



**Law Department
City & Borough of Juneau**

MEMORANDUM

TO: Mining Committee
FROM: Amy Gurton Mead, Municipal Attorney
DATE: February 9, 2018
SUBJECT: Committee requests for possible mining code revisions

At your meeting on February 8, 2018, committee members discussed three possible revisions to the proposed draft ordinance:

- Adding the definition of small and large mine to 49.65.
- Adding language to the section on socioeconomic impact report making clear that the director can waive the requirement if it is determined there will be no meaningful impacts; and
- Adding a reference clarifying that the director can rely on the final EIS in analyzing the socioeconomic impact assessment.

1. The definition of large and small mine could be added to the general applicability section.

Given the frequency of their use in the article, I added two more definitions for your consideration: exploration and mining operations. The new language being added is underlined in the code section below. All four definitions are currently found in CBJ 49.80.120 Definitions.

49.65.115 General applicability.

(a) For the purpose of identifying those areas within the City and Borough within which surface disturbance or subsidence in support of exploration or mining activities is prohibited, there is adopted the Mining and Exploration Surface Activities Exclusion District Maps A—F, dated June 5, 2006, as the same may be amended from time to time by the assembly by ordinance. Except as otherwise provided, mining and related activities may be conducted elsewhere within the City and Borough subject to the provisions of this article.

...

(e) For the purposes of this article:

(1) Exploration means the process of advanced mineral commodity investigation subsequent to prospecting and prior to development.

(2) Large mine means a mining operation involving more than 20 acres of affected surface disturbance; or having 75 or more personnel employed at the mining operation in the City and Borough, whether direct employees or employees of independent contractors, in any consecutive three-month period; or a mining operation which a federal agency has determined would involve a major federal action significantly affecting the quality of the human environment so that the preparation of an environmental impact statement in accordance with NEPA is required;

(3) Mining operation means the development, construction or reclamation of a mine, including associated infrastructure, or the exploitation or extraction of a mineral commodity from its occurrence on or in the earth, or the operation of a mine. The term "mining operation" includes open pit mining, placer mining and underground mining, and the disposal of refuse, tailings or waste rock from any such operation. The term "mining operation" also includes transporting, concentrating, milling, evaporating and other on-site processing. The term "mining operation" does not include off-site smelting, refining, cleaning, preparing, transportation or other surface operations not conducted on the affected surface.

(4) Small mine means a mining operation other than a large mine.

2. Requested revisions to CBJ 49.65.130 Socioeconomic impact assessment for large mines.

New language is underlined:

49.65.130 Socioeconomic impact assessment for large mines.

(a) A socioeconomic impact assessment evaluating the reasonable and foreseeable beneficial and adverse impacts, both direct and indirect, of the proposed mining operation

on existing and future local conditions, facilities, and services shall be prepared by the director, or a consultant retained by the director for that purpose, unless waived. The director may waive all or part of the socioeconomic impact assessment when the director determines either that the information is not essential to evaluate what impact the mining operation will have on the City and Borough, or that the proposed mining operation will present no meaningful or significant impacts. The waiver shall be in writing and shall set forth the reasons for the waiver.

(b) The impact assessment should include an evaluation of all reasonable, foreseeable, and demonstrable impacts of the proposed mining operation on 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. Highly speculative impacts need not be studied.

(c) If information necessary to conduct the assessment is contained in a final Environmental Impact Statement (EIS) prepared pursuant to the National Environmental Policy Act, the director shall rely on the EIS, but may require the applicant to provide such supplemental information deemed necessary by the director to complete the assessment.

(d) All reasonable costs and expenses required to prepare the assessment shall be paid to the director by the applicant prior to the initiation of the assessment.

(e) The purpose of the impact assessment is to provide information to the director concerning possible beneficial and adverse impacts of the proposed mining operation for use in the preparation of the mitigation agreement required by section 49.65.155.