

ORDINANCE NO. 2008-012

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, EXTENDING BY SIX MONTHS TO JANUARY 7, 2009 THE 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 held two public hearings on a proposed moratorium on mining, heard public input, and adopted Ordinance No. 2008-001 on January 7, 2008, effective January 10, 2008; and

**WHEREAS**, holding workshops with stakeholders and drafting amendments has proven to be challenging and additional time is needed before any amended ordinance is ready to be brought before the various committees and Board of County Commissioners; and

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

**WHEREAS**, the Board desires to extend the moratorium put in place on January 10, 2008, for an additional six months; 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 January 7, 2009.

**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 January 7, 2009, unless earlier terminated by ordinance.

This ordinance was advertised in the Vero Beach Press-Journal on the 23rd day of May, 2008, for a public hearing to be held on the 3rd day of June, 2008, and was advertised in the Vero Beach Press-Journal on the 7th day of June, 2008 for a public hearing to be held on the 17th day of June, 2008 at which time it was moved for adoption by Commissioner Peter D. O'Bryan, seconded by Commissioner Gary C. Wheeler, and adopted by the following vote:

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

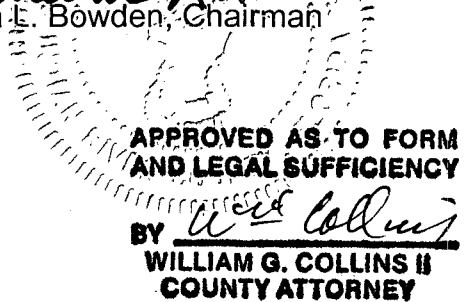
The Chairman thereupon declared the ordinance duly passed and adopted this 17th day of June, 2008.

BOARD OF COUNTY COMMISSION  
INDIAN RIVER COUNTY, FLORIDA

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

ATTEST: Jeffrey K. Barton, Clerk

By: Maria J. Suez  
Deputy Clerk



APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY  
BY William G. Collins II  
WILLIAM G. COLLINS II  
COUNTY ATTORNEY

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ACKNOWLEDGMENT by the Department of State of the State of Florida, this \_\_\_\_ day  
of \_\_\_\_\_, 2008.