

ARTICLE III. - TYPES OF DEVELOPMENT

49.15.310 - Department approval.

- (a) Purpose. The department shall review minor developments to ensure compliance with this title.
- (b) Application form. The director shall provide a minor development application form to be submitted as part of the application process for a building permit.
- (c) Preapplication conference. Prior to submitting an application, the applicant shall be afforded the opportunity to discuss with the director such facts, issues and proceedings as may be relevant to the application.
- (d) Community development director procedure.
 - (1) Review of application. The director shall review the application, consult with the applicant, and approve a minor development permit unless:
 - (A) The application is incomplete;
 - (B) Issuance of the requested permit is beyond the director's authority according to the table of permissible uses; or
 - (C) The development as proposed will not comply with one or more requirements of this title.
 - (2) Conditions on approval. The director may condition department approval as necessary to ensure compliance with this title.

(Serial No. 87-49, § 2, 1987)

49.15.320 - Allowable use permit.

- (a) Purpose. An allowable use permit is established for uses allowed in a particular zoning district but which, due to size, intensity or particular characteristics must be reviewed and approved by the planning commission. To ensure the compatibility of the use with the location, the commission may attach conditions to the permit to help mitigate external impacts. Conditions that may be attached to the permit are limited to those listed in subsection (f) of this section.
- (b) Preapplication conference. Prior to submission of an application, the developer shall meet with the director for the purpose of discussing the site, the proposed development activity, and the allowable use permit procedure. The director shall discuss with the developer, regulations which may limit the proposed development as well as the standards or bonus

regulations which may create opportunities for the developer. It is the intent of this section to provide for an exchange of general and preliminary information only and no statement by either the developer or the director shall be regarded as binding or authoritative for purposes of this title. A copy of this subsection shall be provided to the developer at the conference.

- (c) Submission. The developer shall submit to the director one copy of the completed application together with all attachments and the permit fee.
- (d) Application review procedure.
 - (1) The director shall endeavor to determine whether the application is complete as intended by the developer, shall advise the applicant whether or not the application is acceptable and, if it is not, what corrective action may be taken.
 - (2) After accepting the application, the director shall schedule it for a hearing before the commission and shall give notice to the developer and the public in accordance with section 49.15.230.
 - (3) Copies of the application or the relevant portions thereof shall be transmitted to interested agencies as specified on a list maintained by the director for that purpose. Referral agencies shall be invited to respond within 15 days unless an extension is requested and granted in writing for good cause by the director.
 - (4) The director shall forward the application to the commission together with a report setting forth the directors's recommendation for approval or denial, with or without conditions together with the reasons therefor.
- (e) Decision. The commission shall consider the allowable use permit application. The commission shall review the director's recommendation with respect to:
 - (1) Whether the application is complete;
 - (2) Whether the requested permit is appropriate according to the table of permissible uses;
 - (3) Whether the development as proposed will comply with the other requirements of this title; and
 - (4) Whether conditions are necessary for approval. The commission shall approve the application and grant the permit unless it finds, by a preponderance of the evidence, that one or more of the criteria have not been met. In either case the commission shall adopt written findings setting forth the basis for its decision.
- (f) Conditions on approval; allowable uses. The commission may condition an allowable use permit upon one or more of the following:

- (1) Development schedule. A reasonable time limit may be imposed on construction activity associated with the development, or any portion thereof, to minimize construction-related disruption to traffic and neighbors, to ensure that development is not used or occupied prior to substantial completion of required public or quasi-public improvements, or to implement other requirements.
- (2) Use. Use of the development may be restricted to that indicated in the application.
- (3) Owners' association. The formation of an association or other agreement among developers, homeowners or merchants, or the creation of a special district may be required for the purpose of holding or maintaining common property.
- (4) Dedications. Conveyance of title, easements, licenses or other property interests to government entities, public utilities, owners' associations, or other common entities may be required.
- (5) Performance bonds. The commission may require the posting of a bond or other surety or collateral approved as to form by the city attorney to guarantee the satisfactory completion of all improvements required by the commission. The instrument posted shall provide for partial releases of no less than ten percent of the original amount posted.
- (6) Commitment letter. The commission may require a letter from a public utility or public agency legally committing it to serve the development if such service is required by the commission.
- (7) Covenants. The commission may require the execution and recording of covenants, servitudes or other instruments satisfactory in form to the city attorney as necessary to ensure permit compliance by future owners or occupants.
- (8) Revocation of permits. The permit may be automatically revoked upon the occurrence of specified events. In such case, it shall be the responsibility of the owner to apply for a new permit. Any order revoking a permit shall state with particularity the grounds therefor and the requirements for reissuance. Compliance with such requirements shall be the sole criterion for reissuance.
- (9) Habitat. Development in the following areas may be required to minimize environmental impact:
 - (A) Developments within 330 feet of an eagle nest located on private land; and
 - (B) Developments in wetlands and intertidal areas, including freshwater marshes, saltwater marshes and intertidal flats.

- (10) Sound. Conditions may be imposed to discourage sound in excess of 65 dBa at the property line during the day or 55 dBa at night.
- (11) Screening. The commission may require construction of fencing or plantings to screen the development or portions thereof from public view.
- (12) Drainage. The commission may require on and off-site drainage improvements in excess of the minimum requirements of this title.

(Serial No. 87-49, § 2, 1987)

49.15.330 - Conditional use permit.

- (a) Purpose. A conditional use is a use that may or may not be appropriate in a particular zoning district according to the character, intensity, or size of that or surrounding uses. The conditional use permit procedure is intended to afford the commission the flexibility necessary to make determinations appropriate to individual sites. The commission may attach to the permit those conditions listed in subsection (g) of this section as well as any further conditions necessary to mitigate external adverse impacts. If the commission determines that these impacts cannot be satisfactorily overcome, the permit shall be denied.
- (b) Preapplication conference. Prior to submission of an application, the developer shall meet with the director for the purpose of discussing the site, the proposed development activity, and the conditional use permit procedure. The director shall discuss with the developer, regulation which may limit the proposed development as well as standards or bonus regulations which may create opportunities for the developer. It is the intent of this section to provide for an exchange of general and preliminary information only and no statement by either the developer or the director shall be regarded as binding or authoritative for purposes of this code. A copy of this subsection shall be provided to the developer at the conference.
- (c) Submission. The developer shall submit to the director one copy of the completed permit application together with all supporting materials and the permit fee.
- (d) Director's review procedure.
 - (1) The director shall endeavor to determine whether the application accurately reflects the developer intentions, shall advise the applicant whether or not the application is acceptable and, if it is not, what corrective action may be taken.
 - (2) After accepting the application, the director shall schedule it for a hearing before the commission and shall give notice to the developer and the public in accordance with section 49.15.230.

- (3) The director shall forward the application to the planning commission together with a report setting forth the director's recommendation for approval or denial, with or without conditions together with the reasons therefor. The director shall make those determinations specified in subsections (1)(A)—(1)(C) of subsection (e) of this section.
 - (4) Copies of the application or the relevant portions thereof shall be transmitted to interested agencies as specified on a list maintained by the director for that purpose. Referral agencies shall be invited to respond within 15 days unless an extension is requested and granted in writing for good cause by the director.
 - (5) Even if the proposed development complies with all the requirements of this title and all recommended conditions of approval, the director may nonetheless recommend denial of the application if it is found that the development:
 - (A) Will materially endanger the public health or safety;
 - (B) Will substantially decrease the value of or be out of harmony with property in the neighboring area; or
 - (C) Will not be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans.
- (e) Review of director's determinations.
- (1) At the hearing on the conditional use permit, the planning commission shall review the director's report to consider:
 - (A) Whether the proposed use is appropriate according to the table of permissible uses;
 - (B) Whether the application is complete; and
 - (C) Whether the development as proposed will comply with the other requirements of this title.
 - (2) The commission shall adopt the director's determination on each item set forth in paragraph (1) of this subsection (e) unless it finds, by a preponderance of the evidence, that the director's determination was in error, and states its reasoning for each finding with particularity.
- (f) Commission determinations; standards. Even if the commission adopts the director's determinations pursuant to subsection (e) of this section, it may nonetheless deny or condition the permit if it concludes, based upon its own independent review of the information submitted at the hearing, that the development will more probably than not:
- (1) Materially endanger the public health or safety;

- (2) Substantially decrease the value of or be out of harmony with property in the neighboring area; or
 - (3) Lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.
- (g) Specific conditions. The commission may alter the director's proposed permit conditions, impose its own, or both. Conditions may include one or more of the following:
- (1) Development schedule. A reasonable time limit may be imposed on construction activity associated with the development, or any portion thereof, to minimize construction-related disruption to traffic and neighborhood, to ensure that development is not used or occupied prior to substantial completion of required public or quasi-public improvements, or to implement other requirements.
 - (2) Use. Use of the development may be restricted to that indicated in the application.
 - (3) Owners' association. The formation of an association or other agreement among developers, homeowners or merchants, or the creation of a special district may be required for the purpose of holding or maintaining common property.
 - (4) Dedications. Conveyance of title, easements, licenses, or other property interests to government entities, private or public utilities, owners' associations, or other common entities may be required.
 - (5) Performance bonds. The commission may require the posting of a bond or other surety or collateral approved as to form by the city attorney to guarantee the satisfactory completion of all improvements required by the commission. The instrument posted may provide for partial releases.
 - (6) Commitment letter. The commission may require a letter from a public utility or public agency legally committing it to serve the development if such service is required by the commission.
 - (7) Covenants. The commission may require the execution and recording of covenants, servitudes, or other instruments satisfactory in form to the city attorney as necessary to ensure permit compliance by future owners or occupants.
 - (8) Revocation of permits. The permit may be automatically revoked upon the occurrence of specified events. In such case, it shall be the sole responsibility of the owner to apply for a new permit. In other cases, any order revoking a permit shall state with particularity the grounds therefor and the requirements for reissuance. Compliance with such requirements shall be the sole criterion for reissuance.

- (9) Landslide and avalanche areas. Development in landslide and avalanche areas, designated on the landslide and avalanche area maps dated September 9, 1987, consisting of sheets 1—8, as the same may be amended from time to time by assembly ordinance, shall minimize the risk to life and property.
- (10) Habitat. Development in the following areas may be required to minimize environmental impact:
- (A) Developments within 330 feet of an eagle's nest located on private land; and
- (B) Developments in wetlands and intertidal areas.
- (11) Sound. Conditions may be imposed to discourage production of more than 65 dBa at the property line during the day or 55 dBa at night.
- (12) Traffic mitigation. Conditions may be imposed on development to mitigate existing or potential traffic problems on arterial or collector streets.
- (13) Water access. Conditions may be imposed to require dedication of public access easements to streams, lake shores and tidewater.
- (14) Screening. The commission may require construction of fencing or plantings to screen the development or portions thereof from public view.
- (15) Lot size or development size. Conditions may be imposed to limit lot size, the acreage to be developed or the total size of the development.
- (16) Drainage. Conditions may be imposed to improve on and off-site drainage over and above the minimum requirements of this title.
- (17) Lighting. Conditions may be imposed to control the type and extent of illumination.
- (18) Other conditions. Such other conditions as may be reasonably necessary pursuant to the standards listed in subsection (f) of this section.

(Serial No. 87-49, § 2, 1987; Serial No. 2006-15, § 2, 6-5-2006; Serial No. 2015-03(c)(am), § 9, 8-31-2015.)

ARTICLE I. - EXPLORATION AND MINING

49.65.110 - Purpose.

- (a) It is the purpose of this article to foster the development of a safe, healthy and

environmentally sound mining industry while protecting the overall interests of public health, safety and the general welfare and minimizing the environmental and surface effects of mining projects for which an exploration notice or mining permit is required. This article establishes the review and permit procedures necessary to conduct exploration, to gain approval to open a mine, to conduct mining operations, and to provide for final reclamation and financial warranty release at the conclusion of exploration and mining operations and reclamation of affected surface. 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, except to the extent that such substances are developed or extracted as a mining by product in a mining operation of a large or small mine.

- (b) The intent of this article is to regulate areas of local concern, reserving to the City and Borough all regulatory powers not preempted by state or federal law. The department may require a permit to be obtained or a notice given for federally approved activities on federal lands, including unpatented mining claims, so long as the purpose of the review process is not to deny use or expressly prohibit mining, but rather the purpose of the review is to impose conditions for the protection of the environment, health safety and general welfare of the City and Borough.

(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 3, 1989)

49.65.115 - General applicability.

- (a) There is adopted for the purpose of defining the mining and exploration surface activities exclusion district in the City and Borough, 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. These maps, as adopted or as amended, identify the area of the City and Borough within which surface disturbance or 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) This article does not regulate subsurface mining within or without the district except that subsidence within the district is prohibited. 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. 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)

49.65.120 - Exploration notices, financial warranties and procedures, release of financial warranties for exploration notices.

- (a) In order to ensure that exploration is conducted in accordance with the environmental, health, safety and general welfare concerns of the City and Borough, any operator intending to conduct or continue exploration operations other than pursuant to a previously filed exploration plan shall file with the department a notice of its intent to conduct exploration activities. Such notice shall identify, on a map on a scale of 1:63,360 or a more detailed scale, the area of and schedule for the exploration activities. The notice shall also describe the operator's plan for reclamation of the areas disturbed by its exploration activities and shall contain information as to the methodology and cost of such reclamation sufficient to enable the department to determine an appropriate financial warranty. The operator shall include a processing fee, as specified in section 49.85.100, with the exploration notice. The notice shall also contain copies of any prospecting permits, notice of intent to conduct exploration, or operating plans filed with any federal or state agency with all modifications, revisions and amendments thereto. The department may require and set the amount of a financial warranty in accordance with section 49.65.140 and shall so advise the operator within 20 days after receiving the operator's notice of intent. When the operator has submitted a financial warranty in the amount set by the department and in a form satisfactory to the city attorney, the authority to operate under the exploration notice shall become effective. In conducting exploration operations, the operator shall comply with all applicable federal, state and City and Borough laws, rules and regulations, and such compliance shall be a condition of the effectiveness of the authority to operate under an exploration notice.
- (b) Upon completion of exploration activities, and all necessary reclamation, the operator shall notify the department that exploration and reclamation are complete and shall submit a map on a scale of 1:63,360 or a more detailed scale, showing the location of the exploration and reclamation activities. The department shall determine whether an inspection of the lands explored is necessary to determine whether reclamation has been completed in accordance

with the standards of section 49.65.135 and, if so, shall inspect the lands explored and reclaimed within 60 days of such notification or as soon thereafter as weather conditions permit. In determining whether an inspection is necessary, the department shall consider whether there has been a state or federal inspection and whether that inspection fulfills the requirements of this section and section 49.65.135. If the department finds that the reclamation satisfies the standards of subsection 49.65.135(b), the financial warranty shall be promptly released. If the department finds that the standards have not been satisfied, it shall notify the operator within 30 days of the inspection, or the review of other agency records, of the additional steps necessary to achieve compliance with subsection 49.65.135(b). The department shall give the operator a reasonable time to complete reclamation and request another inspection, in which case the inspection, or review of other agency records, shall be repeated. If the department, after such reinspection or review, is not satisfied that the standards of subsection 49.65.135(b) have been complied with, it may declare so much of the financial warranty as necessary forfeited and, after notice thereof and an opportunity for the operator to appeal pursuant to section 49.65.165, apply the financial warranty to complete reclamation.

- (c) The requirement of a financial warranty may be waived if the department determines that a financial warranty is not necessary to ensure compliance with the requirement of this article. The waiver shall be in writing and shall set for the reasons for the waiver.

(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 5, 1989)

49.65.125 - Small mine permits, financial warranties and procedures.

- (a) Except as provided in CBJ 49.65.115(c), no new small mine shall commence mining operations after August 6, 1986, unless the operator shall have obtained a small mine permit pursuant to Chapter 49.15, Article III, as modified by this article. No small mine which is in operation on August 6, 1986, may remain in operation more than one year thereafter, unless the operator has submitted a permit application and the permit has not been denied.
- (b) A small mine application shall include information establishing the right to use the affected surface, a map showing the location of the small mine and the affected surface for that small mine on a scale of 1:63,360 or a more detailed scale, and a description and timetable of the mining operation, including the mining plan, the plan for reclamation and the potential environmental, health, safety and general welfare impacts of the operation. The application shall also require a description of the measures to be taken to mitigate the adverse effects of such impacts, to mitigate adverse effects of mining operations on neighboring land, and to comply with sections 49.15.330 and 49.65.135. The map and description must indicate that there will be no affected surface within the boundary of the mining and exploration surface

activities exclusion district and the narrative material must demonstrate that there will be no significant subsidence within the mining and exploration surface activities exclusion district. The application shall also include a listing of all permits applied for or granted by other agencies as well as amendments to those other applications as they are filed. To the extent that the information required by this subsection is provided in applications to other agencies, the operator may respond on its application form by cross reference to the relevant portions of those applications. Subject to the procedures of subsections (c) and (d) of this section, the requirement to provide information is continuing, and supplemental information regarding any changes in the information reasonably requested must be provided to the department throughout the duration of the application process.

- (c) Upon receipt of an application and a processing fee pursuant to section 49.85.100, the department shall review the application, and within 35 days make a recommendation as to whether the proposed mining operation will mitigate adverse environmental, health, safety and general welfare impacts. This review shall include, but not be limited to, the following determinations: whether air and water quality standards will be maintained in accordance with federal, state, and city borough laws, rules and regulations; whether sewage, solid waste, hazardous and toxic materials will be properly contained and disposed of in accordance with federal, state and City and Borough laws, rules and regulations; whether the mining operation will be conducted in such a way as to minimize safety hazards to the extent reasonably practicable and to mitigate adverse impacts on the public and on neighboring properties such as those from traffic, noise, dust, unsightly visual aspects, surface subsidence, avalanches, landslides and erosion; and whether appropriate historic sites designated by the City and Borough as significant will be protected. If the department makes a favorable recommendation, it will also make a recommendation on the amount of the financial warranty as provided in section 49.65.140. The department's recommendations shall be forwarded to the commission for inclusion on the agenda for the next regularly scheduled meeting after notice has been published as provided in section 49.15.230. The application shall then be heard as a conditional use application as provided in chapter 49.15, article III, as modified by this article. If the commission determines that the application, with stipulations or conditions as appropriate, satisfies the standards of sections 49.65.135 and 49.15.330, it shall approve the application and set the amount of financial warranty pursuant to section 49.65.140. When the operator has submitted a financial warranty in the amount set by the commission and in a form satisfactory to the city attorney, the permit shall be promptly issued by the department.
- (d) If the department determines that the proposed mining operations does not meet the standards of sections 49.65.135 and 49.15.330, it shall so advise the operator, stating the

reasons therefor. The operator may then either allow the department's recommendation to be forwarded to the commission pursuant to subsection (c) of this section, or revise its plans, if appropriate, and resubmit the application for processing in accordance with subsection (c) of this section. If the application is resubmitted within 180 days of the initial submission, no new application fee will be required.

(Serial No. 87-49, § 2, 1987; Serial No. 89-27, § 2, 1989; Serial No. 89-47am, § 6, 1989; Serial No. 2003-27am, § 3, 6-16-2003)

49.65.130 - Large mines, financial warranties and procedures.

- (a) Except as provided in CBJ 49.65.115(c), no large mine shall commence mining operations after August 6, 1986, unless the operator has obtained a large mine permit pursuant to Chapter 49.15, Article III, as modified by this article.
- (b) The application shall be submitted in the form of a report containing sufficient information so that the department can, after reviewing the application, evaluate, in accordance with the standards of subsection 49.65.135(a), the impacts described in this subsection that the mining operation may have on the City and Borough. The application shall contain a map on a scale of 1:63,360, or a more detailed scale, a description of the mine site and affected surface; description and timetable of the proposed mining operation, including all roads, buildings, processing and related facilities; a description and timetable of proposed reclamation of affected surface; a description of proposals for the sealing of open shafts, adits and tunnels upon the completion or temporary cessation of mining operations; a description of methods to be used to control, treat, transport and dispose of hazardous substances, sewage and solid waste; and a description of other potential environmental, health, safety and general welfare impacts, as well as neighboring property impacts and measures to be taken to mitigate their adverse effects. The application shall also contain additional information normally prepared by the operator for its feasibility studies and mining plans, including information establishing the right to use the affected surface, 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 in the preapplication conference held pursuant to subsection 49.15.330(b). The map and description must indicate that there will be no affected surface within the boundary of the mining and exploration surface activities exclusion district and the narrative material must demonstrate that there will be no significant subsidence within the mining and exploration surface activities exclusion district. The application shall include a copy of each application submitted to other agencies and a report on the current status of all such applications, as well as amendments to those other applications as they are

filed. To the extent that the information required by this subsection is provided in applications to other agencies, the operator may respond on its application form by cross reference to the relevant portions of those applications. Subject to the procedures of subsections (f) and (h) of this section, the requirement to provide information is continuing, and supplemental information regarding any changes in the information reasonably requested must be provided to the department throughout the duration of the application process.

- (c) (1) The department, in consultation with the operator, shall determine the scope and budget of a socioeconomic impact assessment. The socioeconomic impact assessment shall be prepared by the department, or both. All reasonable costs and expenses required to prepare the assessment shall be paid to the department by the operator prior to the initiation of the assessment. For the purposes of this article, the term "socioeconomic impact assessment" shall be and mean a report or study that shall address the beneficial and adverse impacts, including direct impacts and indirect impacts, of the mining operation on existing and future local conditions, 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 City and Borough, in order to allow the department to determine the extent of these impacts and how these impacts can be mitigated. The impact assessment shall be completed before the time that the department must make a recommendation on the application. Review of those portions of the application that would not be affected by information to be included in the assessment shall not be delayed while the impact assessment is being prepared for review.
- (2) The department shall waive the requirement that any operator submit particular information required by this subsection or that the impact assessment required by this subsection address certain impacts when the department determines that: such information is not essential to evaluate what impact the mining operation will have on the City and Borough; or such information has been previously provided; or such information is adequately presented in another report

previously submitted to the department or another agency. The waiver shall be in writing and shall set forth the reasons for the waiver.

- (d) The department shall conduct a preliminary review of the application within 20 days of its submission and schedule promptly thereafter a meeting with the operator to request such additional information as may be necessary to make the application complete. At this meeting, the department and the operator shall establish the procedures for coordinating the review of the application with the review by other agencies of the applications submitted to them by the operator.
- (e) The fee for processing the application shall be as specified in section 49.85.100. This fee is intended to cover the City and Borough'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 operator, recommend an additional fee to the assembly. Such additional fee shall be approved by the assembly by motion and shall be set in an amount that will, as far as can be determined, cover the cost of renew 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 City and Borough; and the necessity for extraordinary communication, duplication or publication costs arising from the review.
- (f) Unless the operator agrees to an extension, within 90 days after the department has received all additional information requested at the initial meeting described in subsection (d) of this section and the fee has been established, the department shall complete its review of the application, unless an Environmental Impact Statement (EIS) is required by the National Environmental Policy Act (NEPA). If an EIS is required, then the timing of the review of the application shall be in accordance with the provisions of subsection (h) of this section. The application review shall include the following determinations: whether air and water quality will be maintained in accordance with federal, state and City and Borough laws, rules and regulations; where sewage, solid waste, hazardous and toxic material will be properly contained and disposed of in accordance with federal, state and City and Borough laws, rules and regulations; the extent to which the operator will agree to mitigate adverse impacts on

the City and Borough; whether the mining operation will be conducted in such a way as to minimize safety hazards to the extent reasonably practicable and will mitigate adverse impacts on the public and on neighboring properties such as those from traffic overloading, noise, dust, unsightly visual aspects, surface subsidence, avalanches, landslides and erosion; and whether appropriate historic sites will be protected. The department shall form a recommendation as to whether the permit should be approved and, if so, it shall make a recommendation on the amount of the financial warranty as provided in section 49.65.140. The department's recommendation may include such conditions or stipulations as the department deems to be reasonably necessary to mitigate any adverse environmental, health, safety or general welfare impacts which may result from the proposed mining operation. The department's recommendations shall be provided to the operator and forwarded to the commission where the matter shall be placed on agenda for the next regularly scheduled meeting after notice has been published as provided in section 49.15.230. The application shall then be heard as a conditional use application as provided in chapter 49.15, article III, as modified by this article. If the commission determines that the application, with stipulations or conditions as appropriate, satisfies the standards of sections 49.65.135 and 49.15.330, it shall approve the application and set the amount of the financial warranty.

- (g) If the department determines that the proposed mining operation does not meet the standards of sections 49.65.135 and 49.15.330, it shall so advise the operator, together with the reasons therefor. The operator may then either withdraw its application or allow the department's recommendation to be forwarded to the commission pursuant to subsection (f) of this section. If the application is withdrawn, it may be revised and submitted within 180 days upon payment of an additional processing fee as determined by the department to be reasonably necessary to defray its cost of reviewing the revised application to the extent that it is different from the original submittal. Revised applications shall be processed in accordance with the procedures set forth in subsections (d), (e), (f) and (h) of this section.
- (h) In order to prevent duplication of studies and to avoid premature decision-making, if an EIS is required to be completed on the mining operation pursuant to NEPA, then the application will not be considered to be complete until the draft environment impact statement (DEIS) is concluded. The department will begin its review of the application upon its filing. The operator shall advise the department immediately at any time during the application process or thereafter if NEPA is involved so that the City and Borough may participate in the NEPA process. The DEIS, the final environment impact statement and all comments and testimony related thereto will be considered as part of the application. The department may, before the final environment impact statement is complete, prepare its recommendation as to whether

the permit should be approved. If the department prepares its recommendation before the final environment impact statement is complete, the recommendation shall not be presented to the commission until the department has considered the final environment impact statement in its recommendation. The department's recommendation shall not be presented to the commission until publication of the final environment impact statement. The department's recommendation may include such conditions or stipulations as the department deems to be reasonably necessary to mitigate any adverse environmental, health, safety or general welfare impacts which may result from the proposed mining operation. The department shall also recommend the amount of the financial warranty as provided in section 49.65.140. The department's recommendation shall be provided to the operator and forwarded to the commission where the matter shall be placed on the agenda for the next regularly scheduled meeting after the final environment impact statement is complete and a notice has been published as provided in section 49.15.230. The application shall then be heard as a conditional use application as provided in chapter 49.15, article III, as modified by this article. If the commission determines that the application, with stipulations or conditions as appropriate, satisfies the standards of sections 49.65.135 and 49.15.330, it shall approve the application and set the amount of the financial warranty.

- (i) After a permit has been approved by the commission, a financial warranty in the amount set by the commission has been submitted in a form satisfactory to the city attorney, and the operator has agreed to such conditions as are deemed appropriate by the commission, the department shall promptly issue a permit.

(Serial No. 87-49, § 2, 1987; Serial No. 89-27, § 3, 1989; Serial No. 89-47am, § 7, 1989; Serial No. 2003-27am, § 4, 6-16-2003)

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

- (a) In determining whether to recommend issuance of a permit, the department shall require that:
 - (1) The mining operations be conducted in accordance with this article, section 49.15.330, and any other applicable provisions of the City and Borough Code in such a way as to mitigate adverse environmental, health, safety and general welfare impacts;
 - (2) Air and water quality be maintained in accordance with federal, state and City and Borough laws, rules and regulations;
 - (3) Hazardous and toxic materials, sewage, and solid waste be properly contained and disposed of in accordance with applicable federal, state and City and Borough laws, rules and regulations;

- (4) The operator conduct all mining operations according to the standards of the City and Borough as contained in this article, section 49.15.330, the permit and any other applicable provisions of the City and Borough Code, so as to minimize to the extent reasonably practicable safety hazards and to control and mitigate adverse impacts on the public and neighboring properties, such as from traffic overloading, noise, dust, unsightly visual aspects, surface subsidence, avalanches, landslides and erosion;
- (5) Appropriate historic sites designated as significant by the City and Borough be protected;
- (6) Reclamation of the affected surface be in accordance with the approved reclamation plan of the operator; and
- (7) With respect to a large mine permit application, the operator negotiate and enter into a mitigation agreement with the City and Borough, which agreement shall establish responsibility for the mitigation of reasonably foreseeable and demonstrable adverse impacts, including direct impacts and indirect impacts. The operator shall be responsible for mitigating the direct impacts. The City and Borough shall be responsible for mitigating indirect impacts except where the costs of mitigating specific indirect impacts are found by the manager to:
 - (A) Exceed the amount of any City and Borough nonproprietary revenue increase attributable to the mining operation; and
 - (B) Require a direct and significant increase in local taxes or fees to adequately mitigate the impact.

Highly speculative impacts shall not be included in the mitigation agreement. Taxes and nonproprietary revenues generated as a result of the proposed mining operation shall be a factor considered in negotiating the mitigation agreement. This agreement shall be incorporated as part of the permit. This subsection does not limit or otherwise affect the authority of the department or the commission to condition or place stipulations on a permit pursuant to this article or the conditional use process as provided in chapter 49.15, article III.

- (b) 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 the following:

- (1) Cleanup and disposal of dangerous, hazardous or toxic materials;
- (2) Regrading of steep slopes of unconsolidated material to create a stable slope;

- (3) Backfilling underground shafts and tunnels to the extent appropriate;
 - (4) Adequate pillaring or other support to prevent subsidence or sloughing;
- (5) Plugging or sealing of abandoned shafts, tunnels, adits or other openings;
 - (6) Adequate steps to control or avoid soil erosion or wind erosion;
- (7) Control of water runoff;
 - (8) Revegetation of tailings and affected surface areas with plant materials that are capable of self-regeneration without continued dependence of irrigation and equipment where appropriate;
- (9) Rehabilitation of fisheries and wildlife habitat; and
 - (10) Any other conditions imposed by the commission.

Subsequent to the issuance of a permit or the grant of authority under an exploration notice, the operator's compliance shall be measured against the requirements contained in that permit or the conditions of the exploration notice and the operator's plans submitted with the permit application or the notice.

- (c) 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)

49.65.140 - Financial warranty.

- (a) No permit shall be issued or exploration authorized pursuant to this article, until any financial warranty required has been submitted by the operator, approved by the city attorney, and accepted by the department. The purpose of any financial warranty shall be to ensure that, during all phases of exploration or a mining operation, the operator will carry out all those obligations or requirements of the permit or conditions of an exploration notice, which are necessary to protect the environmental, health, safety, general welfare and reclamation requirements of the City and Borough, or that, if the operator does not carry out those obligations, there will be sufficient funds available to the City and Borough to enable it to complete the necessary work, taking into account the financial warranties which the operator must submit to other agencies. The department reserves the right to seek forfeiture of the financial warranty, in whole or in part, in the interest of protecting the environmental, health, safety and general welfare requirements of the City and Borough if it determines that the

operator has violated the obligations or requirements of the permit or the conditions of an exploration notice. The forfeiture shall be limited to the extent necessary to satisfy the requirements or conditions that the operator has violated.

- (b) The amount of financial warranty for an exploration notice shall be set by the department. The amount of financial warranty for small mines and large mines shall be determined by the commission. The amount of the financial assistance of the department and the engineering department, to be required to ensure the performance of the requirements of the permit or conditions of an exploration notice as set forth in subsection (a) of this section. In recommending and setting the amount of the financial warranty, the department and the commission, respectively, shall take into consideration the amount and scope of any financial warranties which have been submitted to other agencies. When the performance of such obligations is guaranteed by financial warranties that have been submitted to other agencies, the operator may be required to post a separate financial warranty with the City and Borough if the city attorney determines that the financial warranty submitted to another agency does not create a lien or interest sufficient to protect the interests of the City and Borough. Examples of obligations to be covered by the financial warranty required under this section include but are not limited to;
- (1) Construction of berms, dikes, spillways, channels or other facilities to control, detain, retain or reduce runoff, soil erosion and siltation, or to divert water around waste, tailings, stockpiles or other facilities or disturbed areas;
 - (2) Installation and maintenance of landscaping, including berming, tree planting and other required grading or planting to provide visual and sound barriers and to eliminate or reduce the appearance of scarring;
 - (3) Installation and maintenance of road or highway improvements to mitigate the impact of increased traffic or heavy trucking which is measurable and directly attributable to the mining operation; such facilities may include speed access ramps or lanes, turn lanes, intersection improvements, traffic-control devices or private haulage ways where necessary to avoid the use of public roads or highways. The cost of installation or maintenance described in this subsection shall be shared by the operator and the City and Borough in relation to the proportion of the directly attributable and measurable impact on traffic of the operator's activities or the facilities being maintained, installed or improved;
 - (4) Reclamation of affected surfaces during and following exploration and mining operations;
 - (5) Regrading of steep slopes of unconsolidated materials to create a stable slope;
 - (6) Installation of facilities required to prevent or reduce

degradation of air or water quality or to contain or control toxic or hazardous wastes;

- (7) Removal of buildings, structures or equipment where appropriate;
- (8) Such other obligations as necessary to conform with the commission's determinations under subsection 49.15.330(f) and (g) and subsection 49.65.135(a) and (b)

(c) The financial warranty required under this article for a large or small mine permit or an exploration notice may be in any one or a combination of the following forms at the option of the operator; provided, that the cumulative amount is equal to the amount provided in subsection (b) of this section:

- (1) Cash;
- (2) Certificate of deposit;
- (3) An irrevocable standby letter of credit from a United States bank; or
- (4) A surety bond from a bonding company licensed to do business in the state which is satisfactory to the department for credit worthiness. Interest on cash deposits or certificates of deposit will accrue to the credit of the operator.

(d) In addition to the forms of financial warranty set forth in subsection (c) of this section, with respect to a small mine permit or an exploration notice, the operator may elect to use a property bond as a form of financial warranty; provided, that at least ten percent of the total amount of the financial warrant shall be cash or a certificate of deposit; and provided further, that the commission determines that the value of the property is equivalent to the amount required to be generated for satisfaction of the obligation and the city attorney determines that the bond creates a lien with sufficient priority to permit its collection should such become necessary.

(e) The form of financial warranty shall provide that the funds may be used by the City and Borough to satisfy the obligations described in subsections (a) and (b) of this section when there has been a determination by the department that the operator has not completed its obligations in a timely manner or has otherwise violated the terms of its permit or conditions of its exploration notice, and after notice and opportunity to perform the obligation has been given to the operator.

(f) The amount of the financial warranty shall be reviewed annually by the department, and a determination shall be made whether the amount should be increased or decreased, taking into account changes in the obligations of the operator to be undertaken during the ensuing year, cost of current obligations of final reclamation, and changes due to inflation or deflation.

- (g) If the amount of financial warranty is to be increased or decreased by the determination made in subsection (f) of this section, then the actual increase or decrease shall be made according to the procedure in subsection (b) of this section.

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

49.65.145 - Term of notices and permits; temporary cessation.

- (a) Exploration notices and permits for mining operations shall remain in effect for the duration of the operation, as stated in the notice or in the application, subject to the conditions of this section; and provided, that the following conditions are met:
- (1) The financial warranty must remain in full force and effect;
 - (2) The operator must not be found to be in substantial violation of this article; and
 - (3) With respect to a large or small mine permit, mining operations must be continued in accordance with the plan contained in the application for at least 90 days in each year as to a large mine, and for at least 30 days in each year as to a small mine.
- (b) During the term of any exploration notice or permit, the department may, pursuant to subsection 49.65.140(f), revise the amount of the financial warranty. If the amount of financial warrant is increased, the operator shall submit the appropriate amount of additional financial warranty within 60 days of the department's determination.
- (c) The operator shall advise the department within ten days of the date upon which the operator receives notice that a financial warranty which has been submitted to any other agency is reduced or released.
- (d) If at any time during the term of a permit, the operator determines that it will not conduct mining operations for the applicable time minimums established in subsection 49.65.145(a)(3), it shall notify the department of that intent and request that its mining operation be placed in an inactive status. In conjunction with this notification, and as a condition to granting a request for inactive status, the operator shall advise the department of the measures it will employ to prevent hazardous or dangerous conditions, erosion or other environmental damage which may result from the operator's activities, and the security measures it will employ at the mining operation during the inactive period. An operator may continue in inactive status for a five-year period and may, with the permission of the department, obtain successive five-year extensions of that status. At the conclusion of inactive status, the operator shall either resume operations or commence final reclamation in accordance with its plans. If an operator ceases operations for more than one year but does

not request inactive status, the department may require the operator to commence final reclamation in accordance with its plans.

- (e) Throughout the duration of a large mine permit, the operator of a large mine shall also notify the department not less than 60 days prior to requesting placement on inactive status. The operator and the City and Borough shall maintain a process to exchange information regarding the impact on the City and Borough that may result from a change in mining operations. In addition, the operator shall provide the department with copies of any notification it may be required to provide to federal agencies under federal law concerning proposed personnel layoffs at its mining operation. The department may waive any of these notification requirements in the event of an unforeseen act of God or disaster.

(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 10, 1989)

49.65.150 - Annual reports; monitoring; monitoring fee.

- (a) During the term of each exploration notice, the operator shall submit annual progress reports to the department on or before March 31 of each year and shall describe the areas in which exploration was conducted during the preceding year, the amount of acreage which was disturbed by such exploration, and the nature and extent of associated reclamation activities.
- (b) During the term of each small mine permit or large mine permit, including any inactive period, the operator shall submit an annual progress report to the department on or before March 31 of each year describing the status of the mining operation in relation to the mining plan and timetable in the application, and describing reclamation activities during the year.
- (c) The department shall have ongoing authority to monitor any mining operation for which a permit has been issued in order to ascertain whether the mining operation is in compliance with the requirements, terms, conditions and mitigation measures in the permit. The operator shall, upon reasonable notice, provide the department with access, at reasonable times, to the premises and to the records of the mining operation to the extent such access to the premises and records is necessary to ascertain whether the mining operation is in compliance with the requirements, terms, conditions and mitigation measures in the permit.
- (d) Throughout the duration of the term of a small mine permit or a large mine permit, the operator shall pay to the department an annual monitoring fee to defray the costs of inspecting and reviewing the affected surface and compliance with the permit. The annual monitoring fee shall be such amount as may be established by the commission as necessary to cover the reasonable costs of inspection and review.

(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 11, 1989)

49.65.155 - Technical revisions, summary approval, and amendments.

- (a) During the term of a permit, the operator shall notify the department of all technical revisions to its operations. As used in this section a "technical revision" is a change in operations which does not, in the judgment of the department, have more than a minor effect on reclamation and which does not change the total amount of disturbance or the overall environmental or socioeconomic impact of the mining operation. After the technical revision is submitted to the department, the department shall within 30 days determine and notify the operator whether a permit amendment or summary approval of the change is necessary or whether the technical revisions may be accomplished under the operator's existing permit.
- (b) If the operator or the department determines that the change to the mining operations will require preparation of a new or supplemental environmental impact statement, or will increase the acreage of affected surface or otherwise have a significant effect on reclamation or the environmental or socioeconomic impact of the mining operation, the permit shall be amended, unless summary approval of the change is granted pursuant to (b)(2) of this section.
- (1) Except as provided in subsection (2) of this section, the operator shall file with the department an application for amendment to its original permit, together with an application with the same content as required for an original application, except that no operator will be required to resubmit any information which duplicates applicable previous submittals. The permit amendment application shall be processed in accordance with the same procedure as established for processing permits under sections 49.65.125, 49.65.130 and 49.65.135. The operator shall not commence changes requested in its amendment application until the permit amendment has been approved and, if appropriate, additional financial warranties submitted.
- (2) 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 subsection (2) 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)

49.65.170 - Release of warranties for mining operations.

- (a) Upon completion of mining operations, the operator shall file a written notice of completion with the department when it believes it has completed any or all requirements of this article, section 49.15.330 and its permit with respect to any or all of its affect surfaces. The department shall, within 90 days after receiving the notice, or as soon thereafter as weather conditions permit, inspect the lands and reclamation described in the notice to determine whether the operator has complied with all applicable requirements.
- (b) If the department determines that the operator has successfully complied with all the requirements of this article, section 49.15.330 and the permit, it shall release all financial warranties applicable to said requirements. Release shall be in writing and shall be delivered to the operator promptly after the date of such filing.
- (c) If the department finds that the operator has not complied with the requirements of this article, section 49.15.330 or the permit, it shall so advise the operator not more than 90 days after the date of the inspection. The operator shall be given a reasonable time to comply with requirements before a second inspection. If the operator does not complete the requirements, or if after reinspection the department is not satisfied that the operator has complied with all the requirements of this article, section 49.15.330 or the permit, the

financial warranty shall be subject to forfeiture to the extent necessary to satisfy any outstanding requirements.

(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 15, 1989)

49.65.175 - Successor operators.

Any operator desiring to transfer its rights under an exploration notice, a small mine permit, or a large mine permit shall submit to the department a request for transfer. This request shall identify the name and address of the new operator. The department may approve in writing the request for transfer if it finds that: the proposed operator will conduct the operations covered by the notice or permit in accordance with the requirements of this article and any additional requirements set by the department; the proposed operator has submitted a financial warranty at least equivalent to the financial warranty of the original operator such other amount as may be determined using the procedures in section 49.65.140; the proposed operator will continue to conduct the operations involved in full compliance with the terms and conditions of the original notice or permit; and all obligations and responsibilities undertaken by the original operator shall be accepted and assumed by the proposed operator. The department may deny approval of the request for transfer if the original operator has any existing notice or permit violations at the time of the request until such time as the violations have been remedied. If the department approves the transfer the financial warranty submitted by the original operator shall be released.

(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 16, 1989)

49.65.180 - Confidentiality.

Upon request of any operator, information in any application or report relating to the location, size, grade, geology or geochemistry of any ore deposit, proprietary process information, or information as to cost of mine construction or operation shall be kept confidential by the department to the extent permitted by AS 09.25.110, AS 09.25.120 or other applicable law. Information to be maintained as confidential must be separately presented to the department and must be marked "Confidential."

(Serial No. 87-49, § 2, 1987; Serial No. 89-47am, § 17, 1989)

49.65.185 - Suspension or revocation of notices and permits.

(a) Subject to the procedures of this section, the commission may suspend or revoke a permit issued under this article, or the authority to operate under an exploration notice pursuant to section 49.65.120, upon a determination by the commission that:

(1) The exploration of mining operations are not in material and substantial

compliance with the requirements of the exploration notice or permit and such material and substantial noncompliance remains unremedied after issuance of a compliance order issued pursuant to section 49.10.620; or

- (2) The exploration of mining operations under the notice or permit have a history or pattern of intentional or grossly negligent noncompliance and compliance orders have previously been issued for such past events of noncompliance. Good faith efforts to remedy events of noncompliance shall create an inference that such noncompliance is not a cause for suspension or revocation.
- (b) The department shall provide the operator with written notification that it is recommending that the commission consider the entry of a suspension or revocation order under subsection (a) of this section. The written notification shall set forth the reasons for the department's recommendation and the operator's right to a hearing before the commission. The commission shall schedule a hearing within 30 days after the operator has received the written notification. At the hearing, the department shall have the burden of establishing that the operator is not in material and substantial compliance with the permit or authority to operate under an exploration notice, or that there is a past history or pattern on noncompliance sufficient to justify suspension or revocation.
- (c) Upon written notification of the entry of a suspension or revocation order to the operator or to any person operating under the authority of the permit or exploration notice, all exploration or mining operations shall cease except those specifically authorized by the commission in the order or except if the assembly stays the order pending appeal.
- (d) A suspended notice or permit may be reinstated by the commission upon a determination that the exploration or mining operations have been brought into compliance with the conditions of the notice or permit. A notice or permit which has been revoked may not be reissued by the commission until the commission determines that the exploration or mining operation has been brought into compliance with the terms and conditions of the notice or permit, and the operator has clearly and convincingly demonstrated that preventative measures have been taken to ensure that those conditions which gave rise to the revocation will not reoccur.
- (e) A suspension or revocation order may be appealed to the assembly in accordance with chapter 49.20, article I. Pending appeal, the assembly may in its discretion stay an order of suspension or revocation.
- (f) The rights of suspension or revocation provided for in this section are in addition to any rights or powers vested in the City and Borough in section 49.65.160 or chapter 49.10, article VI.

(Serial No. 89-47am, § 18, 1989)

49.65.190 - Effect of article on operations in annexed territory.

Large mine, small mine and 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 large mine permit, a small mine permit, or an exploration notice, as applicable, 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. The terms of the City and Borough permit or notice shall be deemed to be the terms of the state and federal permits or approvals, unless and until a permit amendment is required. The operator shall be required to execute documentation acknowledging that the permit or notice deemed to be issued under this article shall have the same terms as the federal and state permits or approvals unless and until a permit amendment is required, and that the operator, and the permit or notice deemed issued, shall be subject to all of the requirements of this article in effect upon the effective date of annexation with the exception of the initial permit application and exploration notice filing requirements.

(Serial No. 89-47am, § 19, 1989)

49.65.195 - Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this article is for any reason held unlawful or otherwise invalid, such holding shall not affect the remaining portions of the article. The City and Borough declares that it would have enacted this article and each and every part thereof, irrespective of the fact that any one or more parts might be held unlawful or otherwise invalid.

(Serial No. 89-47am, § 20, 1989)

49.80.120 - Definitions.

...

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.

Large mine permit means a conditional use permit for a large mine, pursuant to [chapter 49.15](#), article III, and [section 49.65.130](#).

...

Small mine means a mining operation other than a large mine.

Small mine permit means a conditional use permit for a small mine, pursuant to of [chapter 49.15](#), article III, and [section 49.65.125](#).

...