

## Chapter 16.214

### MINING AND QUARRYING

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- 16.214.010 Title and Purpose of Provisions.**
- A. Title. The Provisions of Chapter 16.214 shall be known as the "mining and quarrying regulations" of this title.
- B. Purpose. The purpose of the "mining and quarrying regulations" is to establish reasonable

and uniform limitations, safeguards and controls for the present operation of and future mining and quarrying of minerals, including coal, oil, shale and other hydrocarbon bearing materials and rock, sand and gravel of all types, unless extracted by well, within the city so that such activities may be conducted in harmony with other uses of land within the city, thus protecting the people of the city in the enjoyment and use of their property and providing for their comfort, health, safety and general welfare. (Ord. 706 § 1, 2005)

#### **16.214.020 Definitions.**

A. All terminology used in this chapter, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or, its successor body.

dB(A) or dBA means the sound level in decibels as measured on a sound level meter using the A-weighting network.

Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Mine includes quarries and means any surface excavation or underground excavation for the extraction of ores, minerals, rock, sand and gravel of all types.

Minerals means solid homogenous crystalline chemical elements or compounds that results from the inorganic processes of nature, coal, oil, shale and any other hydrocarbon bearing substances, as well as rocks, sand and gravel.

Production facilities means all equipment used for the purpose of producing or transporting minerals within or through the City

of Ripon, excluding normal public utility gas lines.

Sound level meter means an instrument meeting or exceeding American National Standard Institute's Standard S1.4-1971 for Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data. (Ord. 706 § 1, 2005)

### **16.214.030 Permits Required.**

A. Permits. No person or entity shall conduct mining or quarrying operations unless a mining permit, reclamation plan, and financial assurances for reclamation have first been approved by the City of Ripon. The following permits shall be required:

1. A conditional use permit shall be obtained prior to the drilling of a new well or the reworking of an existing site which has not complied with these regulations, or prior to the construction of any new related facilities for the production of minerals within or through the city.

2. A temporary use permit shall be obtained prior to surface-based exploration or survey for the purpose of locating minerals, excluding any exploratory drilling operations which are subject to a conditional use permit.

3. A temporary use permit shall be obtained by the operator prior to any reworking of a site that has previously complied with these regulations.

B. Emergency Work. Whenever it is necessary to do work on a site to prevent a hazardous condition or the loss of the site, the operator is authorized to do such work without permits; however, the operator must immediately report any emergency which has

the potential of threatening adjoining properties. All other emergencies must have a preliminary report submitted to the city within twenty-four hours and a final report within five working days after the emergency work is completed. Such emergency work shall be excluded from the maximum permissible sound levels during the term of the emergency only.

C. Application Submittal. All applications for conditional use permits listed in subsection A of this section, shall include the following information in addition to the standard information required for a conditional use permit application:

1. Plan of site, production; storage and all surface facilities and proposed equipment, including the distance to, all existing and approved dwellings and other structures and land uses within a one thousand five hundred foot radius of the subject facility;

2. Names and addresses of the mineral, surface and lease owners of the subject mine and parcel;

3. A reclamation plan for the site, which shall include information concerning the mining operation that is required for processing the reclamation plan, including but not limited to environmental review prepared pursuant to the California Environmental Quality Act (Public Resources Code Section 2100 et seq.);

4. Name and address of the person upon whom service of process upon applicant may be made, and a consent that service of summons may be made upon such person in any action to enforce any of the obligations of the applicant;

5. A statement that the applicant has the right, by reason of ownership or the permission of the owner, to pass through and enter all property through and/or upon which such mine

is proposed, and that the applicant is duly authorized by the property owner to make and file the application;

6. A complete legal description of the subject site;

7. A brief description of the manner in which the minerals will be produced and transported if the drilling operation is successful;

8. A phasing plan for the staging of the operations, including but not limited to, an estimated timetable for project construction, operation, completion and abandonment, as well as location and amount of land reserved for future expansion;

9. Copies of all other required permits, insurance and bonds, including but not limited to those required by the Regional Water Quality Control Board;

10. An acoustical study prepared by a qualified acoustical engineer documenting existing ambient noise levels over a twenty-four hour period on the site and within a five hundred foot radius, if there are any occupied buildings within that radius;

11. Any and all other information that the city may, in its discretion and from time to time, require;

12. A written agreement duly executed by the applicant that in the event a permit is issued by the city; the applicant will as a condition to any operations within the city, faithfully comply with and abide by each and all of the provisions, requirements, and conditions of this chapter, and conditions of approval. (Ord. 706 § 1, 2005)

#### **16.214.040 Reclamation.**

A. General Requirements. All reclamation plans shall comply with the provisions of

SMARA (Sections 2772 and 2773), Public Resources Code Section (PRC) 2000 et seq, the California Code of Regulations (CCR Sections 3500-3505 and Sections. 3700-3713 as may be amended) and the requirements of this chapter. Reclamation of mined lands shall be carried out in accordance with the requirements of this chapter, the approved reclamation plan and state policy. The operator shall guarantee all reclamation work accomplished for any period as may be determined necessary by the planning commission to assure the permanency of any or all physical reclamation features and standards.

B. Progressive and Interim Reclamation. Reclamation of mined lands shall take place as soon as practical following completion of mining operations at successive locations within the mining site as specified by the planning commission in the approval of the reclamation plan. 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 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 (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 costs of each phase of reclamation.

C. Disposal of Overburden and Mining Waste.

1. Permanent piles or dumps of overburden and waste rock placed on the land surface shall be made stable, shall not block natural drainage without provision for

diversion, shall have an overall smooth or even profile and, where practical, shall be placed in the least visible location. Old equipment and similar inert mining wastes shall be removed or buried. Toxic materials shall be removed or protected to prevent leaching.

2. Overburden and mining waste placed below the existing or potential groundwater level shall not reduce the transmissivity or area through which water may flow unless approved equivalent transmissivity or area has been provided elsewhere.

D. Drainage, Erosion and Sediment Control.

1. Any temporary stream or watershed diversion shall be restored in final reclamation unless determined unnecessary by the planning commission based on recommendation of the county flood control and water conservation district and/or public works agency.

2. Regrading and revegetation shall be designed and carried out to minimize erosion, provide for drainage to natural outlets or interior basins designed for water storage, and to eliminate potholes and similar catchments that could serve as breeding areas for mosquitoes.

3. Silt basins which will store water during periods of surface runoff shall be equipped with sediment control and removal facilities and protected spillways designed to minimize erosion when such basins have outlet to lower ground.

4. Final grading and drainage shall be designed in a manner to prevent discharge of sediment above natural levels existent prior to mining operations.

5. Upon reclamation, no condition shall remain that will or could lead to the degradation of water quality below applicable standards of

the Regional Water Quality Control Board or any other agency with authority over water quality.

E. Final Slope Gradient. Final slopes shall be of such gradient as necessary to provide for slope stability, maintenance of required vegetation, public safety, and the control of drainage, as may be determined by engineering analysis of soils and geologic conditions and by taking into account probable future uses of the site. Final slopes shall not be steeper than two feet horizontal to one foot vertical (2:1) unless the applicant can demonstrate to the satisfaction of the planning commission that any such steeper slope will not:

1. Be incompatible with the alternate future uses approved for the site;

2. Be hazardous to persons that may utilize the site under the alternate future uses approved for the site; and

3. Reduce the effectiveness of revegetation and erosion control measures where such are necessary. In no event shall the steepness of slopes exceed the critical gradient as determined by an engineering analysis of the slope stability.

F. Backfilling and Grading. Backfilled and graded areas shall be compacted to avoid excessive settlement and to the degree necessary to accommodate anticipated future uses. If future use of the site contemplates structures for human occupancy, fill placement shall conform to the Uniform Building Code except that alternate methods of backfilling and grading may be utilized when incorporated in the approved reclamation plan. Material used in refilling shall be of a quality suitable to prevent contamination and pollution of groundwater.

G. Resoiling. Resoiling shall be accomplished in the following manner: coarse, hard material shall be graded and covered with a layer of finer material or weathered waste and a soil layer then placed on this prepared surface. Where quantities of available soils are inadequate to provide cover, native materials should be upgraded to the extent feasible for this purpose.

H. Revegetation. All permanently exposed lands that have been denuded by mining operations shall be revegetated unless any such revegetation is determined by the planning commission to be technically infeasible or not beneficial with respect to the intent of this chapter. Revegetation methods and plant materials utilized shall be appropriate for the, topographical, soil and eliminate conditions present at the site. Native species shall be used wherever practical.

I. Bodies of Water. Ponds, lakes or bodies of water created as a feature of the reclamation plan shall be approved by the county flood control and water conservation district, the health care services agency and the mosquito abatement district.

J. Additional Requirements. 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. (Ord. 706 § 1, 2005)

#### **16.214.050 Required Permit Findings.**

A. Findings. Any permit issued under this Chapter shall require that the following findings shall be made by the planning department:

1. The proposed project complies with the provisions of SMARA and other State

regulations; and

2. The reclamation plan:

a. Complies with SMARA Sections 2772 and 2773;

b. Complies with the applicable State requirements, including but not limited to California Code of Regulations Sections 3500-3505 and 3700-3713;

c. Complies with the City's general plan;

d. Has been reviewed pursuant to CEQA and all significant adverse impacts are mitigated to the maximum extent feasible;

e. Provides that the land and/or resources such as bodies of water to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography and other resources, or that suitable offsite mitigation will compensate for related disturbance to resource values;

f. Provides that the mined land will be restored to a useable condition that is readily adaptable for alternative land uses consistent with the general plan; and

e. Is consistent with the protection of the public health, safety and welfare. (Ord. 706 § 1, 2005)

#### **16.214.060 Annual report requirements.**

Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the planning director 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 thirty (30) days of permit approval, or before commencement of

operations, whichever is sooner. Any applicable fees, together with a copy of the annual inspection report, shall be forwarded to the State Department of Conservation at the time of filing the annual surface mining report. (Ord. 706 § 1, 2005)

#### **16.214.080 Development Standards.**

The following development standards are applicable to all mineral production operations within the city unless approved otherwise through the conditional use permit procedure:

A. All production operations shall comply with California Public Resource Code, all regulations of the State Division of Industrial Safety and all other agency regulations which apply to such operations.

B. Minimum Production Site Size. All production sites shall be minimum of one acre in size in order to accommodate consolidation of equipment, soundproofing; landscaping, circulation, and allow for reuse of the property at such time as the site is no longer utilized for mining operations.

C. Access Roads and Production Site. All private roads used for access to, the production site and the production site itself shall be surfaced with a permanent or semi-permanent surface such as rock or gravel and maintained to prevent dust or mud.

D. Sumps or Ponds. All sumps, sump pits, ponds or similar devices such as portable tanks constructed onsite for the purpose of holding waste material shall be lined to prevent such waste material from penetrating into the soil. Furthermore, when such sump, pit or pond is no longer needed, it shall be excavated of all foreign materials and filled with compacted earth to the level of the surrounding terrain.

E. Fencing. All sumps, pits, excavations and production sites shall be enclosed with a fence, the type of fencing and height to be determined by the planning commission at the time of consideration of the conditional use permit.

F. Abandonment of Site. At such time as the site is abandoned, the responsible party shall abandon the site in accordance with the reclamation plan and all applicable regulations. Furthermore, all access roads shall be restored to their original condition or as nearly as practicable unless approved otherwise by the planning director of the city upon receipt of a written request by the property owner.

G. Nonproducing Mine. Whenever the cost of production exceeds the revenue produced by mine or whenever a mine is shut down for a period of ninety consecutive days or more, it shall be considered a nonproducing mine. When a mine is determined to be nonproducing or is shut down for ninety consecutive days or more, the operator shall report to the city the status of such a mine.

The operator shall then have ninety days to conduct an engineering evaluation to determine the economic viability :of continuing production operations. If it is determined that the mine is no longer economically viable, the mine shall be abandoned in conformance with Section 16.214.080(F).

The operator shall submit, upon request, reports to the city on each mine reflecting the cost/revenue ratio of each mine in order to determined if the mine is nonproducing.

H. Site Development. At the time of application for a conditional use permit to mining and production; the applicant shall submit a plan showing relationship to existing land use, ultimate land use if different and shall indicate proposed mitigation measures to all anticipated impacts

including but not limited to noise, light or glare, odor, traffic, aesthetics, etc.

I. Screening and Landscaping Production Sites. All sites shall be adequately screened from adjoining properties and public rights-of-way, the type of screening and landscaping to be determined by the planning commission at the time of consideration of the conditional use permit.

J. Mine Location.

1. Setbacks. No new mine or production facility shall be located within:

a. Five hundred feet of any building including dwellings, except buildings incidental to the operation of the mine, unless written permission is obtained from each affected property owner;

b. One thousand feet of any building used for public assembly, such as schools and churches.

K. Soundproofing. If mining operations are located within one thousand feet of an occupied building, noise sources associated with the operation shall be enclosed with soundproofing sufficient to ensure that expected noise levels do not exceed the noise limits contained in this chapter. Permittee shall install every device in the nature of exhaust mufflers and other equipment for the elimination of noise, obtainable and practicable for that purpose, on all operating machinery and equipment. Soundproofing shall be installed prior to commencement of operations.

L. Signs. All mines shall have a legible, permanent, prominently displayed and maintained metal sign no less than two square feet in area containing the following: name of the name of the owner or operator, twenty-four hour emergency phone number, lease name and name and number of the mine. If the operator

changes, it will be the new operator's responsibility to replace the sign within thirty days after the change. (Ord. 706 § 1, 2005)

**16.214.090 Noise.**

A. Noise Limits. No blasting, producing, or other operations (including workover operations) shall produce noise at the property line of a noise sensitive receptor in excess of the following standards unless a permit is granted by the planning department.

Basic Reference Levels

7 a.m. to 10 p.m. 55dB(A)

10 p.m. to 7 a.m. 50dB(A)

B. Noise measurement and acoustical analysis shall be conducted by a qualified acoustical consultant experienced in the fields of environmental noise assessment and architectural acoustics using a sound level meter. All costs associated with said measurement and analysis shall be borne by the permittee. (Ord. 706 § 1, 2005)

**16.214.100 Performance Standards.**

A. Noise Abatement. If noise complaints are received by the city, or if noise levels exceed those permitted by this chapter, a notice shall be issued to the operator.

Upon receipt of notice, the operator shall submit for the approval of the planning department the procedures the operator will undertake to correct the violation. Corrective measures must be initiated within twenty-four hours of operator's receipt of the notice. The city may require additional or follow-up noise field tests by an acoustical engineer to ensure compliance, in which case the operator shall pay the actual costs to the city for such tests. Failure to comply shall be reason for the city to limit

drilling, redrilling or other operations to

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daylight hours (seven a.m. to seven p.m.).

B. Light or Glare. It is unlawful for any person to operate, or cause to be operated any production equipment for any mine, or incidental to a mine, within the incorporated limits of the city, in any manner so as to direct any light or glare such that it negatively impacts any adjoining residential or commercial land uses. Furthermore, such light or glare must be directed away from any public street such that it will not create a traffic hazard.

C. Waste Discharge. At no time shall any waste matter be discharged into the public sewer, storm drain, or irrigation systems, any stream or creek, or into the ground, except in accordance with the regulations or requirements of all applicable local, state or federal agencies.

D. Vibration. Any ground vibration generated by any mining activity which is discernible at any residentially developed property shall be prohibited. Vibration dampening equipment of the best available technology shall be installed as required by the city so as to reduce vibration to a minimum.

E. Fire, Safety and Explosion. All uses shall provide adequate safety devices against fire, explosion and other hazards and adequate fire fighting and fire suppression equipment in compliance with applicable fire prevention codes.

F. Air Pollution. All uses shall comply with regulations of the San Joaquin Valley Unified Air Pollution Control District.

G. Heavy Equipment. Transport of heavy equipment or large trucks to and from the production site shall be limited to the hours of seven a.m. to ten p.m. (Ord. 706 § 1, 2005)

**16.214.110 Noise Control Officer Designated.**

The noise control officer shall be the planning director or a person, designated by the planning director, of the city. The noise control officer is authorized to enter property for the purpose of investigating complaints of noise or for normal periodic checks of noise levels at production sites. (Ord. 706 § 1, 2005)

**16.214.120 Nonconforming Production Sites.**

Production sites legally established within the unincorporated area and subsequently annexed to the city of Ripon may continue without complying with the requirements of this chapter provided the site or operations on the site do not create a public nuisance as defined within this chapter. Whenever an existing production site which has not complied with these regulations is reworked, it shall then comply with: these regulations. (Ord. 706 § 1, 2005)

**16.214.130 Nuisance.**

No person shall conduct any mining operation in a manner that would create any noise, odor or vibration detrimental to the health, safety, or welfare of the surrounding area or any reasonable number of persons. Such manner of operation is declared to be a public nuisance and when determined by the city that a drilling site or operation constitutes a public nuisance, the city shall take all actions necessary and available to abate such nuisance. (Ord. 706 § 1, 2005)

**16.214.140 Spills.**

In the event of any leak or spill of any pollution or deleterious substance, whatever the cause thereof, the permittee shall notify the

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planning department. If, in the judgment of the city, such leak or spill represents a potential environmental hazard, the city may issue whatever corrective orders deemed appropriate, and may require the appropriate testing of the surface and subsurface for pollutant incursion, the cost of such tests to be borne by the permittee. (Ord. 706 § 1, 2005)

**16.214.150 Building Permits.**

Building permits shall be secured for all permanent structures in conformance with the Uniform Building Code. Electrical permits shall be required for all electrical connections. (Ord. 706 § 1, 2005)

**16.214.160 Insurance.**

No operations shall commence until the applicant files with the city insurance certificates as follows:

Permittee shall carry a policy of standard comprehensive general public liability insurance, including coverages for: sudden and accidental pollution including the cost of environmental restoration, underground resources coverage and completed operations. The policy shall insure the city against all costs, charges and expenses incurred by it for cleanup of sudden and accidental pollution. The insurance shall name the city as an additional insured for third party liabilities arising from any mining operations insured under the certificate during the period of coverage. Insurance shall include contractual liability covering bodily injuries and property, damage,

naming the permittee and the city of Ripon, in the amount of one million dollars per occurrence. The deductible must be no greater than ten thousand dollars. The policy shall provide for a thirty day cancellation notice to the city in the event the policy will be terminated for any reason except nonpayment of premium in which case the notice period shall be ten days. (Ord. 706 § 1, 2005)

**16.214.170 Indemnification.**

The operator shall indemnify, defend and hold the city, and their elected officials, officers, agents and employees free and harmless from all actions, suits, claims, demands, liability, costs, and expense, including prosecution claimed or established against them, or any of them, for damage or injuries to persons or property of whatsoever nature, arising out of or in connection therewith the acts or omissions of operator, its servants, agents, or employees, or to which operator's negligence shall in any way contribute, or arising out of the operator's failure to comply with the provisions of any federal, state or local statute, ordinance or regulation applicable to the operator. (Ord. 706 § 1, 2005)

**16.214.180 Sale of Mine.**

Whenever a mine is to be sold, the permittee shall notify the planning department in writing a minimum of thirty days prior to the effective date of sale. (Ord. 706 § 1, 2005)

**16.214.190 Right of Entry.**

Any officer or employee of the city whose

duties require the inspection of the premises shall have the right and privilege at all reasonable times, to enter upon any premises upon or from which any operations being conducted for which any permit has been issued of is required, for the purpose of making any inspections. No owner, occupant, or any other

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person having charge, care or control of any premises shall fail or neglect to permit entry. (Ord. 706 § 1, 2005)

**16.214.200 Notices.**

Every operator of any mine shall designate an agent, who must be a resident of the state during all times he or she serves as agent, upon whom all orders and notices may be served in person or by mail. Every operator shall, within five days, notify the planning department in writing of any change in such agent or mailing address. (Ord. 706 § 1, 2005)

**16.214.210 Violations.**

Any use, operation, building, site, structure, excavation or sump established or used contrary to the provisions of this chapter is deemed to constitute a public nuisance, and shall be subject to abatement, including injunctive relief against the creation, maintenance or allowance of .any nuisance as well as such other remedies as may be provided in the Ripon Municipal Code. In addition, any violation of this chapter shall constitute a misdemeanor. (Ord. 706 § 1, 2005)

**16.214.220 Stop Orders.**

If any operator is violating any of the provisions of this chapter which affect public health and. safety, the city may issue a stop work order for immediate cessation of

operations. The operator shall immediately comply with the order and shall not resume operations until written consent from the city has been obtained, or unless there exists special or emergency circumstances. (Ord. 706 § 1, 2005)

**16.214.230 Revocation of permit.**

A. Findings for Revocation. Any permit issued pursuant to the provisions of this chapter may be revoked by the planning commission, or on appeal by the city council, upon finding either:

1. That permittee has failed, neglected, or refused to comply with and abide by any of the conditions of their permit; or
2. That permittee has failed, neglected, or -refused to comply with and abide by, or has in any way violated any of the provisions of this chapter, any other ordinance of the city; or any other law, rule or regulation, either directly or indirectly, by reason of, in connection with, or incident to his operations under the permit or upon the premises covered by such permit; or
3. That any of permittee's operations, or the continuance thereof, upon the premises covered by his/her permit are or are likely to become a menace or hazard to business, to any public property, to any interest of the city, or to the lives or safety of persons; or
4. That permittee has made a willful

misrepresentation of fact in any application for such permit or in any report or record required by this chapter to be filed with or furnished to the city by permittee.

5. Any permit, either in connection with a proceeding for the revocation thereof or otherwise, may be suspended by the commission or council upon finding, that the operations of the permittee constitute or have become an immediate menace or hazard to commerce, to any public property, to any interest of the city, or to the lives or safety of persons. The suspension and/or revocation of any permit shall be made and accomplished in the following manner.

a. At a public hearing before the planning commission, the permittee and the public shall be given an opportunity to present information relevant to consideration of suspension or revocation of the permit.

b. Following the public hearing, or on appeal by the city council; notice of suspension and/or revocation shall be served upon permittee, stating the reasons and grounds upon which the proposed action is based, requiring permittee within fifteen days after, the service upon him/her of such notice, to cure and remedy any fault, noncompliance, or violation of any condition for which suspension or

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revocation of the permit may be made. Five days after the time herein provided for the curing of any default, or within any further times as the commission or council may have granted, has expired, said permit shall, without any further or other action of or by the city, be revoked.

B. It is unlawful to carry on any of the operations authorized by any permit during any period of suspension or after revocation provided that nothing shall prevent the performance of such operations as may be necessary for safety; or to cure and remedy the default, noncompliance or violation for which suspension or revocation was ordered. (Ord. 706 § 1, 2005)