

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

RECORD PACKET COPY

F 4a



DATE: March 27, 2000

TO: Commissioners and Interested Parties

FROM: Peter M. Douglas, Executive Director
Steven F. Scholl, Deputy Director
Chris L. Kern, North Central Coast District Supervisor

SUBJECT: **Pacifica LCP Amendment No. 1-99-Minor**
Surface Mining and Reclamation Ordinance

LCP Amendment and Discussion.

The City proposes to amend its certified Implementation Plan to revise the Pacifica Municipal Code to include Ordinance No. 670-C.S. Surface Mining and Reclamation Ordinance (Exhibit 1) in compliance with the State Surface Mining and Reclamation Act (SMARA). The proposed ordinance includes review procedures and standards for operation, maintenance and reclamation of surface mines within the City in accordance with SMARA.

This notice is to advise interested parties of the determination by the Executive Director that with the suggested modifications discussed below, the requested local coastal program (LCP) amendment is "minor" as defined under California Code of Regulations Section 13554, which states in relevant part:

Pursuant to Public Resources Code Section 30514(c) and for purposes of this Article, a minor amendment to an LCP ... includes but is not limited to, the following:

(a) changes in wording which make the use as designated in the zoning ordinance, zoning district maps or other implementing actions more specific and which do not change the kind, location, intensity, or density of use and which are found by the executive director of the Commission or the Commission to be consistent with the land use plan as certified by the Commission.

...

(c) change in the notification and hearing procedures that is consistent with the requirements of the Coastal Act.

In accordance with Section 13555 of the Commission's Regulations, the Executive Director will report in writing this determination to the Coastal Commission at its meeting of April 14, 2000, to be held at the Queen Mary, 1126 Queens Hwy, Long Beach. This proposed minor amendment, as modified pursuant to the suggested modifications below, will be deemed approved unless one-third of the appointed members of the Commission request that it be processed as a major amendment. The LCP amendment shall not take effect unless and until the City of Pacifica adopts a revised ordinance in accordance with the suggested modifications below.

If you have any questions or need additional information regarding the proposed amendment, please contact Chris Kern at (415) 904-5266.

Objections to this determination must be received in writing within 10 working days of the date of this notice at:

California Coastal Commission
North Central Coast District
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Suggested Modifications

The Executive Director suggests the following modifications to the proposed ordinance. Additional text is shown in double underline, deleted text is shown in ~~strike through~~.

Modification 1

Sec. 9-2.05 Permits: Applications

Add subsection (g) to require that each application for a permit to operate a surface mine or to undertake a reclamation project to the City shall include a erosion control and site drainage plans as follows:

(g) Erosion control and drainage plans that include best management practices to control surface runoff and minimize erosion.

Rational

Section 9-2.19 of the ordinance imposes appropriate standards for surface mining and reclamation projects to prevent adverse impacts associated with erosion and sedimentation. However, the ordinance does not specifically require the preparation of erosion control and site drainage plans as a requirement for a Quarry Use Permit. The suggested modification to the ordinance would require applicants for Quarry Use Permits to prepare erosion control and drainage plans as part of the permit application. This requirement would clarify that it is the applicant's responsibility to demonstrate how a proposed surface mining or reclamation project will conform with the erosion control standards of Section 9-2.19.

The Pacifica Quarry is the only surface mining operation within the City of Pacifica. Quarry operations have ceased and the City is currently preparing plans for reclamation of the site. If this LCP amendment is approved, the reclamation of the Pacifica Quarry will be subject to the requirements of the proposed Surface Mining and Reclamation Ordinance.

The Pacifica Quarry is located directly adjacent to and up slope from the recently restored Calera Creek, which provides critical habitat for the federally endangered San Francisco Garter Snake and the federally threatened Red-Legged Frog. Erosion and storm water runoff from the quarry site has the potential to cause significant adverse impacts to the critical habitat of Calera Creek. The importance of protecting this habitat area underscores the need to require erosion control and drainage plans are submitted as a part of an application for a Quarry Use Permit for reclamation of the site.

Modification 2

Sec. 9-2.07 Findings for approval of Quarry Use Permit

Revise subsection (b)(3) to read:

(3) 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 to the maximum extent feasible, ~~or that suitable off-site development will compensate for related disturbance to resource values.~~

Rational

The text that is proposed to be deleted is ambiguous and could be interpreted to support a finding that offsite development may be substituted for habitat restoration in satisfaction of the surface mining reclamation requirements of the ordinance. The suggested modification would clarify that reclamation shall restore the natural environment, topography, and other resources to the maximum extent feasible.

Modification 3

Sec. 9-2.07 Findings for approval of Quarry Use Permit

Revise subsection (b)(4) to read:

(4) 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, Local Coastal Land Use Plan, California Coastal Act, and Zoning Code.

Rational

The Pacifica Quarry site is in an area of deferred certification in the City's LCP. As such, the quarry site is within the Coastal Commission's direct permit jurisdiction. The standard of review for coastal development permits for development within the quarry site (including reclamation) is the Coastal Act, not the LCP. The suggested modification would clarify that reclamation of the quarry site shall restore the lands to uses consistent with the Coastal Act.

EXHIBIT NO.	1
APPLICATION NO.	Pacifica ICP
Amendment No.	1-99
	Minor

RECEIVED
NOV 01 1999

ORDINANCE NO. 670-C.S.

CALIFORNIA
COASTAL COMMISSION

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
PACIFICA, CALIFORNIA, ADOPTING A NEW
SURFACE MINING AND RECLAMATION ORDINANCE**

The City Council of the City of Pacifica does hereby ordain as follows:

Section 1. Chapter 2, Title 9 of the Pacifica Municipal Code is hereby revised to read as follows:

CHAPTER 2. SURFACE MINING AND RECLAMATION

Sec. 9-2.01 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases in this chapter are defined as follows:

(a) "Area of Regional Significance" shall mean an area designated by the State Mining and Geology Board (State 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 alternative incompatible land uses, could result in the permanent loss of minerals that are of more than local significance.

(b) "Area of Statewide Significance" shall mean an area designated by the State 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 alternative incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.

(c) "Borrow Pits" shall mean excavations created by the mining of rock, unconsolidated geologic deposits, or soil to provide material (borrow) for fill elsewhere.

(d) "Compatible Land Uses" shall mean land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which 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.

(e) "Haul Road" shall mean a road along which material is transported from the area of excavation to the processing plant or stockpile area of the surface mining operation.

(f) "Incompatible Land Uses" shall mean 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.

(g) "Mined Lands" shall mean 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.

(h) "Minerals" shall 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, natural gas, and petroleum.

(i) "Operator" shall mean 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.

(j) "Reclamation" shall mean 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 alternative 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.

(k) "Stream Bed Skimming" shall mean excavation of sand and gravel from streambed deposits above the mean summer water level or stream bottom, whichever is higher.

(l) "Surface Mining Operations" shall mean 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).

Sec. 9-2.02 Compliance with provisions.

It shall be unlawful for any person to operate or maintain, or to cause to be operated or maintained, any surface mine in the City except in conformance with the provisions of this chapter.

Sec. 9-2.03 Incorporation by reference.

The provisions of the Surface Mining and Reclamation Act, located at California Public Resources Code Sections 2710 et seq. (hereinafter "SMARA"), and California Public Resources Code Section 2207, and Title 14 Code of Regulations Sections 3500 et

seq. (hereinafter "State regulations), 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 provisions of this Chapter are more restrictive than correlative State provisions, this Chapter shall prevail.

Sec. 9-2.04 Permits: Required.

Surface mining operations may be operated in any portion of the City and reclamation projects may be undertaken on mined lands subject to the securing of a Quarry Use Permit and subject to the regulations of this Chapter, including, but not limited to, the requirements for the posting of financial assurances.

Sec. 9-2.05 Permits: Applications.

Each application for any permit to operate a surface mine or to undertake a reclamation project shall be made to the Planning Commission on a form provided by the Planning Department. Such applications shall be accompanied by the following:

(a) An accurate plot plan showing the exterior boundaries of the property on which the surface mine is, or is proposed to be, located, the boundaries of the area proposed to be excavated, and the location of any existing or proposed structures, roads, or other improvements;

(b) Cross-sections through the surface mine (existing or proposed) sufficient to indicate the slopes of existing and proposed cut banks;

(c) A contour map when required by the Planning Commission;

(d) A statement of the plan operation, including the time limits, and areas to be removed; and

(e) A Reclamation Plan including the final grading of the site, replacement of the topsoil, revegetation, and other necessary measures.

(f) Applicable fees as set forth in Article 37 of Chapter 4, of Title 9.

Sec. 9-2.06 Permits: Applications: Investigations: Hearings.

The Planning Department, upon the receipt of the application and upon payment of the required fees, shall make such investigations as are necessary to determine whether or not the surface mine and reclamation plan or proposed surface mine and reclamation plan conforms or will conform fully to the provisions of this Chapter, including the necessary findings, and any other laws pertaining to land use or the operation of surface mines and reclamation plans.

The Planning Commission shall hold at least one public hearing prior to taking action on a proposed Quarry Use Permit. At the conclusion of the investigation and the public hearing, the Planning Commission shall make the necessary findings and determine whether or not the surface mine and reclamation plan, or proposed surface mine and reclamation plan, is, will be, or may be likely to become a public nuisance or will be dangerous or detrimental to the public peace, health, safety, or general welfare.

Pursuant to SMARA, 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(s). The Planning Commission shall evaluate written

comments received, if any, from the State Department of Conservation during the comment periods. A written response shall be prepared, by the Planning Department, describing the disposition of the major issues raised by the State for the Planning Commission's approval. 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.

Sec. 9-2.07 Findings for approval of Quarry Use Permit.

(a) Surface Mining Operation. The Planning Commission may approve a surface mining operation only when making all of the following findings:

(1) The surface mining operation shall conform fully to the provisions of this Chapter and shall comply with the provisions of the Surface Mining and Reclamation Act and State regulations, and any other laws pertaining to land use or the operation of surface mines.

(2) The operation of the surface mine shall not be detrimental or dangerous to the peace, safety, or general welfare of the public and will not adversely affect the character of the neighborhood in which the surface mine is located.

(3) The surface mining operation has been reviewed pursuant to the California Environmental Quality Act ("CEQA") and the City's environmental review guidelines, and all significant impacts from the surface mining operation are mitigated to the maximum extent feasible.

(b) Reclamation Plans. The Planning Commission may approve a Reclamation Plan only when making all of the following findings:

(1) The Reclamation Plan conforms fully to the provisions of this Chapter, the City's General Plan, and the Surface Mining and Reclamation Act sections 2772 and 2773, and shall comply with applicable requirements of State regulations (sections 3500-3505 and 3700-3713) as may be amended.

(2) The Reclamation Plan has been reviewed pursuant to the California Environmental Quality Act 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.

(3) 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 disturbance to resource values.

(4) 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, Local Coastal Land Use Plan, and Zoning Code.

(5) Comments from the State Department of Conservation have been received and reviewed. A written response to these comments has been prepared and forwarded to the State Department of Conservation.

///

Sec. 9-2.08 Permits: Issuance

The Planning Commission may approve, conditionally approve, or deny the Quarry Use Permit. If approved, the Quarry Use Permit shall be valid for a maximum period of three (3) years. The Planning Commission, in issuing any such permit, may specify such conditions as are deemed necessary for the protection of persons and property in the neighborhood and to insure that the operation of the surface mine will not adversely affect the character of the neighborhood in which the surface mine is located.

The Planning Department shall forward a copy of each approved Quarry Use Permit for mining operations and approved Reclamation Plan, and a copy of the approved financial assurance(s) 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 permit and Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year.

Sec. 9-2.09 Permits: Denial: Appeals.

In the event the applicant or any aggrieved person is not satisfied with the action of the Planning Commission, the applicant or aggrieved person may appeal such decision to the City Council in the manner set forth in Chapter 4 of Title 1 of this Code.

Sec 9-2.10 Permits: Fees.

The City shall collect 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 at the time of filing of a Quarry Use Permit 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 the provisions of this Chapter are borne by the applicant. Fees shall be calculated based upon estimated staff time using the formula set forth in Administrative Policy No. 2.

Sec. 9-2.11 Permits: Modification, suspension and revocation.

(a) *Planning Commission authority.* Any Quarry Use Permit shall be subject to modification, suspension or revocation by the Planning Commission for violation of a condition of the permit or violation of other state, federal, or local law.

(b) *Notices.* A notice shall be served on the person or corporation holding the Quarry Use Permit specifying wherein he or she has failed to comply with the provisions of this Chapter, or any other law, or with any terms or conditions specified in the permit.

(c) *Hearings.* The Planning Commission shall hold a public hearing on the proposed modification, suspension, or revocation. At such time and place the person holding the Quarry Use Permit shall have the right to appear in person or by counsel and to introduce evidence.

(d) *Decisions.* Following the hearing the Planning Commission may modify, revoke, or suspend the Quarry Use Permit.

(e) *Appeals.* Such decisions may be appealed to the City Council in the manner set forth in Chapter 4 of Title 1 of this Code.

Sec. 9-2.12 Standards for Reclamation.

(a) All Reclamation Plans shall comply with the provisions of SMARA (sections 2772 and 2773) and State regulations (sections 3500-3505) as may be amended from time to time. Reclamation Plans approved after January 15, 1993, Reclamation Plans for proposed new mining operations, and any substantial amendments to previously approved Reclamation Plans, shall also comply with the requirements for reclamation performance standards (State regulations sections 3700-3713), as may be amended from time to time.

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

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

Sec. 9-2.13 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. The Planning Department shall keep said statement 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 Planning Department for placement in the permanent record.

Sec. 9-2.14 Financial Assurances.

(a) To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the Planning Commission shall require as a condition of approval, security that 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 Manager and the State Mining and Geology Board as specified in State regulations, and which the City Manager 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 Pacifica 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, erosion and drainage control, disposal of hazardous materials, and other measures if necessary.

(c) Cost estimates for the financial assurance shall be submitted to the City Engineer for review. The City Engineer 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 City Engineer shall make the final approval of the financial assurance if it meets the requirements of this Chapter, SMARA, and other applicable State Regulations.

(d) The amount of the financial assurance shall be based upon the estimated cost 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 in the upcoming year. Cost estimates shall be prepared by a California registered Professional Engineer and/or other similarly licensed and qualified professional retained by the operator and approved by the City Engineer. 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 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 the 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, except 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 City Engineer each year prior to the anniversary date of approval of the financial assurances. The financial assurances 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.

Sec. 9-2.15 Annual Report Requirements.

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

Sec. 9-2.16 Inspections.

The City Engineer shall arrange for inspection of a surface mining operation within six months of receipt of the Annual Report required in Section 9-2.15, to determine whether the surface mining operation is in compliance with the permit and 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 City Engineer. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

The City shall notify the State Department of Conservation within 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 all costs of such inspections, and reporting and providing, to the City Manager, a cash deposit to cover such expenses.

Such inspections may include surveying, if and as necessary, to determine the boundaries of excavations, slopes of cut banks, and other such conditions.

Nothing in this section shall be construed to relieve the owner or operator from paying the business license fee established by section 3-1.313 of Article 3 of Chapter 1 of Title 3 of this Code.

Sec. 9-2.17 Maintenance and operation.

(a) The surface mine premises shall be maintained at all times in a neat and orderly manner.

(b) The operation pursuant to the Quarry Use Permit shall be conducted in such a manner as to obviate excessive dust and noise. The operator shall maintain haul roads in a dust-free condition providing such surfacing or other treatment deemed necessary by the Planning Commission.

(c) The holder of the Quarry Use Permit shall be responsible for the prevention of, and clean up of, any spilled or dumped quarried material on City streets or roads.

Sec. 9-2.18 Excavations.

(a) Cut slopes for surface mines shall not be steeper than one and one-half to one (1 1/2:1), and fill slopes shall not be steeper than two to one (2:1). Variations may be approved if consistent with the recommendations of a qualified geotechnical engineer, and subject to concurrence by the City Engineer and, where applicable, approval by the Planning Commission.

(b) Where cut slopes exceed twenty-five (25') feet vertically, they shall be benched at intervals not exceeding twenty-five (25') feet vertically. Such benches shall be ten (10') feet in width horizontally, shall be constructed of concrete, and shall drain to a storm collector system. Variations may be approved if consistent with the recommendations of a qualified geotechnical engineer, and subject to concurrence by the City Engineer and, where applicable, approval by the Planning Commission.

Sec. 9-2.19 Erosion control: Screen planting.

(a) All surface drainage existing or developing by or through the surface mine shall be controlled by dikes, barriers, or drainage structures to prevent any silt or loose material from filling any existing drainage course or encroaching on State or County roads or private property. All provisions to control natural drainage or floodwater shall meet with the approval of the City Engineer.

(b) Final cut slopes shall be treated as required to prevent erosion. Topsoil shall be replaced on level areas where necessary to support vegetation. Suitable ground cover shall be planted within six (6) months of the time a cut slope is excavated to its final position. Such ground cover shall be maintained for a period of time sufficient to provide vegetation of a density that will prevent erosion.

(c) In cases where material in the surface mine is of such nature that no erosion will take place, plant material of a type and quantity specified by the City Planner shall be placed as required to screen cut slopes from the public view.

Sec. 9-2.20 Drainage.

(a) The finished excavation in all surface mines shall be graded in such a manner as to prevent the accumulation of storm waters or natural seepage.

(b) Finished grades in all surface mines shall have slopes not less than one and one-half (1 1/2%) percent.

Sec. 9-2.21 Fences.

All surface mines shall be fenced by the operator with a substantial, neat six (6') foot fence with posts spaced a maximum of fifteen (15') feet fence post to fence post and wire spaced one foot apart. The fence design and location shall meet the approval of the City Planner prior to installation.

Sec. 9-2.22 Interim Management Plans.

(a) Within 90 days of a surface mining operation becoming idle, the operator shall submit to the Planning Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of the Surface Mining and Reclamation Act, including but not limited to all 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 Planning 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.

(c) Upon receipt of a complete proposed IMP, the Planning 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 Planning Commission.

(d) Within 60 days of receipt of the proposed IMP, or a longer period mutually agreed upon by the City and the operator, the Planning Commission shall review and approve, conditionally approve, or deny the IMP in accordance with this Chapter. The operator shall have 30 days or a longer period mutually agreed upon by the operator and the City, to submit a revised IMP. The Planning Commission may approve, conditionally approve, or deny the revised IMP. The operator may appeal that action to the City Council, pursuant to the provisions of Chapter 4 of Title 1 of this Code.

(e) The IMP may remain in effect for a period not to exceed five years, at which time the Planning Commission may review the IMP for another period not to exceed five years, or require the surface mining operator to commence reclamation in accordance with the approved Reclamation Plan.

Sec. 9-2.23 Violations and penalties.

If the City, 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 required permit(s) and/or the Reclamation Plan, the City may follow the procedures set forth in Public Resource Code 2774.1 and 2774.2, as may be amended from time to time, concerning violations and penalties, as well as any other remedy available under state, federal, or local law, including, but not limited to, Chapter 2, Title 1 of this Code and the provisions for modification, revocation, or suspension set forth in this Chapter.

Further, any surface mining operation or reclamation project set up, altered, constructed, enlarged, converted, operated, or maintained contrary to the provisions of this Chapter, or in violation of any provision of a Quarry Use Permit, and/or any use of land or premises established, conducted, operated, or maintained contrary to provisions of this Chapter shall be unlawful and a public nuisance.

The remedies provided in this section shall be cumulative and not exclusive.

Sec. 9-2.24 Mineral Resource Protection

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 as set forth in the Conservation Element of the Pacifica General Plan.

Section 2. At least five days prior to the adoption of this ordinance, the City Clerk shall cause a summary of this ordinance to be published in the Pacifica Tribune, a newspaper of general circulation, published and circulated in the City of Pacifica, and shall cause a certified copy of the full text of this ordinance to be posted in the office of the City Clerk. Within 15 days after adoption of this ordinance, the City Clerk shall cause a summary of this ordinance to be published in the Pacific Tribune, a newspaper of general circulation, published and circulated in the City of Pacifica, and shall post a certified copy of the full text of this ordinance in the office of the City Clerk, together with the names of those who voted for or against it.

* * * * *


Introduced at the regular meeting of the City Council of the City of Pacifica on July 26, 1999, and passed at the regular meeting of the City Council of the City of Pacifica held on August 9, 1999 by the following vote of the members thereof:

AYES, Councilmembers: Vreeland, Gonsalves, Carr, DeJarnatt & Hinton
NOES, Councilmembers: None
ABSENT, Councilmembers: None
ABSTAIN, Councilmembers: None



Mayor Calvin Hinton

ATTEST:



David Carmany, City Manager/Clerk

APPROVED AS TO FORM:



Cecilia Quick, City Attorney