

2/11/2026

Good afternoon,

I'm writing as follow up to the comments that I made during last week's hearing on the draft mining ordinance. The bottom line from those comments is my strong recommendation that you (a) delete what is currently labeled as Article IV, Section 1, and modify what is currently labeled as Article IV, Section 2 to become effective immediately upon adoption.

As I mentioned in my oral remarks at last week's hearing, Section 2 is well crafted to achieve the purpose of establishing that an applicant is legitimately entitled to having a mining operation designated as being grandfathered. The requirements of Section 2 are not onerous, and should be easily satisfied by anyone genuinely entitled to having a pre-existing operation grandfathered. Section 1, in contrast, is completely inadequate and is an invitation to abuse.

My specific criticisms of Section 1:

While it allows an applicant to submit evidence that the operation they're trying to register was actual, substantial, and not previously abandoned, such evidence is not required.

Section 1 doesn't require a site plan or business records, and only requires a "statement signed under oath" that the operation wasn't abandoned prior to the ordinance's date of applicability, and that it hasn't been unlawfully expanded since that date. Without a site plan, there will be no way of knowing whether the operation has expanded at some point in the future.

While Section 1 does state that the oath should be accompanied by supporting documentation, such as a copy of an annual report to a permitting or governmental authority in the year prior to the date of applicability, it doesn't state what type of report is considered adequate. Given that different types of annual reports are intended to satisfy different requirements, it's not at all clear that such reports would in any way substantiate the legitimacy of the applicants claims.

Beyond that, neither Section 1 nor any other part of the ordinance makes any provision for an enforcement mechanism, should the statement made "under oath" prove to have been false or inaccurate. Without such a mechanism, there is nothing to prevent an unscrupulous applicant from wildly exaggerating or completely fabricating a claimed pre-existing operation.

By allowing operations not subject to any state or municipal permitting or reporting to simply provide a signed statement, we're opening the door for people to make wild claims that are entirely fictitious and exaggerated, while providing the town with no legal recourse

to correcting the abuse. This is something that has no precedent that I've ever seen before: it would be like letting people write their own building permits in the six months following the adoption of a town's building code ordinance. It makes no sense, and it completely flies in the face of the protection that the ordinance should be trying to provide to the citizens of Alna.

The mining ordinance can be shortened by 1 1/2 pages at the same time it is made more effective by making the change that I've recommended.

Thank you,

-Ed