

ORDINANCE NO. 2008- 001

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, IMPOSING A MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS AND PROCESSING OF APPLICATIONS FOR MINING ADMINISTRATIVE PERMIT APPROVALS AND ISSUANCE OF MINING PERMITS; PROVIDING FOR PROHIBITION; PROVIDING FOR EXEMPTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; SETTING FORTH EFFECTIVE AND EXPIRATION DATES.

**WHEREAS**, pursuant to Section 1(f), Article VIII, of the Florida Constitution and Chapter 125, Florida Statutes, Indian River County is authorized and required to protect the public health, safety and welfare and may exercise any power for governmental purpose except when expressly prohibited by law; and

**WHEREAS**, pursuant to Section 163.3202, Florida Statutes, Indian River County has enacted land development regulations, consistent with its adopted comprehensive plan, which protect the quality of life in Indian River County; and

**WHEREAS**, the Board of County Commissioners has adopted Indian River County Code Chapter 934, Excavation and Mining; and

**WHEREAS**, at its October 23, 2007 meeting the Board of County Commissioners was advised of numerous traffic hazards and accidents involving mining trucks on unpaved haul routes; and

**WHEREAS**, the Board has determined improvements must be made to the notice and traffic safety provisions of Chapter 934; and

**WHEREAS**, the Planning and Zoning Commission considered this matter and made a recommendation of approval of a mining moratorium on December 13, 2007; and

**WHEREAS**, the Board of County Commissioners has held two public hearings on this proposed moratorium on mining and heard public input;

**WHEREAS**, the Board of County Commissioners wishes to maintain the status quo with respect to mining activity during the drafting process to ensure that the community's notice and traffic safety problems are addressed through this ordinance

rather than exacerbated during the time it takes to formulate any desired modifications to the excavating and mining ordinance; and

**WHEREAS**, the Board of County Commissioners has considered any information provided by the Florida Department of Transportation regarding the effect this ordinance would have on the availability, transportation and potential extraction of construction aggregate materials on the local area, region and the state, as required by Florida Statute 337.0261,

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, that:**

### **SECTION 1. PROHIBITION**

No applications for mining administrative permit approvals shall be accepted or processed, and no mining permits shall be issued until July 10, 2008.

### **SECTION 2. EXEMPTIONS**

The prohibitions of Section 1 above shall not apply to the following:

- A. Annual renewals of operating permits for existing approved mines, as of the effective date of this ordinance.
- B. All activities currently exempted by by Indian River County Code Section 934.04 "Exemptions".
- C. Existing operating mines involved in the completion of State Road 60 four-laning west of Interstate 95.
- D. Staff level administrative approvals for minor changes to existing operating mines, including but not limited to on-site moves of construction trailers.

This exemption D shall not include expansions to the acreage excavated nor the area of development of existing operating mines nor changes to approved haul routes.

### **SECTION 3. CONFLICTS**

The application of any Indian River County ordinance in conflict herewith is hereby suspended during the time period set forth in Section 1 to the extent of such conflict.

**SECTION 4. SEVERABILITY**

If any section, sentence, clause, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

**SECTION 5. EFFECTIVE DATE**

This ordinance shall take effect upon filing with the Secretary of State.

**SECTION 6. EXPIRATION DATE**

This ordinance shall expire July 10, 2008, unless earlier terminated or further extended by ordinance.

This ordinance was advertised in the Vero Beach Press-Journal on the 8th day of December, 2007, for a public hearing to be held on the 18th day of December, 2007, and was advertised in the Vero Beach Press-Journal on the 31st day of December, 2007 for a public hearing to be held on the 7th day of January, 2008 at which time it was moved for adoption by Commissioner Wheeler, seconded by Commissioner O'Bryan, and adopted by the following vote:

Sandra L. Bowden, Chairman	<u>aye</u>
Wesley S. Davis, Vice Chairman	<u>abstain</u>
Commissioner Joseph E. Flescher	<u>aye</u>
Commissioner Gary C. Wheeler	<u>aye</u>
Commissioner Peter D. O'Bryan	<u>aye</u>

The Chairman thereupon declared the ordinance duly passed and adopted this 7th day of January, 2008.

BOARD OF COUNTY COMMISSION  
INDIAN RIVER COUNTY, FLORIDA

By: Sandra L. Bowden  
Sandra L. Bowden, Chairman

ATTEST: Jeffrey K. Barton, Clerk

By: Jeffrey K. Barton  
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

BY William G. Collins II  
WILLIAM G. COLLINS II  
COUNTY ATTORNEY

ACKNOWLEDGMENT by the Department of State of the State of Florida, this 14th day of JANUARY, 2008.

STATE OF FLORIDA  
INDIAN RIVER COUNTY  
THIS IS TO CERTIFY THAT THIS IS  
A TRUE AND CORRECT COPY OF  
THE ORIGINAL ON FILE IN THIS  
OFFICE  
JEFFREY K. BARTON, CLERK  
BY [Signature] D.C.  
DATE 1-23-2008