or rate of depletion entitled to protection as proprietary information. The City Attorney shall identify such proprietary information as a separate part of each application. A copy of all permits, reclamation plans, reports, applications and other documents submitted pursuant to this section, including proprietary information, shall be furnished to the District Geologist of the State Division of Mines by the Planning Director of The City of San Diego. Proprietary information shall be made available to persons other than the State Geologist only when authorized by the mine operator and by the mine owner in accordance with Section 2778, California Surface Mining and Reclamation Act of 1975.

H. INSPECTION. As a condition of approval for the conditional use permit or the reclamation plan, or both, a schedule for periodic inspections of the site shall be established to evaluate continuing compliance with the permit and the reclamation plan. Said periodic inspection shall occur no less frequently than biennially.

If after an inspection it is found that the mining operator is not following the provisions of the reclamation plan, the operator shall be given notice to comply within a given time not to exceed ninety (90) days. A copy of such notice shall be given to the owner of the land upon which the operations are located. If at the end of the stated time the operator is not in compliance, the Planning Director may revoke or suspend the conditional use permit and/or the reclamation plan until the operator complies or obtains approval of a revised reclamation plan. In addition, the Planning Director may require security guaranteeing compliance as in his judgment shall be necessary to correct the situation and insure compliance. The security to be required may be (a) a bond or bonds by one or more duly authorized corporate securities, or (b) a deposit of money or negotiable bonds of the kind approved for securing deposits of public moneys, or (c) an instrument of credit from one or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary

to carry out the plan are on deposit and guaranteed for payment, or (d) such other security at the option of the mining operator as is acceptable to the Planning Director and the City Attorney

Upon completion of the work to be done, the security above described shall be released by the Planning Director when, in his discretion, the operator is in compliance with the provisions of the permit or the reclamation plan.

I. AMENDMENTS. Amendments to an approved reclamation plan may be submitted to the City Planning Commission at any time, detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until such amendment has been filed with, and approved by, the City Planning Commission.

Amendments to an approved reclamation plan shall be approved by the same procedure as is prescribed for approval of a reclamation plan.

J. VARIANCE. Variances from an approved reclamation plan may be allowed upon request of the operator and applicant, if they are not one and the same, and upon a finding by the Planning Commission that each requested variance is necessary to achieve the prescribed or higher post-mining use of the reclaimed land.

K. ENFORCEMENT. The provisions of this section shall be enforced by the Planning Director of The City

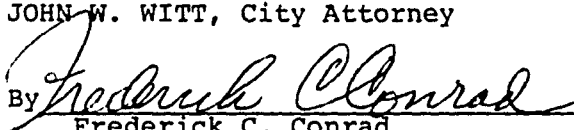
of San Diego or such other persons as may be designated by the City Council.

L. APPEAL. Any person aggrieved by an act or determination of the Planning Director in the exercise of the authority granted herein shall have the right to appeal to the Planning Commission and the City Council. Any appeal must be filed on forms provided within fifteen (15) days after the rendition, in writing, of the decision.

M. SEPARABILITY. If any paragraph, subparagraph, sentence, clause or phrase of this section 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 section.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By 
Frederick C. Conrad
Chief Deputy City Attorney

FCC:clh
9/12/78
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Or.Dept.:Planning

Passed and adopted by the Council of The City of San Diego on DEC 4 1978
by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Lowery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Gade	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Larry Stirling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jess D. Haro	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By E. H. Cook, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

NOV 29 1978

, and on

DEC 4 1978

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By E. H. Cook, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 12513 Adopted DEC 4 1978

ATTORNEYS

San Diego, City of
12th Floor, City Admin. Bldg.
410 G St.
San Diego, Ca 92101
Attn: Earnest Cook

CERTIFICATE OF PUBLICATION

12513

IN THE MATTER OF

NATURAL RESOURCES DEVELOPMENT

ORDINANCE NO. 12513

(New Surface)

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTION 101.0608.1 REGARDING CONDITIONAL USE PERMITS AND RECLAMATION PLANS FOR NATURAL RESOURCES DEVELOPMENT.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter X, Article 1, Division 5 of the San Diego Municipal Code be, and it is hereby amended by adding Section 101.0608.1 to read as follows:

SEC. 101.0608.1 REQUIREMENTS FOR PROCESSING CONDITIONAL USE PERMITS AND RECLAMATION PLANS FOR NATURAL RESOURCES DEVELOPMENT.

A. PURPOSE AND INTENT.

1. These requirements are adopted pursuant to the California Surface Mining and Reclamation Act of 1975, Chapter 9, Public Resources Code.

2. The City hereby finds and declares 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.

3. The City further finds that the reclamation of mined lands, as provided in this ordinance, will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.

4. The City further finds 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 therefor may vary accordingly.

B. DEFINITIONS.

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

2. "Mined Lands" - includes the surface, subsurface and groundwater of an area in which surface mining operations will be, are being or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste and areas in which structures, facilities, equipment, machines, tools or other materials or property which result from, or are used in, surface mining operations.

3. "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.

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

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

6. "Overburden" - 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.

7. "Permit" - any formal authorization from, or approval by, the City, the absence of which would preclude surface mining operations.

8. "Person" - any individual, firm, association, corporation, organization or partnership, or any city, county, district or the state or any department or agency thereof.

I PATRICIA M. SPAULDING am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NO. 12513

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following dates, to-wit:

December 16, 1976

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 15th day of Dec., 1976.

Patricia M. Spaulding
Signature

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