

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
ADOPTING A MORATORIUM ON RESIDENTIAL DEVELOPMENT ON MINING CLAIMS
IN THE UNINCORPORATED AREAS OF OURAY COUNTY**

WHEREAS, the Board of County Commissioners of Ouray County ("Board") has adopted Resolution No. 2009-002 which sets forth certain priorities for changes and modifications to the Ouray County Land Use Code ("Code"), including the addition of new regulations to address residential development on mining claims in Ouray County, Colorado; and

WHEREAS, at its meeting on January 5, 2009, the Board discussed the possible impacts that residential development on mining claims will have on Ouray County and the potential for imminent development of mining claims; and

WHEREAS, C.R.S. §29-20-101, et seq., the "Local Government Land Use Control Enabling Act of 1974" provides that local governments are provided broad authority to plan for and regulate the use of land within their respective jurisdictions, balancing the human needs of a changing population with legitimate environmental concerns; and

WHEREAS, C.R.S. §29-20-104 provides that a local government has the authority to plan for and regulate the use of land by regulating development and activities in hazardous areas; protecting lands from activities which would cause immediate or foreseeable material danger to significant wildlife habitat and would endanger a wildlife species; preserving areas of historical and archaeological importance; regulating the use of land on the basis of the impact thereof on the community or surrounding areas; and otherwise planning for and regulating the use of land so as to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights; and

WHEREAS, residential development on mining claims presents peculiar challenges for property owners and Ouray County staff because of limited access and limited public services and facilities to such properties and such development may have other significant impacts on Ouray County as a whole and its citizens and visitors, including things such as visual impacts; impacts to significant wildlife habitat and wildlife species; impacts to natural resources; impacts to areas of historical importance; impacts to the tourism economy of Ouray County; and impacts to the resources and services of the Ouray County government; and

WHEREAS, the Board has tasked the Ouray County Land Use staff, the Ouray County Attorney and the Ouray County Planning Commission to begin preparation of new regulations to address residential development on mining claims in Ouray County; and

WHEREAS, C.R.S. §30-28-121 provides that the Board may adopt certain temporary restrictions on the erection, construction, reconstruction or alteration of any building or structure in all or parts of the unincorporated areas of the county, not to exceed six months; and

WHEREAS, the Board has determined that a temporary moratorium on residential development on mining claims is necessary in order to develop regulations and a zoning plan for the southern portion of Ouray County where a significant number of mining claims exist, with such regulations and zoning plan addressing the impacts and challenges described above;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, AS FOLLOWS:

1. A temporary moratorium on residential development on patented mining claims and mill sites is imposed for the period January 26, 2009 to and including July 26, 2009. During this period of time, no site development permits, building permits or septic permits shall be issued for any patented mining claims or mill sites in Ouray County and the erection,

construction, reconstruction or alteration of any existing or new building or structure shall be prohibited on such properties. The temporary moratorium described herein shall not apply to work under a site development permit, building permit or septic permit issued prior to January 26, 2009. Additionally, the moratorium shall not apply to those cases in which the failure to complete work on a structure, in the opinion of the Board, would result in a danger to the health, safety or welfare of the citizens of Ouray County.

2. During the pendency of this moratorium, the Ouray County Land Use Staff, Ouray County Attorney and the Ouray County Planning Commission are directed to work expeditiously to prepare draft regulations relating to residential development on mining claims and to develop a zoning plan for the southern portions of Ouray County that will encompass historic mining district(s) and patented mining claims and mill sites located in such area.
3. The moratorium described herein shall not apply to any residential structures associated with a State-permitted mine operation or any historical properties located on any mining claim in order to maintain status quo; however, the issuance of any necessary permits for the erection, construction, reconstruction or alteration of any such residential structures shall require prior Board approval.

APPROVED AND ADOPTED THIS ____ DAY OF _____, 2009.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:

Heidi M. Albritton, Chair

K. Keith Meinert, Vice-Chair

Michelle Nauer, Clerk and Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board

Lynn M. Padgett, Commissioner