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April 9, 2026

Haines Borough Clerk
Submitted electronically

Re: Comments of the Alaska Miners Association Questioning the Legality of the Proposed Haines Safety Belt Ordinance

Dear Members of the Haines Borough Assembly:

The Alaska Miners Association (AMA) writes to question the legality of the Proposed Haines Safety Belt Ordinance.

AMA is a professional membership trade organization established in 1939 to represent the mining industry in Alaska. AMA's more than 1,400 members come from eight statewide branches: Anchorage, Denali, Fairbanks, Haines, Juneau, Kenai, Ketchikan/Prince of Wales, and Nome. Alaska's miners are individual prospectors, geologists, engineers, suction dredge miners, small family mines, junior mining companies, major mining companies, Alaska Native Corporations, and the contracting sector that supports Alaska's mining industry. The precedent set by the proposed ordinance could affect hundreds of AMA members who live, work, and otherwise use Alaska's lands on a daily basis.

The AMA has major concerns about the scope and legality of the proposed Haines Safety Belt Ordinance and its intended impact on mining exploration and development in the Haines Borough.

First, there is not a clear delineation of the land to which it applies. Is it intended to apply to land managed by the Alaska Mental Health Trust or the Bureau of Land Management? Is it intended to apply to land managed by the State Forest Division? Before the public can comment in a meaningful way, the land use application must be clarified.

Second, on what authority is the Ordinance intended to apply to mining exploration and development? In *Jacko v. State*, 353 P. 3d 337, 345 (Alaska 2015) the Alaska Supreme Court observed: "We have never held that a borough may exercise the law-making powers of the state legislature through initiative, nor would such a holding make any sense."

In *Jacko* the Supreme Court upheld a Superior Court's Order that State law preempted local government's effort to regulate mining because: "Under such a scheme, DNR [would] no longer function[] as the sole gatekeeper" in granting and denying mining permits. ***Such a power shift is impliedly preempted by AS 27.05.010's provision that DNR "has charge of all matters affecting exploration, development, and mining of the mineral resources of the state."*** (*Jacko supra*.at 344). (Emphasis added)



The Supreme Court restated its *Jacko* holding in *Alaska Trappers Association v. Valdez*, 548 P.3d 322, 339 (Alaska 2024):

In *Jacko v. State* we interpreted the statutory language to indicate the legislature's intent to make DNR the “sole gatekeeper” of mining projects in Alaska. We held that “the general provision of authority to home rule boroughs to regulate land use does not override the specific delegation of authority to DNR to regulate resource extraction,” and we struck down the local initiative at issue as impliedly prohibited by state law because it would have allowed the borough to prohibit mining projects otherwise authorized by DNR.

The documents made available to the public do not explain what distinguishes the legal authority of the Proposed Ordinance to regulate mining exploration and development from the attempt that was found unconstitutional in *Jacko*.

The Safety Belt Ordinance cites the Juneau Mining Ordinance as authority for applying the Proposed Ordinance to mining. But the Juneau Ordinance was specifically aimed at the attempt to reopen the AJ Mine by Echo Bay in the 1990s (and as the *Jacko* Court points out has never been tested in court). (*Jacko*, supra. at 345). It was not tested because the City and Borough of Juneau (CBJ) is 2/3 owner of the AJ Mine and thus has a right to regulate as an owner that the Haines Borough does not have.

Finally, it is abundantly clear in the supporting documentation for the Safety Belt Ordinance that the drafters have misconstrued the Juneau Mining Ordinance and erroneously suggest that the existing mines in Juneau are subject to the ordinance. The Juneau Mining Ordinance establishes urban and rural mining districts, 49.65.115 (c), and then explicitly states in 49.65.115 (d) that “Mines located in the rural mining district that will undergo environmental review by state agencies, federal agencies, or both, shall be permitted as allowable uses pursuant to CBJ 49.15.320 and shall not be subject to this article.” Both the Hecla Greens Creek Mine and the Coeur-Alaska Kensington Gold Mine are located in the rural mining district and references to those mines as examples of regulation through the Juneau Mining Ordinance are patently false.

These outstanding questions regarding the scope and scale of the Borough’s regulatory authority should be answered before the public is asked to comment on the details of the Proposed Safety Belt Ordinance. The Borough should also correct their supporting public documents where the Juneau Mining Ordinance is referenced.

Sincerely,

A handwritten signature in blue ink, appearing to read "D Skibinski".

Deantha Skibinski
Executive Director