

Proposed Amendment of Juneau Mining Ordinance

Chapter 65 of Title 49 is repealed in its entirety and the following, revised Chapter 65 is enacted in its stead.

- **ARTICLE I. - EXPLORATION AND MINING**

- **49.65.110 - Purpose.**

- (a)

- The purposes of this article are to encourage mining and investment in mining and to foster the development of a safe, healthy and sound mining industry while protecting the overall interests of public health, safety and the general welfare and meeting the land use and development requirements determined by the Planning Commission pursuant to 49.15.230 or 49.15.330 as directed herein.

- (b)

- This article does not include regulation of surface or subsurface water, geothermal resources, sand or gravel, common varieties of construction aggregate, or natural oil, gas, coal and peat or associated byproducts recovered therewith.

- (c)

- The purpose of the review process is not to deny use or expressly prohibit mining, but, rather, the purpose of the review is to ensure mining activities meet the land use and development requirements set out in Title 49 of this Code.

- **49.65.115 - Applicability.**

- (a)

- There is adopted for the purpose of defining the mining and exploration surface subsidence exclusion district in the City and Borough, the Mining and Exploration Surface Subsidence Exclusion District Maps A—F, dated June 5, 2006, as the same may be amended from time to time by the assembly by ordinance. These maps, as adopted or as amended, identify the area of the City and Borough within which surface disturbance (excluding access to mining properties) or surface subsidence in support of exploration and mining activities is prohibited. Except as provided herein, mining and related

activities may be conducted elsewhere within the City and Borough subject to the provisions of this article.

(b)

Except as provided in subsection (a), this article does not regulate subsurface mining within or without the district. It is not the intent of this article to unreasonably limit or nullify private property rights.

(c)

There is adopted for the purpose of regulating exploration and mining activities within the City and Borough the Urban/Rural Mining District Map, dated June 5, 2006, depicting the Urban and Rural Mining Districts, as such may be amended from time to time by the assembly by ordinance.

- (i) Mines located in the Rural Mining District which will undergo environmental review by state agencies, federal agencies, or both, as determined by the director, shall not be subject to [Chapter 49.65](#), and shall be permitted as allowable uses pursuant to CBJ [49.15.320](#). With respect to mines in the rural mining district, the planning commission may impose conditions pursuant to CBJ [49.15.320](#)(f)(1)—(8) and additional conditions relating to traffic, lighting, safety, noise, dust, visual screening, surface subsidence, avalanches, landslides, and erosion.

(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 4, 1989; Serial No. 2003-27am, § 2, 6-16-2003; Serial No. 2006-15, § 16, 6-5-2006)

- (ii) A Mine located in the Urban Mining District that undergoes, or has undergone, an environmental review and permitting by state agencies, federal agencies, or both, and has received state or federal permits, or both, and complies with the provisions of CBJ 49.65.135 shall be permitted as a conditional use pursuant to CBJ 49.15.330.
- (iii) The planning commission may impose conditions relating to traffic, lighting, safety, noise, dust, visual screening, surface subsidence, avalanches, landslides, and erosion that are substantially similar to conditions imposed on other entities in the City and Borough. The planning commission may impose such other conditions which in its discretion it finds necessary to protect the environment, public safety, and the public.

- **49.65.135 - Standards for issuance of permits and conduct of operations.**

- (a) Before determining what permit conditions to recommend in addition to those required by applicable federal and state permits and requirements the Planning Commission staff shall fully participate in federal and state permitting for the mining operation in order to determine what will be the federal and state permit conditions and other federal and state requirements placed on the Mine. The Planning Commission may not impose conditions under this section 49.65.135 if such standards are pre-empted by, duplicate, overlap, or are substantially similar to, the federal and state permit requirements and other legal requirements that are applicable to the Mine,
- (b) In determining what conditions to recommend the Planning Commission shall assure or require that:
 - (1) Such conditions are not preempted by, duplicate, overlap, or are substantially similar to, the federal and state permit requirements and other legal requirements that are applicable to the Mine,
 - (2) The mining operations be conducted in accordance with applicable provisions of the City and Borough Code in such a way as to mitigate adverse environmental, health, safety and general welfare impacts;
 - (3) The mining operation be conducted in accordance with state and federal permits issued to the Mine;
 - (4) Appropriate historic sites designated as significant by the City and Borough be protected;
 - (5) Reclamation of the affected surface be in accordance with the approved reclamation plan of the operator; and
 - (6) Reclamation of all affected surfaces shall be completed as soon as is reasonable after affected surface areas are no long being used in exploration and mining operations. Reclamation shall include conditions imposed by the commission.
- (c) Subsequent to the issuance of a permit, the operator's compliance shall be measured against the requirements contained in that permit.
- (d) In the event mining operations violate or threaten to violate this article, [section 49.15.330](#), or a permit issued under this article, the operator shall notify the department of such fact and of the steps to be taken to return to compliance, or resolve the potential noncompliance.

(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 8, 1989)

• **49.65.155 – Summary Approval.**

(a)

Upon request of the applicant, the director may summarily approve a proposed change in mining operations not constituting a new land use or separate development upon a written determination that:

(i)

the mine is located entirely outside the roaded service area established in CBJ 01.30.320;

(ii)

the application is complete, providing all of the information necessary for the director to make the summary approval determinations set forth in subsections (i)—(iv);

(iii)

the proposed change in mining operations will have no significant impact within the roaded service area on habitat, sound, screening, drainage, traffic, lighting, safety, dust, surface subsidence, avalanches, landslides, or erosion; and

(iv)

the proposed change in mining operations has undergone or is undergoing environmental review and approval by one or more federal agencies, state agencies, or both.

(b)

The director shall make the determination required by this section within 45 days unless additional information is required. If the director requires additional information to make the determination, upon written notification to the applicant, the time for determination may be extended for up to 20 additional days after submittal by the applicant of the additional information. If an environmental impact statement is required by one or more federal agencies, completion of the draft environmental impact statement is necessary for summary approval.

(c)

Planning commission review.

(i)

The director shall promptly forward the proposed summary approval to the planning commission after the determination is completed. The planning commission may ratify or reject the proposed summary approval.

(ii)

If the commission rejects the proposed summary approval, it may:

(A)

return the matter to the director for further consideration of whether the director, in consultation with the applicant, can address issues

identified by the commission through imposition of conditions or changes in the proposed mining operation; or

(B)

direct that the proposed change be processed by the department as an application for an allowable use permit for which the commission may impose conditions under CBJ [49.15.320](#)(f)(1)—(8) and such additional conditions as are necessary to reduce to non-significant any impacts in the roaded service area on habitat, sound, screening, drainage, traffic, lighting, safety, dust, surface subsidence, avalanches, landslides, or erosion.

(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 12, 1989; Serial No. 2003-26(am), § 2, 6-9-2003)

- **49.65.160 - Enforcement.**

This article shall be enforced in accordance with chapter 49.10, article VI and section 49.65.185.

(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 13, 1989)

- **49.65.165 - Appeal.**

Any person who is aggrieved by a decision of the department or the commission with respect to this article, other than one under section 49.65.160, may appeal that decision to the commission or the assembly, as applicable, as provided in chapter 49.20, article I.

(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 14, 1989)

- **49.65.185 - Suspension or revocation of a Permit**

(a) The commission may suspend or revoke the Conditional Use permit issued under this article upon a determination by the commission that a Federal or State permit previously issued to the Mine or Mining Exploration operation has been suspended or revoked.

(b) The commission may suspend or revoke the Conditional Use permit issued under this article for a substantial violation or repeated violations of its traffic, noise, dust, light, surface subsidence, avalanche, landslide, or erosion requirements.

(c) The commission may suspend or revoke the Conditional Use permit issued under this article for a substantial violation or repeated violations of such other conditions which were added by the planning commission to protect the environment, public safety, and the public.

- **49.65.190 - Effect of article on operations in annexed territory.**

Mines and mining exploration operations occurring in territory annexed by the City and Borough which have been issued the federal and state permits or approvals necessary for the operation, including, if applicable, permits or approvals necessary to operate in accordance with the National Environmental Policy Act (NEPA) process, shall be deemed to have been issued a permit under this article and to otherwise be eligible to operate pursuant to this article upon the effective date of annexation; provided, that all such federal and state permits or approvals are currently valid. With the exception of the initial permit application and exploration notice filing requirements, the operator shall be subject to all of the requirements, of this article in effect upon the effective date of annexation, including the technical revisions and permit amendment requirements, and the monitoring fee enforcement and revocation or suspension provisions, in the same manner as any other operator.

(Serial No. 89-47am, § 19, 1989)