

**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") periodically directs the Planning Commission to make recommendations for changes and modifications to the Ouray County Land Use Code ("Code"); and

WHEREAS, at its work session on April 12, 2016, and at its regular meeting on April 19, 2016 the Board discussed the impacts that residential development on mining claims may have on Ouray County and the potential for imminent residential 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, C.R.S. 30-28-102, 30-28-111, 30-28-113 and 30-28-116 also provide broad authorization for the County to adopt a zoning plan, land use regulations, and to revise zoning and land use regulations; and

WHEREAS the Board of County Commissioners is authorized by C.R.S. 30-11-107(a) to "make such orders concerning the property belonging to the county as it deems expedient"; and is further authorized to provide for the management of the business and concerns of the county; and

WHEREAS, Ouray County has a long history of mineral exploration, development and commercial mineral extraction and processing, which led to the patenting of numerous mining claims in Ouray County, and inherent in the patenting process under the Mining Law of 1872 is a determination that a patented mining claim contains commercially viable mineral deposits; and

WHEREAS, the economy of Ouray County has historically relied heavily on mineral extraction, the Board of County Commissioners desires to ensure that mining remains a viable component of the Ouray County economy and finds that residential development of mining claims presents potential for conflict with active, past and future mining operations ; and

WHEREAS, residential development on mining claims presents peculiar challenges for property owners and Ouray County staff because of limited road access, potential for damage to county roads, the potential for hazards from rock slides, avalanches, moving snow, and other geo-hazards, the difficulty in constructing on-site wastewater systems or other alternate waste systems complying with County and State regulations pertaining to such, water supply availability in high alpine areas, as well as other limited or unavailable public services and facilities required for public health, safety and welfare to such properties; and

WHEREAS 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 will tasked the Ouray County Land Use staff, the Ouray County Attorney and the Ouray County Planning Commission to consider land use regulations of other adjoining counties with similar properties, and to consider recommendations for adopting new regulations to address residential development on mining claims in Ouray County; and

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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 without a public hearing; and

WHEREAS, the Board has determined that a temporary moratorium on residential development on mining claims is necessary in order to provide time to consider and develop regulations, and proposed zoning plan changes as may be recommended, to address these issues, specifically in the high alpine areas of Ouray County at or above an elevation of 9,500' where visual impacts, impacts on the environment, and unavailability of access and county services are most acute, and where a significant number of mining claims exist, with such regulations and zoning recommendations 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 at or higher than 9,500' above sea level elevation, is imposed for the period April 19, 2016 to and including October 19, 2016. During this period of time, no residential site development permits, residential 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 residential 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 May 3, 2016. Additionally, the moratorium shall not apply to those cases in which the failure to complete work on a residential 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 recommend pertinent changes to zoning for the areas of Ouray County that will encompass historic mining district(s) and patented mining claims and mill sites located in such area above 9,500'.
3. The moratorium described herein shall not apply to any 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 residential structures shall require prior Board approval.

APPROVED AND ADOPTED THIS 19 **DAY OF** APRIL, 2016.

VOTING FOR: COMMISSIONERS PADGETT + TISDEL

VOTING AGAINST: COMMISSIONER BATCHELDER

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:



Michelle Nauer
Michelle Nauer, Clerk and Recorder
By: Hannah Hollenbeck, Deputy Clerk of the Board

Lynn M. Padgett
Lynn M. Padgett, Chair

Ben Tisdell
Ben Tisdell, Vice-Chair

Don Batchelder
Don Batchelder, Commissioner