RESOLUTION 2001-489

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CAMP VERDE, YAVAPAI COUNTY, ARIZONA, DECLARING *The 2001 Amendments to Section 123(Mining Ordinance) of the Planning and Zoning Ordinance (87-A23) dated October 17, 2001,* TO BE A PUBLIC RECORD.

WHEREAS, ARS 9-802 permits the enactment and publication by reference of a code or public record, including a statute, rule, or regulation of the municipality, in the interests of economy, and

WHEREAS, the document entitled ***The 2001 Amendments to Section 123 (Mining Ordinance) of the Planning & Zoning Ordinance (87-A23) dated October 17, 2001,*** is a lengthy revision of the ordinance which would quality for enactment by reference as a matter of law,

NOW, THEREFORE, THE MAYOR AND THE COMMON COUNCIL OF THE TOWN OF CAMP VERDE HEREBY DECLARE *The 2001 Amendments to Section 123 (Mining Ordinance) of the Planning and Zoning Ordinance (87-A23) dated October 17, 2001,* ATTACHED HERETO AND INCORPORATED HEREIN, TO BE A PUBLIC RECORD PURSUANT TO ARS 9-802, TO BE ENACTED BY ORDINANCE 2001 A195, AND ORDER THAT THREE (3) COPIES OF THE AMENDMENTS BE PERMANENTLY FILED IN THE OFFICE OF THE TOWN CLERK AND COMMUNITY DEVELOPMENT DIRECTOR, AND AVAILABLE FOR PUBLIC USE AND INSPECTION.

PASSED, APPROVED, AND ADOPTED by the Mayor and common Council of the Town of Camp Verde, Yavapai County, Arizona, on the 17th day of October 2001.

Approved:

Brenda Thauser
Mayor

Attest: Deborah Barber
Town Clerk

Approved as to form:
Mangum, Wall, Stoops + Warden, P.L.L.C.

Town Attorney

02-08-01

4. GENERAL PROVISIONS

1.1 Authority

The authority of the Town of Camp Verde to establish the regulations in this section is granted by Arizona State Statutes 9.276.9, 16, 9.461.01.4, and 9.462.01.A, C.1, D, and the Planning and Zoning Code of the Town of Camp Verde, Sections 102, and 108.A & I.

1.2 Intent

It is the intent of the Town of Camp Verde to establish regulations on uses, that mine, quarry, extract, process or store resources, derived from the natural environment. These regulations are intended to substantially reduce potential environmental impacts which result from these operations and to insure compatibility with surrounding land uses. The application of available technology and business methods, which substantially reduce or eliminate any potential adverse impacts to the natural environment, are required. As a result of the application of this ordinance, such operations will be more compatible with their surroundings and harmonious with the natural environment.

Mining, quarrying, extracting, processing or storing operations are not construed as being inherently bad and can, given the right circumstances and management, be beneficial to the Town, its residents, the general public and the environment. However, such uses when left unchecked could do irreparable harm to the environment or create hazards to the general health, safety and welfare of the public. Additionally, these regulations are intended to complement the federal, state, county and local environmental regulations rather than conflict with or overrule them.

1.3 Purpose

It is the purpose of this section to create and maintain effective and comprehensive regulations for various types of uses which mine, quarry, extract, process or store resources derived from the natural environment. These regulations are to ensure operations are conducted and managed so that:

A. Any adverse environmental effects of the operation are prevented or minimized. Environmental effects include, but are not limited to impacts on transportation, circulation, air and water quality and use, noise, dark sky, or other environmentally related elements, which are impacted by the mining operation.

B. Lands used for mining, quarrying, extracting, processing or storing purposes are reclaimed to a condition, which is readily adaptable to alternative land uses consistent with the General Plan.

C. Existing watershed, wildlife, range, forage, and aesthetic features are accommodated and protected.

D. Existing and future recreational or public access uses are considered and incorporated into the use and restoration of such sites.

E. Hazards to the public health, welfare and safety such as noise, dust, fumes, odors, vibrations, light and glare are eliminated and/or managed in a way so as to reduce the hazard to an approved level as contained herein.

F. Established residential areas and residents are protected from possible adverse effects of the operation such as truck traffic, noise, dust, vibration, or other similar impacts, which are detrimental to the neighborhood.

G. The right of surrounding property owners to enjoy their land is protected and land use compatibility is achieved and maintained.

This section pertains to all areas within the incorporated areas of Camp Verde that may be impacted, not just those in the immediate area.

1.4 Scope

This ordinance is a compilation of rules and procedures for the regulation and permitting of uses which mine, quarry, extract, process or store natural resources as defined herein.

1.5 Applicability and Exemptions

The regulations contained in this section apply to all business operations which mine, quarry, extract, process or store natural resources as defined herein for the protection of the public health, safety and welfare. This section shall not be construed to prevent, restrict or otherwise regulate the use or occupation of land or improvements for railroad, grazing or general agricultural purposes when such use is maintained on a lot of five acres in size or more.

Where the processing of natural resources is conducted as a sole use, not in combination with a mining or quarry operation, or where the processing of natural resources involves importation of materials, such uses are restricted to industrial zoning districts (M-1, M-2) where such uses are specifically listed and are not considered mining operations regulated by this section.

2.0 DEFINITIONS

For the purposes of administering this section, the following definitions are provided:

Agent: Any person, business, corporation or other entity proposing an application on behalf of an applicant (property owner). Such agent shall have specific written permission to apply for any permit required by this ordinance.

Agricultural Use: Grazing, growing of crops or other bona fide agricultural uses of property as defined by the State of Arizona.

Applicant: Any real property owner applying for a permit according to this ordinance.

Blending: Process of combining materials with other materials naturally occurring on the mining site to achieve a finished product which meets required specifications and may require importation of materials from sources outside of the operator's property.

Commission: Planning and Zoning Commission of the Town of Camp Verde.

Council: Mayor and Common Council of the Town of Camp Verde.

Department: Planning and Zoning Department of the Town of Camp Verde.

Development Plan: An issued building permit or an approved subdivision or an approved PAD.

Director: Planning and Zoning Department Director of the Town of Camp Verde.

Established Residential Area: An area, which is zoned for residential use and is subdivided or contains a residential structure. Such areas are delineated by the exterior property line of the subdivided lot or residential site.

Environmental Impact: A change or modification which positively or negatively influences the condition, volume, number, nature or quality of air, water, earth, plant and animal life, natural resources, noise, public services, transportation and circulation, land use, aesthetics, cultural, archeological and historical resources, the provision of public utilities, human health, safety, welfare and recreation.

Existing Illegal Non-Conforming Use: Any use, which is conducted without the required permits or is not a legal non-conforming use.

Extracting: Removing, cutting, gathering, digging, scraping, pumping, or other similar action resulting in the separation of a natural resource from its source as part of a mining, quarrying or processing operation.

General Agricultural: The use of property for the purpose of growing plants or crops for

sale. Excavation and filling shall be limited to grading only.

General Plan: Adopted General Plan of the Town of Camp Verde.

Grading: Any fill or excavation preliminary to development of a property or to correct a drainage problem with a permit issued pursuant to Section 3309 of the Uniform Building Code.

Grazing: The use of property for the purpose of feeding and housing livestock. Excavation and filling shall be limited to grading only.

Importation: The transportation to the permitted mining site of materials naturally occurring on the permitted mining site from locations off the permitted mining site.

Legal, Non-Conforming Use: Any use which legally exists with any and all required permits at the time the use was installed. Such uses are subject to regulation under Section 105 of the Zoning Code.

Mining or Quarrying Operation: Any commercial or industrial operations which are not grading involving extraction, removal, processing, quarrying, transportation or use of natural resources, and related products and the storage, stockpiling, distribution and sale thereof. Such operations include the extraction and removal of natural resources for personal or monetary gain, regardless of the size of the site or the volume of extraction.
Any such activity will be considered mining if it meets any three of the following. Use of heavy equipment, such as bulldozers, loaders, excavators or scrapers, in the activity. Excavation, removal from the site of material more than 3 feet below existing grade. Processing of the material by means of screening, crushing or washing on or off site. Activity which continues in excess of 6 months from date of start of activity. Activity which occurs without a specific approved development plan or building or grading permit.
In addition to the above any activity which is regulated by the State of Arizona or federal government as a mining activity or requiring any other mining permit will be considered mining. Mining shall be designated as an industrial use pursuant to the provisions of the zoning code.

Natural Resource: Sand and gravel, rock or any mineral, gas, or petroleum product, landscape materials, (water,) earth or clay naturally found on a property. This definition also includes portland cement, concrete and asphalt concrete.

Operator: Applicant and/or permitee.

Permitee: Any person, business, company, corporation or entity who is granted approval of a Use Permit according to this Section.

Planning and Zoning Ordinance: Ordinance No. 87-A23 as adopted and amended, by the Town of Camp Verde, which regulates land use and development within the Town.

Processing: Act of preparing, mixing, batching, washing, crushing, blending or otherwise modifying a natural resource for the purpose creating a saleable commodity or product. ~~For the purposes of this Section, processing of natural resources shall be on the same site or adjacent to a mining, extracting or quarrying operation where the resource is derived from its natural environment.~~

Reclamation: Combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from mining operations, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses consistent with the General Plan, and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, re-soiling, revegetation, soil compaction, stabilization, or other measures.

~~Restoration: Reclamation as defined herein.~~

Residentially Zoned: Any land zoned for residential use not owned by the permitee .

Town: Town of Camp Verde, Yavapai County, Arizona.

3.0 PERMITTING REQUIREMENTS AND PROCEDURES

3.1 Permit Required

The establishment or expansion of mining operations may occur in any zoning district, with the required mining overlay district, if a use permit is approved by the Town in accordance with this section. For uses applicable to this Section, a complete Use Permit application shall be filed with the Town of Camp Verde, Planning and Zoning Department. Such permit shall be reviewed and approved by the Town prior to initiation of the applicable mining operation. All Use Permits shall be processed in accordance with this section and sections 108 I and 113 of the Planning and Zoning Ordinance.

The Town of Camp Verde reserves the right to deny the permit or apply conditions to all mining operations in order to ensure that the operation of the use is not detrimental to the surroundings or environment.

3.2 Procedure For Obtaining Permits

Any party who wishes to install or expand a mining, extracting, quarrying, processing or storing operation shall obtain and complete a Use Permit Application or provided on the forms in the Planning and Zoning Department. This application shall be completed to the best of the knowledge of the applicant and shall be filed with the appropriate filing fee and an application review fee as established by Town Council Resolution.

The fee for reviewing the application shall be not less than seven hundred fifty dollars ($750.00). This fee is intended to cover the town's costs of review of the application. If, after receipt of the application, the department determines that the cost of review is likely to substantially exceed such fee the department may, after consultation and discussion with the applicant, recommend an additional fee to the Town Council. Such additional fee shall be approved by the Town Council by motion and shall be set at an amount that will, as far as can be determined, cover the cost of review of the application, including reasonable administrative and overhead expenses. In recommending the additional fee, the department may consider, among other factors: that proper review will require the department to retain outside professional assistance either to review the application or to perform original study and research; that significant staff effort will be required by the department to adequately review the application; the involvement in the review process of other governmental agencies, either through a federal environmental review process or other procedure; the necessity for extraordinary travel and transportation costs that may be incurred by the department during review; the potential benefit of information generated by the application review to other mining operations or to the town; and the necessity for extraordinary communication, duplication or publication costs arising from the review.

Upon written notification from the ~~Planning~~ Director that the application is complete, the Director shall initiate the approval process. For mining operations, the procedures in the Camp Verde Zoning Ordinance for a zoning district change shall apply.

Prior to filing an application, the applicant shall meet with the Planning Director or other duly appointed representative of the Town, for the purposes of discussing the intended use and for conducting a comprehensive field investigation of the site. The inspection is for the purposes of determining the potential environmental and socioeconomic impacts associated with the proposed operation, and to determine the relative distance to existing established residential areas and residentially zoned property. After the inspection, Town Staff shall conduct an Environmental Evaluation Report ~~and a Socioeconomic Assessment Report,~~ with the assistance of the applicant and qualified professional consultants.

The Department shall complete a staff report, which includes a final recommendation on the project. This recommendation may include conditions as needed to ensure the use is operated in compliance with the purpose, intent and general regulations of this section, other applicable requirements of the Planning and Zoning Ordinance, and other applicable regulations of the Town.

All mining operations must be consistent with the General Plan and must be located within a land use overlay designation (as described in the Land Use Element of the General Plan) that specifically allows for mining operations.

If a favorable recommendation is made, such recommendation shall include a three year renewal clause, which requires the applicant to apply for annual review of the permit to determine continued performance which meets any and all conditions applied on the permit Upon a recommendation of the Planning and Zoning Commission, the Use Permit shall be

reviewed by the Town Council for final action.

All reasonable costs and expenses required to prepare the reports shall be paid to the department by the applicant. An estimate of costs and expenses will be prepared by the department and must be paid by the applicant prior to the initiation of the field investigation. A final reconciliation of the estimate and the actual costs and expenses are to be settled when the reports are completed. The reimbursement of these costs and expenses is independent of the filing and application review fees.

~~For the purposes of this ordinance, the term socioeconomic impact assessment report shall be and mean a report that shall address the beneficial and adverse impacts, including direct impacts and indirect impacts, of the mining operation on existing and future local conditions, property values, facilities and services, including transportation and traffic; sewer and water; solid waste; public safety and fire protection; education, native history and culture; health; recreation; housing; employment; local businesses; the rate, distribution and demographic characteristics of any population changes induced by the mining operation; and the fiscal impacts of the mining operation on public facilities and services, including general government functions. The socioeconomic impacts to be studied must be reasonably foreseeable and demonstrable. Highly speculative impacts need not be studied.~~

~~The purpose of this impact assessment shall be to provide information to the department concerning possible beneficial and adverse mining operation impact on the town, in order to allow the department to determine the extent of these impacts and how these impacts can be mitigated.~~ The ~~impact assessment report and the~~ environmental evaluation report shall be completed before the time that the department must make a recommendation on the application

3.3 Application Requirements for All Mining Operations

ANY STUDY, PLAN OR REPORT REQUIRED BY THIS ORDINANCE MAYBE SATISFIED BY ~~IDENTIFYING~~ PROVIDING AN EXISTING STUDY OR REPORT, ON FILE WITH A FEDERAL OR ARIZONA STATE AGENCY, WHICH CONTAINS SUFFICIENT INFORMATION TO MEET THE INTENT OF THE REQUIREMENT AND IS ACCESSIBLE BY THE TOWN. ANY STUDY, PLAN OR REPORT IS SUBJECT TO AMENDMENT WITH THE MUTUAL CONSENT OF THE TOWN AND PERMITEE. ~~A LEGAL NON-CONFORMING USE IN EXISTENCE AT THE EFFECTIVE DATE OF THIS SECTION WILL BE SUBJECT TO A STREAMLINED APPLICATION PROCESS AS DETERMINED BY THE DIRECTOR.~~

An application filed for mining, quarrying, extracting, processing and storing operations as defined in this Section, shall include the following information:

1. A completed Use Permit application form.

2. A letter of intent detailing the nature and scope of the intended use, the hours of operation, the number of employees, the number and size of vehicles and equipment anticipated to be on the site, and any other pertinent information as

provided by the applicant or as requested by the ~~Planning~~ Director which is necessary for processing the application.

3. The names, addresses and Assessor's Parcel Numbers of all property owners within a 1320 foot radius from the edge of the property. This list shall be based upon the current assessment roll of the Yavapai County Assessor's Office.

4. A detailed truck traffic noise abatement plan showing all truck traffic routes, parking and access locations, estimated time schedule for use (including engine warm-up), number, size and total weight capacity of the trucks, and the proposed method of implementation of the traffic routing and noise abatement plan including those trucks not employed by the operator.

5. Twenty-four copies of a detailed, dimensioned drawing of the site plan, at a minimum scale of 1"=50 feet, showing at minimum, the following:

   a. general location of anticipated excavation and mining areas;
   b. temporary and/or permanent building locations;
   c. parking and access areas;
   d. landscaped areas;
   e. geological and hydrological features;
   f. outdoor storage and stockpiling and quarrying areas;
   g. location and type of outdoor lighting fixtures;
   h. proposed location of any processing operations and the location of equipment used for this purpose;
   i. location and type of fencing, walls and other screening devices;
   j. locations of known archeological features, historical sites and ditches;
   k. all existing and proposed watercourses, ponds or standing water bodies, levees, drainage facilities, flood control improvements, underground utilities; and
   l. any other pertinent information requested by the ~~Planning~~ Director or as needed to show the full extent of the operation and special features of the use and/or site.

6. An 8-1/2" x 11" transparency reduction of the site plan as described in item 5 of this Section.

7. A site excavation and reclamation plan containing all required information contained in section 3.4 of this chapter.

8. A performance agreement per section 4.3 of this ordinance.

9. A detailed site screening and buffer plan showing how operations and outdoor storage/stockpiling will be screened from neighboring residentially zoned properties as required by Section 108-B and 108-H of the Planning and Zoning Ordinance.

10. An area map showing the general location of the facility in relation to the Town, the surrounding zoning and land uses for all properties within the required radius described in number 3, above, and the location and distance to all established residential areas within a 1320 foot radius as measured from the property line of the proposed site, and all residentially zoned property within a 1320 foot radius as measured from the property line of the proposed site.

11. A complete access and parking pavement construction plan detailing the type and method of construction for any required paving.

12. A complete dust control plan showing the method(s) of dust control and maintenance of any paved parking and access areas.

13 A complete noise control plan detailing the method(s) of noise control and performance standards sufficient to comply with section 4.1.8 of this ordinance. a quarterly report will be done and provided to the director by a certified sound engineer acceptable to the director, and paid for by the operator, to ensure compliance.

14. A complete hydrology plan for drainage and rainfall detention or retention as required by the Town Roadway Construction Standards and any applicable requirements of the Yavapai County Flood Control District. Such plan shall demonstrate that the proposed operation will not increase the potential for hazard or damage to other properties as a result of the operation, and include measures for the continued control of erosion due to rain and wind. All existing and proposed water courses, levees, drainage facilities and other flood control protective works shall be included.

15. An approved sanitary disposal permit/plan from the Yavapai County Health Department.

16. A complete list of all required permits from county, state and federal agencies that regulate the proposed use. This list shall include a description of the required permit, the Agency that is responsible for issuing the permit (including contact person names, phone numbers and mailing addresses) and an anticipated time frame for obtaining each required permit.

17. Information as to the intended installation of access roads, drives and other transportation facilities and their intersection or overlay onto dedicated public rights-of-way or private easements. Such facilities shall be conceptually designed according to all applicable requirements of the Town Roadway Standards and the State Route 260 Access Control Plan (if applicable). If access or related transportation facilities are to be located in easement areas not owned by the

applicant, proof of approval of the grantor of such easement(s) shall be provided.

18. A complete stream/river bed and water body protection plan shall be provided if the intended operation includes extraction from or modification to, or traversing of any existing water course or water body. Such plan shall include measures for protecting and if applicable, improving the water body or course.

19. Operational Control Plan to include a description of the methods of implementing and enforcing the operational regulations contained in Section 4.1.

20. Any other forms and information as required by the standard Use Permit application used by the Department.

21. A complete Environmental Impact Study, to include archeological and cultural resources survey and mitigation plan.

3.4 Excavation and Reclamation Plan

As required by Section 3.3, all use permit applications for mining operations shall include an excavation and reclamation plan. This plan is for the purpose of providing for orderly progress according to a time schedule which will result in making the land available for re-use once the mining and excavation of the site is completed. ~~THIS PLAN WILL BE LIMITED TO END OF LIFE CONDITIONS UNLESS THE APPLICANT DESIRES TO ESTABLISH PHASED RECLAMATION OPERATIONS.~~

It is the intent of this Section to allow for the operator and Town Staff to determine the time needed to complete the mining and excavation operation as applicable to the conditions of the site, rather than the Town specifying arbitrary expiration of time periods on such permits. For the purposes of ensuring that the site is reclaimed for reuse and the site is mined in an expeditious manner, the applicant shall provide twenty-four copies of the following:

1. A topographic survey of the site at five-foot intervals.

2. The general location of resources to be mined overlaid on the topographic survey of the site.

3. The method of grading and vegetative restoration of the site. Such grading shall include compaction and contouring of soils to ensure that a natural appearance is achieved and aesthetic nuisances are removed. Additionally, vegetative restoration shall be completed with materials to ensure growth and maintenance of such vegetation. If immediate development of previously mined areas is imminent, a time schedule and development plan shall be provided in lieu of the re-vegetation plan. This section shall not be construed to relieve any operator from obtaining any

required permits for future development.

4. The location and containment methods for stockpiling of mined materials, including dust and erosion control.

5. Location and method of screening the site, equipment, stockpiles, mining and quarrying areas.

6. A description of mining method and equipment used in the excavation process.

7. Phasing schedule, by location, of the timing and duration for excavation of the site, as approved by the Town. Such schedule shall identify which areas are to be mined and the estimated time needed for removal of the resource. At the completion of each mining phase, the schedule shall identify the restoration schedule for the area as identified in item 3 in this Section.

8. An erosion control plan for the purposes of ensuring the maintenance of topsoil, embankments, and the detainment of silt and sediment from entering into existing waterways or water bodies.

9. A description of the intended or potential uses of the site after restoration. Such uses shall be compatible with the Town land use and zoning designations and requirements, and the General Plan.

10. A description and location of any other uses on the site including recreation opportunities provided to the public.

11. A description of excavation methods, as approved by the Town, used to ensure that all known and unknown archeological and historical resources are identified and removed so that they are not destroyed.

12. An estimate of the costs associated with the ~~restoration~~ RECLAMATION of the site. Such estimate shall include a description of the applicant's plan for reclamation, and shall contain information about the methodology and detailed costs of such reclamation sufficient to enable the department to determine an appropriate financial warranty. The estimate will be reviewed and approved for accuracy by the Town to determine the final amount for posting of financial assurance.

13. The application shall also contain additional information normally prepared by the applicant for its feasibility studies and mining plans, including information establishing the right to mine the property, labor force characteristics and timing, payroll projections, anticipated duration of the mining operation, construction schedules, infrastructure description, and other information reasonably requested by the department.

The Excavation and Reclamation Plan along with the Environmental Impact Study shall be reviewed in conjunction with the information gathered by staff during the initial field investigation of the site in order to identify appropriate conditions for the proposed operation which will substantially reduce or eliminate potential environmental impacts associated with the use and to ensure that the Reclamation Plan will ~~restore~~ RECLAIM the mined lands to a usable condition which is readily adaptable for alternative land uses consistent with the General Plan.

4.0 GENERAL REGULATIONS

The general regulations contained in this Section shall apply to all mining operations and permits. ~~Grading, if more than 30 days from start of grading, shall be subject to the following regulations, 4.1.1 Dust Control, 4.1.2 Height Regulations, 4.1.4 Hours of Operation, 4.1.8 Noise and Vibration Control, 4.1.10 Air Pollution Control, 4.1.12 Lighting.~~

4.1 Site Development and Operational Regulations

All mining, quarrying, extracting, processing and storing operations shall conform to all applicable plans and documentation approved as presented or modified in the Use Permit (permanent or temporary) application. In addition to the conditions applied on the permit, all operations shall meet the following operational regulations:

1. Dust Control: All private haul roads connecting internal operations and roads connecting to paved public streets and/or easements shall be kept wetted, treated with a dust palliative or hard-surfaced and maintained so as to control dust at all times during the term of the permit.

2. Height Regulations: Height shall be measured from the originally existing grade at the property line. The height of any buildings, apparatus, or stockpiles shall not exceed forty feet from original grade, except that the height of any apparatus or stockpile closer than 500 feet to any residentially zoned property shall not exceed the height of the screening provided on the lot so that such mining or processing equipment and stockpiles or quarries are not visible to nearby residents.

3. Setbacks: Excavation activities shall be setback a minimum of one hundred feet from exterior property lines. No excavation activities shall be permitted within 1320 feet of any residentially zoned property. No aggregate processing plant, crushing or batching plant, or other processing equipment shall be located within 2640 feet of any residentially zoned property. ~~UNLESS SPECIFICALLY APPROVED BY THE TOWN COUNCIL AS PART OF THE APPLICATION.~~

4. Days and Hours of Operation: Due to the seasonal and climactic conditions in the area, the operator shall have some flexibility in the days and hours of operation, if

pre-approved within the use permit. Since certain processing activities are demand-based operations, such flexibility shall apply only to the batching, including redi-mix and asphalt, hauling, distribution, sales and loading of products. Crushing, excavating, mining, grading, and other processing activities not noted above shall not be subject to flexible schedules beyond the generally accepted hours of operation. Generally accepted summer hours of operation, March 16 through October 15, are from Monday through Friday, 7:00 a.m. to 6:00 p.m. Generally accepted winter hours of operation, October 16 through March 15, are from Monday through Friday, 8:00 a.m. to 5:00 p.m. No operations on the following days shall be permitted; New Year's Day, Christmas Day, Thanksgiving Day, ~~Veterans Day~~, Labor Day, 4th of July, Memorial Day.
In the case of special circumstances related to temporary short- term contracts where material must be fulfilled for public contracts or emergencies, the Town manager may approve extended hours of operation as required by the circumstances of the contract, ~~not to exceed twenty days in any twelve-month period.~~ NOT TO EXCEED TWENTY SIX DAYS IN ANY TWELVE MONTH PERIOD.

5. Off Street Parking: Off street parking areas shall be provided for all equipment, trucks, and for employees and customers in accordance with the parking requirements contained in the Planning and Zoning Ordinance, Section 108 M and N. The parking area shall be improved to Town Roadway Standards for paving when adjacent to a paved access road. If the parking area is located adjacent to an unpaved access easement or road and if the Town determines that the paving of the parking area is not feasible due to location and site conditions, the parking area paving may be waived and such paving substituted with other measures required for dust control such as gravel overlay or dust palliative.

6. Screening: Where operations abut a residentially or commercially zoned property, visual screening shall be installed before operations commence. The screening shall be adequate to accomplish their intended purpose so as to provide an opaque visual barrier to all stockpiling, mining, processing and quarrying areas. Total height for screening shall not be less than six feet in height above the highest grade of the operating area and if landscaping is to be used as a means of screening, alone or in combination with another method, a permanent watering and maintenance system shall be provided and installed. A screen shall consist of one or a combination of the following types:

   a. Walls- A wall shall consist of concrete, stone, brick, tile or similar type of solid masonry material a minimum of four inches thick.

   b. Berms- A berm shall be constructed of earthen materials and landscaped with a combination of ground cover, shrubs and trees (combination of evergreen and

deciduous).

c. Solid Fence- A solid fence shall be constructed of wood or chain link. If chain link is used, a combination of wooden slats and vines shall be used to form an opaque screen.

d. Open Fences- An open weave or mesh-type fence, when not used in combination with a berm, shall be combined with plant materials to form an opaque screen.

e. Planting- Plant materials, when used as a screen shall consist of dense evergreen plants. They shall be of a kind used in such a manner as to provide a continuous opaque screen within 24 months after installation. Plant materials shall be selected of native types and such location and design shall be prepared by a licensed landscape contractor or architect.

f. Intersections- In order to provide adequate sight distance, at intersections a sight distance triangle shall be provided measuring out 25 feet from each side of the drive or road and back 25 feet into the driveway or road at all ingress and egress points to the property.

7. Acceleration/Deceleration Lanes: The Town Engineer may require that points of ingress and egress for the site be equipped with acceleration/deceleration lanes along roadways for traffic safety.

8. Noise and Vibration Control: All equipment and uses on the site shall be located and maintained so as not to exceed 65 decibels (dba) as measured from the exterior property line, and so as not to exceed 55 decibels (dba) in any ~~commercial or~~ residential area. Noise generated from the site outside the generally accepted hours of operation specified in Section 4.1.4 shall not exceed 55 decibels at the property line and 45 decibels at any ~~residence or commercial use~~. RESIDENTIALLY ZONED PROPERTY. NOISE LEVELS WILL BE DETERMINED USING AN EIGHT HOUR WEIGHTED AVERAGE WITH MAXIMUM PEAKS WITHIN ANY ONE HOUR PERIOD AS FOLLOWS:
   a. 5 DECIBELS ABOVE LISTED LEVEL FOR MAXIMUM OF 15 MINUTES;
   b. 10 DECIBELS ABOVE LISTED LEVEL FOR MAXIMUM OF 10 MINUTES;
   c. 15 DECIBELS ABOVE LISTED LEVEL FRO MAXIMUM OF 5 MINUTES.

   THE PERMITEE WILL BE RESPONSIBLE ONLY FOR NOISE ORIGINATING ON THE SITE COVERED BY THE PERMIT.

9. Crushing Equipment: All crushers shall be placed SO AS BE MEET THE NOISE REGULATIONS CONTAINED HEREIN AND MAY BE below grade so that the top of the crushing equipment is at the natural grade or lower or enclosed in a sound

reducing building.

10. Air Pollution Control: All equipment and operations shall be conducted in compliance with local, county, state and federal air quality requirements.

11. Signs: All signs shall be in conformance with the applicable requirements of the Camp Verde Sign Ordinance as adopted and amended.

12. Lighting: All exterior lighting fixtures shall be installed and maintained in compliance with Section 120 of the Planning and Zoning Ordinance as adopted and amended.

4.2 Implementation of Use Permit

If the Town Council approves the permit, the applicant shall provide the following prior to the initiation of the use:

1. Written proof and verification of approval of all required permits from county, state or federal agencies.

2. Written verification of compliance with all conditions of approval placed on the permit as applicable.

3. A site investigation will be scheduled and conducted with applicable town staff prior to commencement of construction to ensure that the conditions of approval are implemented during the construction phase of the intended use. If applicable, interim inspections may be required to check the progress of the applicant.

4. Schedule and conduct an on-site investigation of the operation prior to start-up to ensure that such conditions were implemented appropriately.

5. To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the Town shall require, as a condition of approval, security that will be released upon satisfactory performance. The applicant may post security in the form of a surety bond, trust fund, or irrevocable letter of credit from an accredited financial institution, and which the town reasonably determines are adequate to perform reclamation in accordance with the mining operation's approved Reclamation Plan. EXCEPT AS PROVIDED IN 4.3.3 Financial assurances shall be made payable to the Town of Camp Verde. Said financial surety shall be kept in the office of the Town Clerk. Upon sale or transfer of the operation, the new operator shall submit a new financial assurance as approved by the Town Council.

6. The applicant shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. Such statement shall be kept on file with the office of the Town Clerk for the life of the permit. Upon sale or

transfer of the operation, the new operator shall submit a new signed statement to the Planning Department for placement in the file of the Town Clerk.

7. ~~The applicant and the town must enter into a performance agreement. The performance agreement must incorporate the approved reclamation plan and a method of financial assurance, as detailed in section 4.3. Financial assurances shall be made payable to the Town of Camp Verde. Said financial surety shall be kept in the office of the Town Clerk. Upon sale or transfer of the operation, the new operator shall submit a new financial assurance as approved by the Town Council, and enter into a new performance agreement as approved by the Town Council, both to be kept in the office of the Town Clerk.~~

8. ONCE AN ACCESS HAS BEEN APPROVED UNDER A PERMIT THE USE OF THE IDENTIFIED ACCESS MAY NOT BE REVOKED BY THE TOWN FOR THE DURATION OF THE PERMIT. THE PERMITEE MAY NOT CHANGE THE LOCATION OF ACCESS WITHOUT APPROVAL BY THE TOWN.

4.3 Performance Agreement

A performance agreement must be negotiated and entered into between the town and the applicant.
This agreement shall be incorporated as part of the permit. The agreement must include the following:

1. The Reclamation Plan (including additional requirements in this section)
2. The Operational Control Plan (including additional requirements in this section)
3. The details of financial assurance (including additional requirements in this section)
4. ~~A statement regarding attorneys fees~~
5. ~~A statement regarding injunctive relief~~

ITEMS 4 AND 5 TO REMAIN IN.

4.3.1 The Reclamation Plan

In addition to other requirements contained in this ordinance, the agreement shall establish responsibility for the mitigation of reasonably foreseeable and demonstrable adverse impacts, including direct impacts and indirect impacts, both during the mining operation, and for reclamation of the site.

The applicant shall be responsible for mitigating the direct impacts and for the full cost of restoration of the site. The Town Council shall be responsible for mitigating indirect impacts except where the costs of mitigating specific indirect impacts are found by the Town Manager to:

(A) Exceed the amount of any town nonproprietary revenue increase attributable to the mining operation, or

(B) Requires an increase in local taxes or fees to adequately mitigate the impact.

The Reclamation Plan must address impacts such as revegetation, landscaping, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and all other impacts identified in the Environmental Evaluation Report ~~and the Socioeconomic Assessment Report.~~

Highly speculative impacts shall not be included in the performance agreement. Taxes and nonproprietary revenues generated as a result of the proposed mining operation shall be a factor considered in negotiating the performance agreement. 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 or in stages compatible with continuing operations, as approved by the Town. 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 for completion of each phase of reclamation.

4.3.2 <u>The Operational Control Plan</u>

In addition to other requirements contained in this ordinance, the Operational Control Plan is to include a detailed description of the methods of implementing and enforcing the operational regulations contained in Section 4.1. ~~It must include measurable objective performance standards. A quarterly review by staff or appropriate outside consulting agencies is required. The applicant shall contact the town a minimum of 30 days prior to the required review of the permit as specified in the Performance Agreement.~~

~~All reasonable costs and expenses, including outside consulting fees, required to perform the review shall be paid to the department by the applicant. An estimate of costs and expenses will be prepared by the department and must be paid by the applicant prior to the initiation of the review. A final reconciliation of the estimate and the actual costs and expenses are to be settled when the review is completed. The reimbursement of these costs and expenses is independent of any other fees in this ordinance. When staff has completed their review it will be presented to the Council for final approval.~~

4.3.3 <u>Financial Assurance</u>

In addition to other requirements herein contained in this ordinance, the agreement must also include a method of ensuring comprehensive financial assurance. The amount of the

financial assurance shall be based upon the estimated costs 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 mining activities in the upcoming year. Cost estimates shall be prepared by an Arizona registered Professional Engineer and/or other similarly licensed and qualified professionals retained by the applicant and approved by the appropriate Town Official. 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 re-vegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and all other applicable elements 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 applicant. A contingency factor of ten percent (10%) shall be added to the cost of financial assurances.

In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the mining operation could be abandoned by the operator and, consequently, the Town may need to contract with a third party commercial company for reclamation of the site.

The financial assurances shall remain in effect for the duration of the mining operation and any additional period until reclamation is completed (including any maintenance required).

The amount of financial assurances required of a mining operation for any one year shall be adjusted annually to account for new lands disturbed by 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, excepting that the applicant may not claim credit for reclamation scheduled for completion during the coming year.

THE TOWN WILL ACCEPT AN EXISTING FINANCIAL ASSURANCE COVERING THE OPERATION IF SAID ASSURANCE MEETS THE INTENT OF THIS SECTION, IS ON FILE WITH A FEDERAL OR ARIZONA STATE AGENCY AND IS ACCESSIBLE BY THE TOWN BY THE TOWN BEING NAMED AS A SECONDARY PARTY ON THE FINANCIAL ASSURANCE. Revisions to financial assurances shall be submitted to the Director each year prior to the anniversary date for approval of the financial assurances. The financial assurance 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. ~~Should the Director not be satisfied with the revisions or explanation, the use permit shall be revoked and the existing financial assurance shall be retained. The applicant may appeal the decision of the director to the Town Council.~~

~~4.3.4 Attorneys Fees~~

~~The Performance Agreement shall include an agreement by the applicant to pay reasonable attorneys fees required to enforce this ordinance.~~

~~4.3.5 Injunctive Relief~~

~~The Performance Agreement shall include an agreement by the applicant to allow the town injunctive relief to enforce this ordinance, with the burden of proof being upon the applicant.~~

PARTS 4.3.4 AND 4.3.5 TO REMAIN

5.0 ADMINISTRATION

5.1 Criteria for Approval of Mining Operations

According to the procedures contained in Section 3.2, all mining operation permits are subject to initial review by the ~~Planning~~ Director and subsequent review and consideration by the Planning and Zoning Commission and the Town Council. Upon receiving a staff report from the Planning Director and public notice of the use permit, the Planning and Zoning Commission shall review the request based upon the following criteria:

1. Proposed Location- Impacts on existing uses adjacent to the site and relationship to existing residentially zoned properties and established residential areas and other existing properties.

2. Transportation- Impacts related to truck traffic routes and associated traffic hazards.

3. Noise- Impacts related to noise created by truck traffic, engine warm-up and operation of mining and processing equipment.

4. Dust- Impacts associated to the release of dust particles and the relationship and effect on surrounding land uses.

5. RECLAMATION ~~Restoration~~- Quality and effectiveness of site RECLAMATION ~~restoration~~ plan and consideration of site reuse and development timing.

6. Screening- Effectiveness of proposed screening and buffering of operation from residentially zoned properties.

7. Operational Controls-Effectiveness of proposed operational controls related to setbacks, lighting, hours of operation, and environmental impacts as outlined in Section 4.1.

8. Other Benefits- Ability of proposed operation to provide benefits to the community resulting from increased recreational opportunities, generation of jobs and tax base, and other environmental benefits associated with the operation, including archeological and cultural resources mitigation.

9. Other Environmental Impacts- Impacts associated with other environmental impacts identified by the applicant or staff and the ability to reduce or eliminate harmful effects of the operation, including archeological and cultural mitigation

10. Appropriate zoning.

11. Distance and effect on established residential areas, residentially zoned property and all other properties.

12. Conformance with these regulations.

13. Conformance with the General Plan.

Upon consideration of the criteria specified herein, the Planning and Zoning Commission shall make a recommendation to the Town Council whether to approve or deny the proposed operation. If the proposed operation meets these criteria ~~and no other relevant objection is raised~~, the Planning and Zoning Commission shall recommend approval. Should the Planning and Zoning Commission find that the proposed operation is detrimental and/or that such operation does not meet these criteria, the Planning and Zoning Commission shall recommend denial of the permit to the Town Council. ~~If the Town Council concurs with the findings of the Planning and Zoning Commission, such permit may be approved or denied accordingly.~~ THE TOWN COUNCIL MAY APPROVE OR DENY THE APPLICATION OR RETURN TO THE APPLICANT FOR ADDITIONAL INFORMATION.

5.2 ~~Denial of Permits~~

~~If the Town Council denies the requested permit, such denial waives the ability of the applicant to reapply within a two year period, unless otherwise specified in the motion of the Town Council. After two years from the date of the denial, the applicant may reapply for a Use Permit subject to the securing of the appropriate fee and any necessary updating of the original application.~~ THIS SECTION TO REMAIN WITH A ONE YEAR WAITING PERIOD.

5.3 Subsequent Review and Expiration of Permits

All Use Permits issued pursuant to this section are subject to AN EXPIRATION DATE AND AN ANNUAL REVIEW BY THE TOWN ~~annual review and expiration date~~. The timing of reviews and expiration are determined on the nature of the operation, the total estimated time-line for the use and other applicable circumstances related to the permit.

~~The applicant shall contact the town a minimum of 30 days prior to the required review of the permit as specified in the conditions of approval. Such review shall be conducted initially by staff or other consultants, as needed, in order to determine compliance with all conditions~~. THIS PARAGRAPH TO REMAIN IN EFFECT.

Upon preparation of a staff report, such review shall be presented to the Planning and Zoning Commission for recommendation to the Council. ~~Upon receiving a recommendation from the Planning and Zoning Commission, the Town Council shall review and approve the findings determining further actions required by the applicant or to state compliance with conditions.~~ THE TOWN COUNCIL MAY APPROVE OR DENY THE RENEWAL OR RETURN TO THE APPLICANT FOR ADDITIONAL INFORMATION.

For all operations, if the applicant has provided adequate evidence of RECLAMATION ~~restoration~~ of portions of the site, the financial assurance may be reduced in amounts equal to the work conducted. However, evaluation of the financial assurance amount shall be conducted to ensure that adequate coverage is provided for the remaining work to be conducted. All operations shall have the financial assurance procedures included within the performance agreement.

The expiration date of the permit shall be ~~FOR A MINIMUM OF~~ 3 years. If such resources are AVAILABLE ~~renewable~~, consideration for longer use permit approvals may be given and if required, the date may be extended upon filing a new application prior to expiration of the permit.

5.4 Revocation of Use Permit

If at any time it is determined that an operator is not complying with the conditions specified in a Use Permit granted according to this ordinance AND ~~or~~ OR there is a clear and present danger to the health and general welfare of the public, the Council may direct the ~~Planning~~ Director to PURSUE TERMINATION OF THE PERMIT. THE DIRECTOR WILL NOTIFY THE PERMITEE IN WRITING OF THE VIOLATION AND ALLOW 7 DAYS FOR THE VIOLATION TO BE CORRECTED. IF THE VIOLATION IS NOT CORRECTED, OR

THERE ARE MORE THAN THREE SIMILAR VIOLATIONS WITHIN A ONE YEAR PERIOD, THE DIRECTOR WILL advertise a public hearing for consideration of revocation of the Use Permit granted to an operator. Such hearing shall be posted, advertised and mailed to surrounding property owners in accordance with the requirements of the Planning and Zoning Ordinance and State Law. Notice of such hearing shall be provided in advance to the applicant a minimum of 15 days, care of certified mail.

At such hearing, evidence shall be provided by Department Staff for determination on the status of compliance with the conditions on the permit. If necessary, the Commission may recommend additional conditions for the permit or, if such circumstances warrant immediate action, may recommend suspension or revocation of the permit. The recommendation of the Commission shall be forwarded to the Town Council for final action.

~~**5.5 Attorneys Fees and Injunctive Relief**~~

~~The Town of Camp Verde shall be entitled to reasonable attorneys fees and injunctive relief in order to enforce the provisions of this ordinance and any use permit granted UNDER THE AUTHORITY OF SECTION 119 OF THE ZONING ORDINANCE.~~

~~**5.6 Appeals**~~

~~If the applicant or affected property owner disagrees with the decision of the Planning Director to issue or deny a temporary permit according to this section, such person(s) may file a written appeal with the Planning Director within 30 days of the Director's decision. Such appeal shall be referred to the Board of Adjustments pursuant to Section 112~~ of the ~~Planning and Zoning Ordinance~~. APPEALS OF THE DECISION OF THE PLANNING DIRECTOR SHALL BE IN ACCORDANCE WITH SECTION 112 OF THE ZONING ORDINANCE.

6.0 Conformity with the General Plan

All mining operations must conform to the General Plan. Any amendment to the General Plan to allow a mining operation shall be considered an increase in the intensity of land use, and hence will be considered a major amendment to the General Plan. In case of uncertainty in interpreting or applying this ordinance, the ordinance shall be interpreted and applied in order to further, and not be contrary to, the goals and objectives of the General Plan.

7.0 SEVERABILITY

If for any reason a court of law determines that any portion of this Section is invalid, such portion shall be deemed severable and does not impact the validity of the remaining portions herein.