

ORDINANCE NO. 10119 (NEW SERIES)
01/26/11 (13)

AN ORDINANCE AMENDING TITLE 8, DIVISION 7, CHAPTER 7 OF THE COUNTY CODE RELATED TO SURFACE MINING; AMENDING TITLE 9, DIVISION 1, CHAPTER 1 OF THE COUNTY CODE RELATED TO ADOPTION OF APPENDIX CHAPTER 1, CALIFORNIA BUILDING CODE AND AMENDING ARTICLE XXIa OF THE ADMINISTRATIVE CODE, RELATING TO RULES OF CONDUCT AND PROCEDURE FOR PLANNING AND ZONING PROCESS

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that the County Code should be updated by amending subsections 87.705 and 87.709 to require recordation of an approval of a Reclamation Plan or a modification of an approved Reclamation Plan and by amending subsection 91.1.105.2 to clarify the work exempt from a building permit. The Board finds that these amendments, and those in the Administrative Code, are reasonable and necessary for the public health, safety, convenience, and welfare.

Section 2. Section 87.705 of the County Code is amended to read as follows:

SEC. 87.705. APPLICATION AND REVIEW.

(a) All applications for a Major Use Permit for surface mining shall be made, considered and granted or denied pursuant to The Zoning Ordinance, and shall be accompanied by an "Application for Reclamation Plan" as provided by the Department. Both applications shall be processed concurrently. An application for a Reclamation Plan shall be processed under the same procedures as the Major Use Permit, including those provisions requiring a public hearing those provisions relating to appeals. Reclamation Plans may be granted subject to such conditions and limitations as may be deemed appropriate. All plans and specifications for the grading of the property shall be prepared or approved and signed by a registered civil engineer, and shall include all information required in Section 87.208 and any other information required by the County Official.

(b) Any surface mining operation conducted pursuant to vested non-conforming rights or pursuant to a Major Use Permit, shall cease operating until a Reclamation Plan is approved by the County, unless the Reclamation Plan is on appeal to the SMGB. An "Application for Reclamation Plan" shall be submitted within 120 days from the date the County Official requests in writing to the mining operator or mining site property owner that such Reclamation Plan be submitted or within the extension periods the County Official may grant if cause is shown why more time should be granted for the filing.

(c) The Department shall submit all proposed Reclamation Plans and any proposed amendments to the Director of Conservation for review at least 45 days before the County acts thereon. The County shall notify the Director of Conservation of the filing of an application for a surface mining permit within 30 days of the filing of an

application. The Department shall also send the Director of Conservation a copy of each mining permit approved by the County.

(d) The Reclamation Plan shall contain all matters required by SMARA and Sections 3502 and 3700 and following of Title 14 of the California Code of Regulations, and shall provide in designated phases for the progressive rehabilitation of the mining site land form so that, when reclamation is complete, it will contain stable slopes, be readily adaptable for alternate land uses, and be free of derelict machinery, waste materials and scrap to the satisfaction of the County Official. The proposed mining site land form, to the extent reasonable and practical, shall be revegetated for soil stabilization, free of drainage problems, coordinated with present and anticipated future land use, and compatible with the topography and general environment of surrounding property.

(e) Where any requirement of the reclamation plan conflicts with any requirement of the approved major use permit, the County Official shall determine which requirement shall apply; provided however, that the minimum reclamation standards of SMARA shall apply in any event.

(f) When the approval of any Reclamation Plan and Agreement has become final and effective, the Director shall cause a copy to be filed with the San Diego County Recorder. The documents to be recorded shall set forth the names of all owners of the property subject to the Reclamation Plan. The recorded document shall provide constructive notice to all purchasers, transferees, or other successors to the interests of the owners named, of the rights and obligations created by the Reclamation Plan.

Section 3. Section 87.709 of the County Code is amended to read as follows:

SEC. 87.709. MODIFICATION OR REVOCATION OF RECLAMATION PLAN.

(a) An approved Reclamation Plan, or any conditions thereof, may be modified using the same procedures for processing a new application, including environmental review. The application fee and deposit for a Reclamation Plan modification shall be the same as that required for a modification of a Major Use Permit. If both a Major Use Permit and Reclamation Plan modification are applied for concurrently, the fee and deposit are the same as for a modification of a Major Use Permit. The County shall send a copy of all applications to modify Reclamation Plans to the Director of Conservation for review in sufficient time before the County acts on the application, to allow the Director of Conservation 30 days to review the application after receipt of the documents.

A modification to an approved Reclamation Plan shall be filed with the San Diego County Recorder pursuant to Section 87.705(f).

(b) The County Official may approve minor amendments to the Reclamation Plan in the same manner as a Minor Deviation to a Major Use Permit. A minor amendment is a change to the approved Reclamation Plan that the Director determines

will not increase any deleterious impact the project has on the environment or the conditions of the project's approved Major Use Permit or Reclamation Plan. The application fee for a minor amendment to an approved Reclamation Plan shall be the same as that required for a Minor Deviation of Major Use Permit.

(c) Pursuant to Section 2774 of SMARA, any modification or amendment to a Reclamation Plan shall be forwarded to the Director of Conservation. The Director of Conservation shall have 30 days to provide written comments.

(d) The County Official may modify or revoke a reclamation plan for cause, upon the grounds and upon following the same procedures as are specified regarding grading permits at Section 87.216 of this Division.

Section 4. Section 91.1.105.2 of the San Diego County Code shall be amended to read as follows:

SEC. 91.1.105.2. WORK EXEMPT FROM PERMIT.

(a) A building permit shall not be required for the following:

(1) Patio covers and carports accessory to R-3 occupancies up to 300 square feet of projected roof area and at least 3 feet from property line which comply with all requirements of the County Zoning Ordinance including setback from property line requirements.

(2) Recreation and athletic equipment, excluding buildings and swimming pools, that comply with the requirements of the County Zoning Ordinance.

(3) One-story detached accessory buildings, including sea cargo containers, used as non-habitable space such as tool or storage sheds, playhouses, agricultural buildings and similar uses provided the floor area does not exceed 120 square feet and no plumbing, electrical or mechanical permit is required for the structure. These accessory buildings, however, shall be subject to County Zoning Ordinance requirements and limitations.

(4) Fences and free standing masonry walls not over 6 feet high which comply with the fencing and landscaping regulations of the County Zoning Ordinance. A building permit shall also not be required for open fences up to eight feet high, where allowed by the County Zoning Ordinance, provided the uppermost two feet consists only of barbed or razor wire and necessary support elements placed at an angle to the vertical for security purposes.

(5) Oil derricks.

(6) Moveable cases, counters and partitions not over 5 feet 9 inches high.

(7) Retaining walls not over three feet in height measured from the top of the footing to the top of the wall unless supporting a surcharge or impounding flammable liquids.

(8) Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed two to one, or the capacity does not exceed 10,000 gallons and the ratio of height to diameter or width does not exceed one and one-half to one. Water tanks shall comply with the requirements of the County Zoning Ordinance for accessory structures.

(9) Platforms, walks and driveways not more than 30 inches above grade, as measured from grade to the highest point of the platform, walk or driveway directly above, and not over any basement or story below.

(10) Painting and papering and similar finish work.

(11) Temporary motion picture, television and theater stage sets and scenery.

(12) Window awnings on Group R or Group 2 occupancies supported by an exterior wall that do not project more than 54 inches from the exterior wall and do not require additional support.

(13) Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 18 inches deep, do not exceed 5,000 gallons and are installed entirely above ground.

(14) Single pole television and radio antennas supported on roofs. Dish antennas supported on the ground when they comply with the accessory structure setback regulations of the County Zoning Ordinance.

(15) Public utility towers and poles.

(16) Any portable metal hanger less than 2,000 square feet in size, located on a County-owned airport used only for parking aircraft and bearing evidence of approval by the California Department of Motor Vehicles for movement on any highway. This structure shall, as an integral part of the basic construction, be equipped with a hitch or coupling device for towing. It shall accommodate, without further major structural change, wheel and axle assemblies which will provide this structure with a safe means of portability. No water, sanitary facilities or electrical installation shall be allowed in this structure and it shall be equipped with permanent ventilation as required for any Group S-2 occupancy.

(17) Electric light poles, flag poles and antennas not over 35 feet in height above finished grade when fully extended which comply with the County Zoning Ordinance.

(18) Agricultural shade structures where the shade is provided by a fabric or plastic film material, and agricultural crop protection structures which are constructed with a framework of metal or plastic hoops that are covered with a flexible plastic film, provided that all these structures comply with all requirements of the County Zoning Ordinance.

[(b) through (f) No Changes]

Section 5. Section 375.3 of the San Diego County Administrative Code is amended to read as follows:

SEC. 375.3. STAFF REPORTS

(a) When a Planning Commission and/or a planning staff written report exists, copies of such report shall be available for public inspection at the office of the Clerk at least 24 hours prior to the commencement of the hearing; provided, however, the decision-making body may allow in its discretion the filing of supplemental reports which shall be made public at the commencement of the hearing.

(b) When any hearing is held, a written staff report with recommendations and the basis for such recommendations shall be filed as a part of the record of the hearing. Said report shall discuss each issue upon which a finding must be made.

(c) The recommendations and findings contained within a Planning Commission and/or a planning staff written report shall be advisory only and are not binding on the decision-making body.

Section 6: Section 375.16 of the San Diego County Administrative Code is repealed.

Section 7: This ordinance shall take effect and be in force thirty days after its passage and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the San Diego Commerce a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 26th day of January, 2011.