

HOME RULE CHARTER

AND CODE OF THE

TOWN OF CRESTED BUTTE, COLORADO

2009

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OFFICIALS

of the

TOWN OF CRESTED BUTTE

Mayor

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Mayor Pro Tem

Jim Schmidt

Town Council

Roland Mason
Shaun Matusewicz
Glenn Mitchel
David K. Owen
John Wirsing

Town Manager

Susan Parker

Town Clerk

Eileen Hughes

Town Attorney

John Belkin

CRESTED BUTTE MUNICIPAL CODE

Supplementation Instructions

This supplement contains all ordinances deemed advisable to be included at this time through **Ordinance No. 16, Series 2011, adopted September 19, 2011.**

Remove old pages

iii
ix—xiii
M-xxxvii—M-xlii
6-i, 6-ii
6-27, 6-28
6-33, 6-34
7-i, 7-ii
7-15—7-18
8i—8-2b
8-21
17-i—17-iv
17-3—17-6
17-9, 17-10
17-17—17-22
17-25—17-36
17-43—17-68
17-71—17-89
18-i—18-14
Appx i
Appx A-3, Appx A-4
——
T-39—T-103
I-1—I-4a
I-9—I-26

Insert new pages

iii
ix—xiii
M-xxxvii—M-xlii
6-i, 6-ii
6-27, 6-28
6-33, 6-34
7-i, 7-ii
7-15—7-19
8i—8-2b
8-21, 8-22
17-i—17-v
17-3—17-6b
17-9—17-10a
17-17—17-22a
17-25—17-36b
17-43—17-68b
17-71—17-95
18-i—18-14a
Appx i
Appx A-3, Appx A-4
Appx Q-1—Appx Q-3
T-39—T-103
I-1—I-4a
I-9—I-26b

Insert this instruction sheet behind the Supplementation Tab in the front of the volume. File removed pages for future reference.

COLORADO CODE PUBLISHING COMPANY
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November 2011

CRESTED BUTTE MUNICIPAL CODE

Supplementation Instructions

This supplement contains all ordinances deemed advisable to be included at this time through **Ordinance No. 10, Series 2011, adopted June 6, 2011.**

Remove old pages

ix, x
6-i, 6-ii
6-27, 6-28
6-33, 6-34
10-i, 10-ii
—
16-1—16-4
16-9—16-16
16-21, 16-22
16-49, 16-50
16-53, 16-54
16-59—16-62
16-117—16-120
16-137, 16-138
Appx A-1—Appx A-3
Appx N-173, Appx N-174
Appx N-207, Appx N-208
T-39—T-103
I-1—I-4a
I-13—I-16

Insert new pages

ix, x
6-i, 6-ii
6-27, 6-28
6-33, 6-34
10-i, 10-ii
10-20a
16-1—16-4
16-9—16-16a
16-21, 16-22
16-49, 16-50
16-53, 16-54
16-59—16-62
16-117—16-120a
16-137—16-138e
Appx A-1—Appx A-4
Appx N-173—Appx N-174a
Appx N-207, Appx N-208
T-39—T-103
I-1—I-4a
I-13—I-16b

Insert this instruction sheet behind the Supplementation Tab in the front of the volume. File removed pages for future reference.

COLORADO CODE PUBLISHING COMPANY
Fort Collins, Colorado

August 2011

CRESTED BUTTE MUNICIPAL CODE

Supplementation Instructions

This supplement contains all ordinances deemed advisable to be included at this time through **Ordinance No. 37, Series 2010, adopted December 6, 2010.**

Remove old pages

M-xli, M-xlii
6-7, 6-8
7-11—7-14
8-1—8-2b
13-5—13-8
13-13—13-16
16-63, 16-64
16-113, 16-114
18-iii
18-31
Appx i—Appx A-2
—
T-39—T-103
I-1—I-4
I-19, I-20
I-27, I-28

Insert new pages

M-xli, M-xlii
6-7, 6-8
7-11—7-14
8-1—8-2b
13-5—13-8
13-13—13-16b
16-63, 16-64
16-113, 16-114
18-iii
18-31, 18-32
Appx i—Appx A-2
Appx P-1
T-39—T-103
I-1—I-4a
I-19, I-20
I-27, I-28

Insert this instruction sheet behind the Supplementation Tab in the front of the volume. File removed pages for future reference.

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February 2011

SUPPLEMENT NO. 4

CRESTED BUTTE MUNICIPAL CODE

Supplementation Instructions

This supplement contains all ordinances deemed advisable to be included at this time through **Ordinance No. 26, Series 2010, adopted August 16, 2010.**

<i>Remove old pages</i>	<i>Insert new pages</i>
4-11, 4-12	4-11, 4-12
6-13—6-16	6-13—6-16
8-i	8-i, 8-ii
8-7, 8-8	8-7—8-8a
10-7, 10-8	10-7, 10-8
13-1—13-4	13-1—13-4
13-7—13-10	13-7—13-10
16-29, 16-30	16-29, 16-30
16-51—16-54	16-51—16-54
16-117, 16-118	16-117, 16-118
16-127—16-134	16-127—16-134a
T-39—T-103	T-39—T-103
I-17, I-18	I-17, I-18
I-25, I-26	I-25, I-26

Insert this instruction sheet behind the Supplementation Tab in the front of the volume. File removed pages for future reference.

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October 2010

SUPPLEMENT NO. 3

CRESTED BUTTE MUNICIPAL CODE

Supplementation Instructions

This supplement contains all ordinances deemed advisable to be included at this time through **Ordinance No. 8, Series 2010, adopted May 3, 2010.**

Remove old pages

Title page
vii, viii
M-iii
M-xxxvii, M-xxxviii
M-xli, M-xlii
2-i—2-2
4-iii
4-5, 4-6
4-9—4-12
4-37—4-45
6-i
6-17, 6-18
16-v—16-viii
16-9—16-12
16-15, 16-16

Remove old pages

16-19, 16-20
16-53, 16-54
16-57—16-60
16-93, 16-94
16-113, 16-114
18-iii
—
Appx i
—
T-39—T-103
I-1—I-4
I-7—I-14
I-17—I-20
I-25, I-26
I-29—I-34

Insert new pages

Title page
vii, viii
M-iii
M-xxxvii, M-xxxviii
M-xli, M-xlii
2-i—2-2
4-iii
4-5—4-6a
4-9—4-12
4-37—4-45
6-i, 6-ii
6-17—6-34
16-v—16-viii
16-9—16-12a
16-15, 16-16

Insert new pages

16-19, 16-20
16-53, 16-54
16-57—16-60
16-93—16-94b
16-113—16-114a
18-iii
18-31
Appx i
Appx O-1—O-7
T-39—T-103
I-1—I-4
I-7—I-14b
I-17—I-20
I-25, I-26
I-29—I-34

Insert this instruction sheet behind the Supplementation Tab in the front of the volume. File removed pages for future reference.

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Fort Collins, Colorado

July 2010

SUPPLEMENT NO. 2

CRESTED BUTTE MUNICIPAL CODE

Supplementation Instructions

This supplement contains all ordinances deemed advisable to be included at this time through **Ordinance No. 22, Series 2009, adopted December 7, 2009.**

Remove old pages

iii
4-13—4-16
6-7, 6-8
8-1, 8-2
13-5, 13-6
15-5, 15-6
16-3, 16-4
16-15, 16-16
16-41—16-44
16-55, 16-56
16-91, 16-92
16-119, 16-120
16-123, 16-124
16-129, 16-130
Appx. A-1, A-2
T-39—T-103

Insert new pages

iii
4-13—4-16
6-7, 6-8
8-1—8-2b
13-5, 13-6
15-5, 15-6
16-3, 16-4
16-15, 16-16
16-41—16-44
16-55, 16-56
16-91, 16-92
16-119, 16-120
16-123, 16-124
16-129, 16-130
Appx. A-1, A-2
T-39—T-103

Insert this instruction sheet behind the Supplementation Tab in the front of the volume. File removed pages for future reference.

COLORADO CODE PUBLISHING COMPANY
Fort Collins, Colorado

December 2009

SUPPLEMENT NO. 1

CRESTED BUTTE MUNICIPAL CODE

Supplementation Instructions

This supplement contains all ordinances deemed advisable to be included at this time through **Ordinance No. 11, Series 2009, adopted September 8, 2009.**

Remove old pages

xi, xii
M-xli, M-xlii
2-3—2-8
13-5, 13-6
16-47—16-50
16-129, 16-130
18-iii—18-4
18-27, 18-28
T-33, T-34
T-39—T-103
I-3—I-6

Insert new pages

xi, xii
M-xli, M-xlii
2-3—2-8
13-5, 13-6
16-47—16-50a
16-129—16-130a
18-iii—18-4
18-27—18-30
T-33, T-34
T-39—T-103
I-3—I-6

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COLORADO CODE PUBLISHING COMPANY
Fort Collins, Colorado

October, 2009

SUPPLEMENTATION

Supplements to this Code provide periodic updating through the removal and replacement of pages. This inter-leaf supplementation system requires that each page which is to be removed and replaced is identified so that the updating may be accurately accomplished and historically maintained.

Instructions for supplementation are provided for each supplement, identified by Supplement number, date and inclusive ordinance numbers. The Instructions for posting the removal and replacement of pages must be followed and accomplished in sequence, with the most recent supplementation posted **last**.

When supplementation is completed and the removal and replacement of all pages are accomplished, the Instructions should be placed under the Supplementation tab, with the most recent Instruction sheet on top. Previous Instructions should not be removed, so that the user may refer to this tab section to verify whether the code book is fully updated with all supplements included.

The maintenance of a Municipal Code with all supplementation is an important activity which deserves close attention so that the value of the code is maintained as a fully comprehensive compilation of the legislative ordinances of the municipality.

AMENDMENTS

Amendments may be made to the Code by additions, revisions or deletions therefrom. Those changes may be made as follows:

Additions: Additions may be made by ordinance to the Code as follows:

The "Crested Butte Municipal Code" is amended by the addition thereto of a new Section 2-2-90, which is to read as follows:

(Set out full section number, title and contents)

or, if the location of the new section number or numbers is undetermined, the Code may be amended as follows:

The "Crested Butte Municipal Code" is amended by the addition of the following:

(Set out section title and contents)

Revisions: A revision of the Code may be accomplished as follows:

Section 2-2-90 of the "Crested Butte Municipal Code" is repealed in its entirety and readopted to read as follows:

(Set out section number, title and entire contents of the readopted code section)

or as follows:

Section 2-2-90 of the "Crested Butte Municipal Code" is amended to read as follows:

(Set out section number, title and entire contents of the amended code section)

Repeal: Sections, articles and chapters may be repealed as follows:

Section 2-2-90 of the "Crested Butte Municipal Code" is repealed in its entirety.

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TOWN OF CRESTED BUTTE
MASTER TABLE OF CONTENTS

MASTER TITLE PAGE	i
OFFICIALS OF THE TOWN	iii
SUPPLEMENTATION	v
MASTER TABLE OF CONTENTS	vii
CHARTER TITLE PAGE	C-i
CHARTER TABLE OF CONTENTS	C-iii
CHARTER	C-vii
Preamble	
Prefatory Synopsis	
Article 1 General Provisions	
Article 2 Elections	
Article 3 Council	
Article 4 Council Procedure	
Article 5 Initiative and Referendum	
Article 6 Administration	
Article 7 Legal and Judiciary	
Article 8 Boards and Commissions	
Article 9 Finance	
Article 10 Borrowing	
Article 11 Public Utilities and Franchises	
Article 12 Taxation	
Article 13 Improvement Districts	
Article 14 Miscellaneous Legal Provisions	
Article 15 Transition	
Certificate of Final Adoption	
CHARTER INDEX	CI-1
CODE TITLE PAGE	M-i
PREFACE	M-iii
ADOPTING ORDINANCE	M-v
CODE TABLE OF CONTENTS	M-xxvii
Chapter 1 General Provisions	1-i
Article 1 Code	
Article 2 Definitions and Usage	
Article 3 General	
Article 4 General Penalty	

	Article 5	Inspections	
	Article 6	Seal	
	Article 7	Administration and Disposition of Unclaimed Property	
Chapter 2	Administration		2-i
	Article 1	Elections	
	Article 2	Mayor and Town Council	
	Article 3	Officers and Employees	
	Article 4	Code of Conduct	
	Article 5	Municipal Court	
		<i>Division 1 Administration</i>	
		<i>Division 2 Procedures</i>	
	Article 6	Marshal's Department	
	Article 7	Planning Commission	
Chapter 3	Reserved		
Chapter 4	Revenue and Finance		4-i
	Article 1	General and Special Funds	
	Article 2	Sales Tax	
	Article 3	Use Tax	
	Article 4	Land Transfer Excise Tax	
	Article 5	Telephone Utility Occupation Tax	
	Article 6	Public Improvements Contracts	
	Article 7	Industrial Revenue Development Bonds	
	Article 8	Collection of Delinquent Accounts	
Chapter 5	Franchises and Communication Systems		5-i
	Article 1	Franchises Generally	
	Article 2	Cable TV Franchise	
		<i>Division 1 General Provisions</i>	
		<i>Division 2 Franchise Fee and Financial Controls</i>	
		<i>Division 3 Administration and Regulation</i>	
		<i>Division 4 Financial and Insurance Requirements</i>	
		<i>Division 5 Customer Service</i>	
		<i>Division 6 Reports and Records</i>	
		<i>Division 7 Programming and Access</i>	
		<i>Division 8 Street Use and Construction</i>	
		<i>Division 9 System Configuration, Service Availability</i>	
		<i>Division 10 Agreement Violations, Bankruptcy,</i>	
		<i>Immunities</i>	
		<i>Division 11 Purchase, Abandonment or Transfer of</i>	
		<i>Cable System</i>	
		<i>Division 12 Miscellaneous Provisions</i>	
	Article 3	Electric Franchise	
		<i>Division 1 Grant of Franchise, Fees</i>	
		<i>Division 2 Supply, Construction and Design</i>	
		<i>Division 3 Compliance</i>	
		<i>Division 4 Miscellaneous Provisions</i>	
	Article 4	Gas Franchise	

	Article 5	Emergency Telephone Charge	
Chapter 6	Business Licenses and Regulations.....		6-i
	Article 1	Licensing Provisions	
	Article 2	Business Occupation Licenses	
	Article 3	Liquor Licenses	
	Article 4	Vending Licenses and Special Events	
	Article 5	Medical Marijuana Dispensaries Licenses	
Chapter 7	Health, Sanitation and Animals		7-i
	Article 1	Administration and Abatement of Nuisances	
	Article 2	Nuisances	
	Article 3	Weeds and Brush	
	Article 4	Trees	
	Article 5	Animals	
		<i>Division 1 Dogs</i>	
		<i>Division 2 Livestock</i>	
		<i>Division 3 Wildlife Protection</i>	
Chapter 8	Vehicles and Traffic.....		8-i
	Article 1	Model Traffic Code	
	Article 2	Parking Regulations	
	Article 3	Towing and Impoundment Regulations	
	Article 4	Speed Limits	
	Article 5	Vehicle Weight Limits	
	Article 6	Idling Vehicles	
Chapter 9	Reserved		
Chapter 10	General Offenses.....		10-i
	Article 1	General Provisions	
	Article 2	Government and Public Officers	
	Article 3	Streets and Public Places	
	Article 4	Public, Private and Personal Property	
	Article 5	Public Peace, Order and Decency	
	Article 6	Minors	
	Article 7	Alcoholic Beverages and Drugs	
	Article 8	Weapons	
	Article 9	Regulation of Noise	
	Article 10	Alarm Systems	
	Article 11	Discriminatory Practices	
Chapter 11	Streets, Sidewalks and Public Property.....		11-i
	Article 1	Streets, Sidewalks and Snow Management	
	Article 2	Excavations	
	Article 3	Public Parks	
	Article 4	Cemetery Regulations	
Chapter 12	Reserved		
Chapter 13	Municipal Utilities		13-i
	Article 1	Water and Sewer Systems	

	Article 2	Water and Sewer Regulations	
	Article 3	Watershed Protection District	
		<i>Division 1</i>	<i>General Provisions</i>
		<i>Division 2</i>	<i>Watershed Protection Standards</i>
		<i>Division 3</i>	<i>Watershed Permits</i>
		<i>Division 4</i>	<i>Review Process</i>
		<i>Division 5</i>	<i>Enforcement</i>
	Article 4	Water Management Plan	
	Article 5	Refuse and Sanitation System	
Chapter 14	Reserved		
Chapter 15	Annexations.....		15-i
	Article 1	Annexation Procedure	
Chapter 16	Zoning		16-i
	Article 1	General Provisions	
	Article 2	Historic Preservation and Architectural Control Historic District	
	Article 3	Zoning Districts	
	Article 4	Residential Districts	
		<i>Division 1</i>	<i>"R1" Residential District</i>
		<i>Division 2</i>	<i>"R1D" Residential District</i>
		<i>Division 3</i>	<i>"R1E" Residential District</i>
		<i>Division 4</i>	<i>"R1A" Residential District</i>
		<i>Division 5</i>	<i>"R1B" Residential District</i>
		<i>Division 6</i>	<i>"R1C" Core Residential District</i>
		<i>Division 7</i>	<i>"R2C" Core Residential District</i>
		<i>Division 8</i>	<i>"R3C" Core Residential District</i>
		<i>Division 9</i>	<i>"R2" Residential District</i>
		<i>Division 10</i>	<i>"R2A" Residential District</i>
		<i>Division 11</i>	<i>"R4" Residential District</i>
	Article 5	Business and Commercial Districts	
		<i>Division 1</i>	<i>"T" Tourist District</i>
		<i>Division 2</i>	<i>"B1" Business District</i>
		<i>Division 3</i>	<i>"B2" Business District</i>
		<i>Division 4</i>	<i>"B3" Business District</i>
		<i>Division 5</i>	<i>"B4" West End Business/Historic Residential District</i>
		<i>Division 6</i>	<i>"C" Commercial District</i>
	Article 6	Miscellaneous Districts	
		<i>Division 1</i>	<i>"M" Mobile Home District</i>
		<i>Division 2</i>	<i>"P" Public District</i>
		<i>Division 3</i>	<i>"A-O" Agriculture-Open District</i>
		<i>Division 4</i>	<i>Planned Unit Developments</i>
	Article 7	Timeshares	
	Article 8	Conditional Uses	
	Article 9	Variances	
	Article 10	Special Development Permits	

	Article 11	Floodplain Regulations and Stream Margin Review <i>Division 1 General Provisions</i> <i>Division 2 Administration</i> <i>Division 3 Standards</i>	
	Article 12	Condominium and Townhouses	
	Article 13	Transient Mobile Home Regulations	
	Article 14	Supplemental Regulations	
	Article 15	Landscaping	
	Article 16	Parking	
	Article 17	Lighting	
	Article 18	Signs	
	Article 19	Nonconforming Uses	
	Article 20	Vested Property Rights	
	Article 21	Resident-Occupied Affordable Housing	
	Article 22	Board of Zoning and Architectural Review	
	Article 23	Amendments	
	Article 24	Enforcement	
Chapter 17	Subdivisions.....		17-i
	Article 1	General Provisions	
	Article 2	Administrative Provisions	
	Article 3	Major and Minor Subdivisions Generally	
	Article 4	Minor Subdivisions	
	Article 5	Major Subdivisions	
	Article 6	Major Subdivision Design Standards	
	Article 7	Tract and Block Design Standards	
	Article 8	Compatibility With Natural Features	
	Article 9	Open Land	
	Article 10	Street and Sidewalk Standards <i>Division 1 Street Standards</i> <i>Division 2 Standards for Trails</i> <i>Division 3 Sidewalks</i>	
	Article 11	Utility Standards <i>Division 1 Utility Standards Generally</i> <i>Division 2 Drainage Standards</i> <i>Division 3 Water Supply</i> <i>Division 4 Sewage Disposal</i> <i>Division 5 Irrigation Systems</i>	
	Article 12	Affordable Housing and Local Housing	
	Article 13	Miscellaneous Design Standards	
	Article 14	Appeals	
	Article 15	Enforcement and Penalty	
	Article 16	Wetland Functional Analysis	
Chapter 18	Building Regulations		18-i
	Article 1	Building Code	
	Article 2	Residential Code	
	Article 2.5	Existing Building Code	
	Article 3	Mechanical Code	

Article 4	Plumbing Code
Article 5	Electrical Code
Article 6	Fire Code
Article 7	Fuel Gas Code
Article 8	Solid Fuel-Burning Devices
Article 9	Energy Standards
Article 10	Sanitary Standards and Regulations
Article 11	Utility Undergrounding Requirements
Article 12	Construction Site Regulations
Article 13	Building Inspector and Building Permits
Article 14	Carbon Monoxide Detector/Alarm Regulations

APPENDIX Appx-i

Appendix A	Fee Schedule
Appendix B	Streets Upon Which Skiing Is Permitted
Appendix C	Water Quality Monitoring Plan Outline
Appendix D	Spill Prevention, Storage, Control, Countermeasure and Contingency Plan
Appendix E	Hearing Procedure and Record of Decision
Appendix F	Notice of Agreement for Land Use Conditions and Restrictive Covenants
Appendix G	Restaurant Uses and Their Approximate Square Footage as They Existed on May 14, 1994
Appendix H	Vested Property Rights: Option for Application Form #1; and/or Waiver of Vested Property Rights Form #2
Appendix I	Required Wording on Minor Subdivision Final Plat
Appendix J	Subdivision Improvements Agreement
Appendix K	Subdivision Application Form
Appendix L	Utility Location Plan
Appendix M	Required Wording on Major Subdivision Final Plat
Appendix N	Model Affordable Housing Guidelines for Major Subdivisions in Crested Butte
	<i>Part I The Kapushion Annexation, Owner-Occupied Affordable Housing</i>
	<i>Part II Red Lady Estates Mobile Home Park Spaces</i>
	<i>Part III Red Lady Estates Condominiums</i>
	<i>Part IV Town Ranch House Occupancy Guidelines</i>
	<i>Part V Relationship to Subdivision Regulations</i>
	<i>Part VI Butte Avenue and Seventh Street</i>
	<i>Part VII Verzuh Annexation</i>
	<i>Part VIII Paradise Park Subdivision, Blocks 77 and 78</i>
Appendix O	Land Transfer Excise Tax Exemption Application and Certificate
Appendix P	Wastewater Service Area
Appendix Q	Model Subdivision Cost and Expense Reimbursement Agreement

TABLES

Code Comparison Table	T-1
Disposition of Ordinances Table	T-21
Table of Up-to-Date Pages.....	T-101
INDEX.....	I-1

**CRESTED BUTTE
MUNICIPAL CODE**

2009

A Codification of the General Ordinances
of the Town of Crested Butte, Colorado

Published by
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PREFACE

The Town of Crested Butte, a Home Rule Town, has published its Municipal Code in a format which features the following:

The *Master Table of Contents* is the table containing each chapter and article title, with reference to page location. Preceding each chapter is a chapter table of contents, also identifying each article by the subject name provided.

The *three-place section numbering system* places the chapter number first, followed by the article number and section number, separated by hyphens. This system allows for new sections to be inserted in the future. Each section may be cited by the chapter, article and section number which are in sequence within each chapter.

The *open chapter and page numbering system* creates reserved chapter and page numbers for expansion or revision of the code without undue complication when changes are made to the code by supplementation.

The *Code Comparison Table* and *Disposition of Ordinances Table* identify the sources for the contents of the code. The Code Comparison Table identifies prior code sections and their location in the new code. The ordinance disposition table provides ordinance numbers in chronological order and location by section number for the present code contents. Thus, if there is interest in determining whether a prior code section, an ordinance or a portion thereof is contained within the code, the Code Comparison Table and Disposition of Ordinances Table will provide that information. The *Table of Up-to-Date Pages* lists all of the current pages through the most recent supplementation.

The *Index* provides references by common and legal terminology to the appropriate code sections. Cross references are provided with the Index when appropriate.

Supplements to the code provide regular updating of the code to maintain it as a current compilation of all the legislation which has general and continuing effect. Without regular supplementation, the code would soon lose its usefulness as a complete source of the general law of the municipality. Supplementation is accomplished by the periodic publication of additions and amendments to the code.

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ORDINANCE NO. 4

Series 2009

AN ORDINANCE OF THE TOWN OF CRESTED BUTTE, COLORADO, ADOPTING BY REFERENCE AND ENACTING A NEW MUNICIPAL CODE FOR THE TOWN OF CRESTED BUTTE; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING FOR THE ADOPTION OF SECONDARY CODES BY REFERENCE; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

Be It Ordained by the Town Council of the Town of Crested Butte, Colorado:

Section 1. The Code entitled the *Crested Butte Municipal Code* published by Colorado Code Publishing Company, consisting of Chapters 1 through 18, with Appendix, Tables and Index, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before the adoption date of this Ordinance, which are inconsistent with the provisions of the Crested Butte Municipal Code, to the extent of such inconsistency, are hereby repealed. The repeal established in this Section 2 shall not be construed to revive any ordinance or part thereof that had been previously repealed by any ordinance which is repealed by this Ordinance.

Section 3. The following codes were previously adopted by reference and incorporated in the Crested Butte Municipal Code. One (1) copy of each is on file in the Town Clerk's office:

(1) The *Model Traffic Code for Colorado*, 2003 edition, published by the Colorado Department of Transportation, as adopted and amended in Section 8-1-10, et seq.;

(2) The *International Mechanical Code*, 2003 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-3-10, et seq.;

(3) The *International Plumbing Code*, 2003 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-4-10, et seq.;

(4) The *National Electrical Code*, 2005 edition, published by the National Fire Protection Association, as adopted in Section 18-5-10;

(5) The *International Fuel Gas Code*, 2003 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-7-10, et seq.; and

(6) The *International Energy Conservation Code*, 2003 edition, as adopted and amended in Section 18-9-40, et seq.

Section 4. The following codes are hereby adopted by reference and incorporated in the Crested Butte Municipal Code. One (1) copy of each is on file in the Town Clerk's office:

(1) The *International Building Code*, 2003 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-1-10, et seq.;

(2) The *International Residential Code*, 2003 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-2-10, et seq.; and

(3) The *International Fire Code*, 2003 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-6-10, et seq.

Section 5. The penalties provided by the Municipal Code of the Town of Crested Butte are hereby adopted as follows:

(1) Sec. 1-4-20. General penalty for violation. (Chapter 1, Article 4, General Penalty)

(a) Any person who violates or fails to comply with any provision of this Code for which a different penalty is not specifically provided shall, upon conviction thereof, be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment, except as hereinafter provided in Section 1-4-30 below.

(b) Each day such violation continues shall be considered a separate and additional offense.

(c) In addition, any person violating any provision of this Code shall be liable to the Town for any expense, loss or damage, including reasonable attorneys' fees, occasioned by reason of such violation. In addition, such person shall pay all costs and expenses in the case, including attorney fees.

(d) The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any such violation.

(e) The remedies provided in this Section are cumulative and not exclusive and are in addition to any other remedies provided by law.

(2) Sec. 1-4-30. Application of penalties to juveniles. (Chapter 1, Article 4, General Penalty)

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to, a violation of any provision of this Code, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation or count. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Code.

(3) Sec. 2-5-90. Contempt power. (Chapter 2, Article 5, Municipal Court)

(a) When the Court finds any person to be in contempt, the Court may vindicate its dignity by imposing on the contemnor a fine not to exceed one thousand dollars (\$1,000.00) and imprisonment not to exceed a term of one (1) year.

(b) In cases of indirect contempt, the alleged contemnor shall have all the rights, privileges, safeguards and protections of a defendant in a petty offense case, including but not limited to a formal written complaint, arraignment and trial by jury.

(4) Sec. 4-2-320. Penalties. (Chapter 4, Article 2, Sales Tax)

A penalty shall be levied for any tax deficiency.

(1) Penalty for late payment. For transactions consummated after the effective date of the initial ordinance codified herein, the penalty for late payment shall be fifteen dollars (\$15.00) or ten percent (10%) of the tax deficiency, whichever is greater. Additionally, one-half percent (0.5%) of the tax deficiency per month from the date when due, not exceeding eighteen percent (18%) in the aggregate, shall be assessed.

(2) Penalty for fraud. If any tax deficiency is due to fraud or intent to evade the tax, the penalty shall be one hundred percent (100%) of the total tax deficiency.

(3) Abatement of penalty. Any penalty assessed under this Section may be abated by the Finance Director, with the approval of the Town Manager, if the taxpayer submits a written request for such abatement on or before the payment date of the applicable notice of assessment, and if the Finance Director and the Town Manager find good cause therefor.

(5) Sec. 4-3-150. Use tax neglect or refusal to make return or to pay. (Chapter 4, Article 3, Use Tax)

If a person neglects or refuses to make a return in payment of the use tax or to pay any use tax as required, the Town Manager shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent, and shall add thereto a penalty equal to ten percent (10%) thereof and interest on such delinquent taxes at the rate imposed under Section 4-3-170 below, plus one-half of one percent (0.5%) per month from the date when due.

(6) Sec. 4-3-160. Penalty interest on unpaid use tax. (Chapter 4, Article 3, Use Tax)

Any use tax due and unpaid shall be a debt to the Town and shall draw interest at the rate imposed under Section 4-3-170 below, in addition to the interest provided by Section 4-3-130 above, from the time when due until paid.

(7) Sec. 4-4-100. Due dates, delinquencies, penalties, interest. (Chapter 4, Article 4, Land Transfer Excise Tax)

(a) The tax imposed under the authority of this Article is due and payable at the time the deed, instrument or writing effecting a transfer subject to the tax is delivered, and is delinquent if unpaid within thirty (30) days thereafter. In the event that the tax is not paid prior to becoming delinquent, a delinquency penalty of twelve percent (12%) of the amount of tax due shall accrue. In the event a portion of the tax is unpaid prior to becoming delinquent, the penalty shall only accrue as to the portion remaining unpaid. Interest shall accrue at the rate of one and one-half percent (1.5%) per month, or fraction thereof, on the amount of tax, exclusive of penalties, from the date the tax becomes delinquent to the date of payment. Interest and penalty accrued shall constitute part of the tax.

(b) No deed, instrument of conveyance or document of transfer shall be filed of record in the office of the County Clerk and Recorder or attempt made to so record the document until and unless said tax and all penalties and interest thereon have been paid in full.

(8) Sec. 4-4-110. Lien. (Chapter 4, Article 4, Land Transfer Excise Tax)

(a) The amount of the tax imposed under Section 4-4-10 above, together with penalty and interest due thereon, is hereby assessed against the property transferred and, if not paid when due,

shall constitute a lien on the property for the amount thereof, which lien shall continue until the amount thereof is paid or until its discharge of record by foreclosure or otherwise.

(b) If the tax is unpaid and delinquent, the Town Manager shall give written notification to the seller and purchaser, at the address shown on the deed or instrument or his or her last known address, of said delinquency. Said notification shall be mailed certified mail, postage prepaid, return receipt requested, and shall be effective on the date of mailing. If the tax, penalty and interest are not paid in full within thirty (30) days of the effective date of notification, the Town Manager shall mark the same as delinquent on the Town's tax roll and shall certify such delinquency to the County Treasurer and the County Commissioners, who shall extend such delinquencies upon the real property tax rolls of the County and collect the same in the manner set forth for general property taxes. Upon certification of the delinquent taxes, the penalties and interest thereon shall also become due.

(c) The amount of the tax, penalty and interest imposed under the provisions of this Article shall be deemed a debt owed to the Town. Any person owing money to the Town under the provisions of this Article shall be liable in an action brought in the name of the Town for the recovery of the delinquent amount, plus the attorney's fees and other costs expended by the Town in such action.

(d) Any person who fails or refuses to pay any tax due hereunder may be punished by a fine not exceeding three hundred dollars (\$300.00) or imprisonment for a period of not more than ninety (90) days, or both such fine and imprisonment.

(e) Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(9) Sec. 4-5-50. Penalty clause. (Chapter 4, Article 5, Telephone Utility Occupation Tax)

If any officer, agent or manager of a telephone utility company which is subject to the provisions of this Article shall fail, neglect or refuse to make or file the semiannual statement of accounts provided in Section 4-5-30 above, said officer, agent, manager or person shall, on conviction thereof, be punished by a fine not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00); provided, however, that each day after said statement shall become delinquent during which the officer, agent, manager or person shall so fail, neglect or refuse to make and file such statement shall be considered a separate and distinct offense.

(10) Sec. 5-2-725. Liquidated damages. (Chapter 5, Article 2, Cable TV Franchise)

(a) Because the failure of the Grantee to comply with certain provisions of this Agreement will result in injury to the Town, and because it will be difficult to estimate the extent of such injury in certain instances, the Town and the Grantee agree to liquidated damages for the following violations. These amounts represent both parties' best estimate of the damages resulting from the specified violation.

(1) For material departure from the FCC technical performance standards: two hundred fifty dollars (\$250.00) per day.

(2) For failure to provide continuous cable service within the franchise area: one hundred dollars (\$100.00) per day.

(3) For failure to provide any channel or capability for access use of the cable system: one hundred dollars (\$100.00) per day.

(4) For each material violation of the customer service standards, if any: one hundred dollars (\$100.00) per day.

(5) For failure to provide reports or notices as required by this Agreement: fifty dollars (\$50.00) per day.

(6) For all other material violations of this Agreement, for which actual damages may not be ascertainable: one hundred dollars (\$100.00) per day.

(b) The Town will provide written notice of a violation, and the Grantee will have thirty (30) days to cure the violation (or more, if approved by the Town). Liquidated damages shall be assessed in the event that a cure has not timely occurred.

(c) The liquidated damages set forth above may be reduced at the discretion of the Town Council, taking into consideration the nature, circumstances, extent and gravity of the violation as reflected by one (1) or more of the following factors:

- (1) Whether the violation was unintentional;
- (2) Whether substantial harm resulted;
- (3) Whether there is a history of prior violations of the same or other requirements;
- (4) Whether there is a history of overall compliance; and
- (5) Whether the violation was voluntarily disclosed, admitted or cured.

(d) The collection of liquidated damages by the Town shall in no respect affect the Grantee's obligation to comply with all of the provisions of this Agreement and applicable law.

(11) Sec. 7-5-90. Obligations of owner. (Chapter 7, Article 5, Animals)

The owner of any dog shall:

(1) Not allow any dog to obstruct or interfere with any person or motor vehicle on public property.

(2) Keep and maintain such dog so that it does not, by noise or other activity, injure or interfere with the rights of other persons.

(3) Commit no inhumane or cruel action against such dog.

(4) Be liable and responsible for any damages caused by such dog at all times that it is off of the owner's premises.

(5) Remove animal excrement.

a. No owner of any animal shall fail to prevent such animal from defecating upon any property other than the premises of the owner of such animal.

b. It is a specific defense to a charge of violating this Subsection that the defecation occurred on private property with express permission of the owner or all tenants thereof.

c. It is a specific defense to a charge of violating this Subsection that the owner immediately removed or cleaned up such deposit and disposed of it by depositing it in a toilet or a receptacle ordinarily used for garbage and covered by a lid or in an otherwise lawful and sanitary manner.

d. The violation of this Paragraph is a strict liability offense punishable on the first conviction by a fine of twenty-five dollars (\$25.00), and a fine of fifty dollars (\$50.00) for the second conviction within two (2) years. For a third and subsequent offense within two (2) years, the general penalty provisions of Section 7-5-180 of this Article shall apply.

(12) Sec. 7-5-180. Violations and penalties. (Chapter 7, Article 5, Animals)

(a) A person in violation of Section 7-5-60 or 7-5-70 of this Article shall be fined not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00). If a third offense of Section 7-5-60 or 7-5-70 occurs within six (6) months from the date of the first offense, the owner shall be issued a summons to appear in Municipal Court and, if found guilty, the owner shall be ordered to remove such dog permanently from the Town. A person in violation of Section 7-5-20 of this Article shall be fined not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00). In assessing such fines, the Municipal Judge shall not have the authority to reduce, suspend or otherwise allow a fine less than the minimum fines set forth herein.

(b) A person in violation of any provision of this Article other than Section 7-5-20, 7-5-60 or 7-5-70 shall be fined not less than twenty-five dollars (\$25.00) not more than three hundred dollars (\$300.00), by imprisonment nor exceeding ninety (90) days, or by both such fine and imprisonment.

(c) The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this Article.

(d) Any person violating any provision of this Article shall be liable to the Town for any expense, loss or damage, including reasonable attorney's fees, occasioned by reason of such violation.

(e) The remedies provided by this Article are cumulative and not exclusive and are in addition to any other remedies provided by law.

(13) Sec. 7-5-340. Interfering with officer. (Chapter 7, Article 5, Animals)

Any person who obstructs, hinders or delays the Town Marshal or other officer in the discharge of any duty arising under this Article, who opens or breaks open, or who, in any manner, directly or indirectly aids or assists in opening or breaking open any pen or enclosure, with the intent of releasing any animal confined therein pursuant to the provisions of this Article, shall on conviction thereof be fined in the sum of not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) for each offense.

(14) Sec. 7-5-350. Second offense; penalty. (Chapter 7, Article 5, Animals)

If any animal is found running at large contrary to the provisions of this Article, the Town Marshal may, instead of impounding such animal as herein provided, file a complaint with the Municipal Judge against the owner of said animal. Upon the hearing of said complaint, if it is proved that any such owner has theretofore and during the preceding twelve (12) months allowed his or her animal to run at large in the Town contrary to this Article, or that theretofore and during the twelve (12) months preceding, any animal belonging to such owner had been impounded, then said owner shall be subject to a fine of not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00) for each offense.

(15) Sec. 7-5-590. Penalty assessment. (Chapter 7, Article 5, Animals)

The violation of any provision of this Article by any person shall be unlawful and subject the offending person to fines in amounts not to exceed one hundred dollars (\$100.00) for the first offense; two hundred dollars (\$200.00) for the second offense; and three hundred dollars (\$300.00) for the third offense. Any additional offense after the third offense shall subject the offending person to the issuance of a summons and fines not to exceed one thousand dollars (\$1,000.00) for each offense. Each day that such violation continues to exist shall be deemed a separate offense.

(16) Sec. 8-1-60. Violation; penalty. (Chapter 8, Article 1, Model Traffic Code)

(a) Any person who violates any of the provisions stated or adopted in this Article shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), by imprisonment not exceeding one (1) year, or by both such fine and imprisonment, except that the violation of a traffic infraction, as set forth in the state statutes, shall constitute a civil matter and shall be penalized by the payment of a fine. The fine amount shall be established pursuant to the penalty schedule set forth at Section 42-4-1701, C.R.S. Each day that any violation of this Article continues to exist shall constitute a separate and additional offense.

(b) The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this Article.

(c) Any person violating any provision of this Article shall be liable to the Town for any expense, loss or damage, including reasonable attorneys' fees, occasioned by reason of such violation.

(d) The remedies provided in this Section are cumulative and not exclusive and are in addition to any other remedies provided by law.

(17) Sec. 8-2-130. Parking in fire hydrant zones. (Chapter 8, Article 2, Parking Regulations)

(a) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with directions of a police officer or traffic control device, as follows:

- (1) In any fire hydrant zone; or
- (2) In any manner so as to obstruct access to a fire hydrant.

(b) Any person who violates any provision of this Section may be fined up to one thousand dollars (\$1,000.00) for each offense.

(c) The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this Section.

(d) Any person violating any provision of this Section shall be liable to the Town for any expense, loss or damage, including reasonable attorney's fees, occasioned by reason of such violation.

(e) The remedies provided by this Section are cumulative and not exclusive and are in addition to any other remedies provided by law.

(18) Sec. 8-3-60. Parking infractions and scofflaw list. (Chapter 8, Article 3, Towing and Impoundment Regulations)

(a) Any person wishing to pay a fine for a parking infraction may pay the fine before or after the date specified in the parking ticket at the Town Clerk's office. Such payment discharges the obligation to pay the fine and results in dismissal of the case.

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(c) As frequently as practicable, the Town shall prepare and update the scofflaw list (which may also be known as the "pick-up list"), consisting of vehicles involved in such number of overdue parking tickets as the Town shall determine is sufficient to include on the pick-up list.

(1) There is hereby imposed upon the owner of every vehicle on the scofflaw list a civil penalty in the amount of fifty dollars (\$50.00) to cover administrative costs. There is also hereby imposed upon the owner of every vehicle on the scofflaw list that is immobilized or impounded a civil penalty in the amount of fifty dollars (\$50.00) to cover the additional administrative costs.

(2) The Town shall give notice by first class mail to the registered owner of each vehicle on the scofflaw list, stating that the vehicle is on the scofflaw list and:

- a. The date and the nature of each ticket overdue and the amount due on each;
- b. That a scofflaw list fee in the amount specified in Paragraph (c)(1) above has been imposed to cover administrative costs;
- c. The total amount currently due;
- d. A specific deadline for response, no less than ten (10) days after the date of mailing;
- e. That the owner shall, by said deadline, respond to the notice. Response shall be by paying the total amount due. However, for any ticket for which a courtesy notice has not previously been mailed and a default judgment entered, response may also be made by arranging a hearing with the Town Clerk for contesting the charges, fees and amounts due, in which case the owner shall post a cash bond for the total amount due or make other arrangements approved by the Municipal Judge;

f. That, if the vehicle owner fails to respond within the prescribed time period, the listed vehicle will be subject to immediate immobilization or impoundment. For any ticket for which a courtesy notice has not previously been mailed and a default judgment entered, the notice shall also state that, if the date for response specified in the scofflaw notice passes without payment of the fines and fees or posting of sufficient bond, a default judgment shall be deemed entered upon all tickets specified in the notice, and the owner will forfeit the right to a trial or hearing to contest the tickets. If a default judgment has previously been entered, the notice shall so state;

g. That an immobilization or impoundment fee in the amount specified in subsection (c)(1) above will be imposed upon every vehicle immobilized or impounded to cover administrative costs; and

h. That, if the vehicle is impounded, the owner will also be required to pay the costs of towing and storage.

(3) The notice required by Paragraph (c)(2) above is sufficient if mailed to the address provided by a government vehicle registration office. If the Town is unable, after exercising due diligence, to discover any mailing address, then notice is sufficient if it is published once in a newspaper of general circulation in the Town, posted on the vehicle, personally served on the vehicle owner or driver or provided by any other means that provides due process.

(4) If the date for response specified in Subparagraph (c)(2)d. of this Section passes without payment of the fines and fees or, if permitted, posting of sufficient bond, such vehicle may be immobilized or impounded and a default judgment, if not previously entered, shall be deemed entered upon all tickets specified in the notice.

(5) Upon contacting the driver of any vehicle on the scofflaw list for which no response has been made within the deadline stated in the notice while that vehicle is located upon any public property or private property open to the use of the public, a peace officer shall inform the driver thereof that violations are alleged against the vehicle to which no response has been made and request the driver forthwith to appear with the officer at the Town Clerk's office (or to the Marshal's Office after the office's normal business hours) to respond to the charges in the manner indicated by this Section. If such driver fails or refuses to comply with this request forthwith, if such driver cannot demonstrate that the driver has on the driver's person sufficient cash or other means of payment of a type approved by the Municipal Court, or if the vehicle located is unattended at the time the officer initially determines that it is subject to impoundment or immobilization, the peace officer shall cause such vehicle to be immobilized or impounded.

(6) If the owner or an agent of the owner pays the fines and fees, including the amount specified above, if any, and all towing and storage charges, if any, posts a bond to cover such fines, fees and charges, or arranges any combination of payment and bond to cover the total due, the Town shall remove such vehicle from the scofflaw list and release it from immobilization or impoundment. If any parking ticket not included on the scofflaw list for which the owner is liable becomes overdue before the owner or agent appears to pay or post bond, such subsequent tickets shall also be paid or bond shall be posted therefor before the vehicle is removed from the scofflaw list or released from immobilization or impoundment.

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(19) Sec. 8-5-80. Violation, liability and penalty. (Chapter 8, Article 5, Vehicle Weight Limits)

(a) Any person who violates any provision of this Article shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) for each offense. Each day that a violation of this Article continues to exist shall constitute a separate and additional offense.

(b) Any person violating any provision of this Article shall be liable to the Town for any expense, loss or damage, including reasonable attorneys' fees, occasioned by reason of such violation.

(c) The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin or abate any violation of this Article.

(d) The remedies provided by this Section are cumulative and not exclusive, and are in addition to any other remedies provided by law.

(e) Any police officer of the Town having reason to believe that the weight of a vehicle and load is unlawful is authorized to require the driver to stop and submit to a weighing of the same by means of either portable or stationary scales, or shall require that such vehicle be driven to the nearest public scales in the event such scales are within five (5) miles.

(20) Sec. 10-2-80. Duty of citizens to aid police officers. (Chapter 10, Article 2, Government and Public Officers)

It is the duty of all persons in the Town, when called upon by any police officer or member of the Marshal's Department, to promptly aid and assist him or her in the discharge of his or her duties. A person who refuses to give aid and assistance shall be fined an amount not exceeding one hundred dollars (\$100.00).

(21) Sec. 10-3-80. Tire chains. (Chapter 10, Article 3, Streets and Public Places)

No person shall operate any motor vehicle upon any paved Town street with chains on the tires when said street is not covered with snow or ice. This prohibition shall not apply to State Highway 135 and the Gothic County Road, otherwise known as Sixth Street, and shall also not apply to Elk Avenue from Sixth Street to the west end of Town. Any person who violates this Section shall be guilty of a misdemeanor and shall be fined up to three hundred dollars (\$300.00) or imprisoned not to exceed ninety (90) days, or punished by both said fine and imprisonment.

(22) Sec. 10-7-30. Illegal possession or consumption of alcoholic beverages by an underage person. (Chapter 10, Article 7, Alcoholic Beverages and Drugs)

(a) Any person under twenty-one (21) years of age shall who possesses or consumes alcoholic beverages anywhere in the Town commits illegal possession or consumption of alcoholic beverages by an underage person. Illegal possession or consumption of alcoholic beverages by an underage person is a strict liability offense.

(b) It is an affirmative defense to the offense described in Subsection (a) above that the alcoholic beverage was possessed or consumed by a person under twenty-one (21) years of age under the following circumstances:

(1) While such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property and the alcoholic beverages were possessed or consumed with the consent of his or her parent or legal guardian who was present during such possession or consumption; or

(2) When the existence of alcoholic beverages in a person's body was due solely to the ingestion of a confectionery which contained alcoholic beverages within the limits prescribed in the state statutes, or the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purposes or the ingestion of any substance which was manufactured, designed or intended primarily for a purpose other than oral human ingestion, or solely from the ingestion of a beverage which contained less than one-half of one percent (0.5%) of alcoholic beverages by weight.

(c) The possession or consumption of alcoholic beverages shall not constitute a violation of this Section if such possession or consumption takes place for religious purposes protected by the First Amendment to the United States Constitution.

(d) Prima facie evidence of a violation of Subsection (a) above shall consist of:

(1) Evidence that the defendant was under twenty-one (21) years of age and possessed or consumed alcoholic beverages anywhere in this State; or

(2) Evidence that the defendant was under the age of twenty-one (21) years and manifested any of the characteristics commonly associated with alcoholic beverage intoxication or impairment while present anywhere in this State.

(e) During any trial for a violation of Subsection (a) above, any bottle, can or other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label on such bottle, can or other container shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of alcoholic beverages. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey" or "whisky," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "alcohol" or "liquor" shall constitute prima facie evidence that the contents of the bottle, can or other container were composed in whole or in part of alcoholic beverages.

(f) A parent or legal guardian of a person under twenty-one (21) years of age, or any natural person who has the permission of such parent or legal guardian, may give, or permit the possession and consumption of, alcoholic beverages to or by a person under the age of twenty-one (21) years under the conditions described in Subsection (b)(1) above. This Subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to Article 46, 47 or 48 of Title 12, C.R.S., or any members, employees or occupants of any such establishment to give, provide, make available or sell alcoholic beverages to a person under twenty-one (21) years of age.

(g) Illegal possession or consumption of any alcoholic beverage by an underage person is a petty offense punishable as follows:

(1) Upon conviction of a first offense, illegal possession or consumption of an alcoholic beverage by an underage person shall be punishable by a fine of not more than two hundred fifty dollars (\$250.00).

(2) Upon conviction of a second offense, illegal possession or consumption of alcoholic beverage by an underage person shall be punishable by a fine of not more than five hundred dollars (\$500.00).

(3) Upon conviction of a third or subsequent offense, which shall be a Class 2 misdemeanor, illegal possession or consumption of an alcoholic beverage by an underage person shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) and/or one (1) year of incarceration.

The requirements set forth in this Subsection are not intended to, and shall not, substitute for or otherwise abridge or modify the requirements and conditions set forth in Section 18-13-122(2)(b)(I)—(IV), C.R.S., the same Sections to continue in full force and effect and to apply to an underage person convicted of possessing or consuming ethyl alcohol as indicated therein.

(23) Sec. 10-7-60. Possession of drug paraphernalia. (Chapter 10, Article 7, Alcoholic Beverages and Drugs)

(a) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and intends to use the drug paraphernalia under circumstances in violation of state law.

(b) Any person who commits possession of drug paraphernalia commits a petty offense and shall be punished by a fine of not more than one hundred dollars (\$100.00).

(24) Sec. 10-7-70. Possession of marijuana. (Chapter 10, Article 7, Alcoholic Beverages and Drugs)

(a) Any person who knowingly possesses, displays, consumes or uses not more than one (1) ounce of marijuana commits a petty offense and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00).

(b) The provisions of this Section shall not apply to any person who possesses or uses marijuana pursuant to the Dangerous Drugs Therapeutic Research Act.

(25) Sec. 10-9-90. Enforcement; penalty. (Chapter 10, Article 9, Regulation of Noise)

An enforcement officer shall have the right to inspect property concerning any noise complaint or, absent any complaint, on his or her own. Enforcement officers may issue a warning notice or summons and complaint to any person in violation of this Article. Any person who shall be the source of any noise in violation of this Article shall be deemed guilty of a misdemeanor and, upon conviction thereof, be fined not more than one thousand dollars (\$1,000.00) for each violation and/or incarcerated for not more than one (1) year for each separate offense.

(26) Sec. 10-10-40. Violation; penalty. (Chapter 10, Article 10, Alarm Systems)

(a) Any person in control of an alarm system who violates the provisions of Sections 10-10-20 and 10-10-30 above shall be guilty of a misdemeanor. Upon conviction thereof, such person

shall be fined as follows, with the minimum fines deemed mandatory fines not subject to reduction by the Municipal Judge:

(1) Violation of Section 10-10-20 above shall result in a minimum fine of one hundred dollars (\$100.00).

(2) Violation of Section 10-10-30 above shall result in a minimum fine of fifty dollars (\$50.00) if the police are summoned by the false alarm notification.

(3) Violation of Section 10-10-30 above shall result in a minimum fine of two hundred fifty dollars (\$250.00) if the Fire Department is summoned by the false alarm notification.

(b) Each false alarm notification in excess of five (5) within any twelve-month period shall be deemed a separate offense.

(27) Sec. 10-11-60. Penalties; civil liability. (Chapter 10, Article 11, Discriminatory Practices)

(a) Any person who violates the provisions of this Article shall be deemed guilty of an offense and, upon conviction thereof, shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(b) In addition, any person claiming to be aggrieved by an unlawful discriminatory act shall have a cause of action in any court of competent jurisdiction for compensatory damages, punitive damages, or both, and such other remedies as may be appropriate, including specifically the issuing of restraining orders and such temporary or permanent injunctions as are necessary to obtain complete compliance with this Article. In addition, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

(c) Whenever it appears that the holder of a permit, license, franchise, benefit or advantage issued by the Town is in violation of this Article, notwithstanding any other action it may take or may have taken under the authority of the provisions of this Article, the Town may take such action regarding the temporary or permanent suspension of the violator's business license, permit, franchise, benefit or advantage as it considers appropriate based on the facts disclosed to it.

(28) Sec. 11-1-20. Failure to comply. (Chapter 11, Article 1, Streets, Sidewalks and Snow Management)

Upon the failure or refusal of an owner or other person in charge of or having the control and supervision of the premises to perform ordinary and normal maintenance and upkeep on any sidewalk, the Town Manager may correct or maintain the same, as the case may be, by day's work or contract. Where any owner or other person in charge of or having control and supervision of the premises adjoining any sidewalk fails to perform ordinary and normal maintenance and upkeep on such sidewalk, said person shall be guilty of a misdemeanor and subject to a maximum fine of one hundred dollars (\$100.00) for each offense.

(29) Sec. 11-1-50. Failure to comply with snow removal requirements. (Chapter 11, Article 1, Streets, Sidewalks and Snow Management)

In the event of the failure of any owner or other person in charge of or having the control and supervision of any premises to clear away snow and ice from any adjacent sidewalk as required in

Section 11-1-40 above, the Town Manager may, at his or her election, cause such work to be performed by day's work or contract. Where any owner or other person in charge of or having control and supervision of any premises fails to clear away snow and ice from any sidewalk as required by Section 11-1-40, such person shall be guilty of a misdemeanor and subject to a maximum fine of one hundred dollars (\$100.00) for each offense. Nothing contained in Section 11-1-40 or this Section shall affect or otherwise alter the liability of any owner or other person in charge of or having the control and supervision of any premises adjacent to any sidewalk or the Town as it exists under state law, as amended. Notwithstanding the Town's undertaking to clear away snow and ice from any sidewalk, neither the Town's election to perform such work nor the Town's actual undertaking to perform such work shall limit the responsibility of the owner or other person in charge or having the control and supervision of the premises adjoining such sidewalks to clear away snow and ice from any sidewalk as required under Section 11-1-40.

(30) Sec. 11-1-60. Snow management. (Chapter 11, Article 1, Streets, Sidewalks and Snow Management)

(a) Snow management guidelines. The Town Council shall adopt Town guidelines ("Snow Management Guideline") that address, without limitation, the hauling, dumping, transportation and storage of snow in advance of each upcoming snow season. A current copy of the Snow Management Guidelines shall be kept and maintained in the office of the Town Clerk. The Snow Management Guidelines are adopted herein by this reference and shall be enforced by the Town Manager under the terms set forth herein.

(b) Hauling, dumping, transportation and storage. All hauling, dumping, transportation and storage of snow shall be undertaken as, when and where identified and described in the Snow Management Guidelines. No person shall dump, deposit or store snow on any Town-owned property, any public rights-of-way or on any street or alley, except as otherwise permitted by the Town in writing.

(c) Prohibited activities. No snow from outside the Town's boundaries shall be dumped, transported, stored or otherwise deposited, for any period of time, within the Town, other than where passing through Town to destinations outside of Town, without the prior written permission of the Town. Snow permitted to be dumped and stored within the Town shall contain no foreign debris, trash or other materials. No petroleum products, foreign agents or hazardous substances and hazardous wastes (as defined by the Comprehensive Environmental Response, Compensation and Liability Act [CERCLA], 42 U.S.C. § 9601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1802 and Resource Conservation and Recovery Act [RCRA], 42 U.S.C. § 6902, et seq.) shall be used in the hauling, dumping and depositing of snow, other than as inherent in the function and operation of machinery used therefor.

(d) Enforcement; penalties. No person shall haul, dump, transport or store snow without strictly complying with the requirements of this Section, inclusive of the Snow Management Guidelines. Any person who violates this Section shall be guilty of a misdemeanor and subject to a maximum fine of one thousand dollars (\$1,000.00) per offense or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment. Each day any such activity shall exist out of compliance with this Section shall be a separate offense hereunder. The Marshal's Department or the Town Manager may enforce the penalties provided hereunder, including, without limitation, by proper summons to appear in a court of competent jurisdiction. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or otherwise remove

any violation of this Section. In the event that the Town elects to abate or remove such a violation, the Town's reasonable costs and expenses in conjunction with such abatement shall be properly chargeable to the offending person. No election by the Town to so abate a violation shall limit the responsibility or liability of the offending party or cause the Town to incur such responsibility or liability. Remedies provided in this Section are cumulative and concurrent and not intended to be exclusive, and the same are in addition to all other rights provided at law and in equity.

(31) Sec. 11-2-60. Penalty. (Chapter 11, Article 2, Excavations)

Any person who excavates, cuts or otherwise damages or destroys any sidewalk, curb, pavement, base course, landscaping or other improvement within the Town right-of-way which, by this Article requires the obtaining of a permit, without first obtaining said permit, shall be guilty of a misdemeanor and punished in accordance with the provisions of Section 1-4-20 of this Code. Each day any such work proceeds without the proper permit in effect shall be deemed a separate offense.

(32) Sec. 11-3-130. Green Lake Trail regulations. (Chapter 11, Article 3, Public Parks)

(a) The following rules and regulations shall govern the public use of the Green Lake Trail:

(1) The trail shall be used only for pedestrian, nonmotorized bicycling and cross-country skiing.

(2) No motorized vehicles, horses or pack animals shall be permitted on the trail.

(3) Where the trail crosses private property, all dogs must be restrained by a leash, rope or other similar device physically connecting the dog to the owner or other person.

(4) All users must stay on the posted trail and avoid trespassing upon the private land over which the trail crosses.

(5) No user of the trail shall litter or otherwise leave trash or other debris on or near the trail.

(6) No user shall damage trees, shrubbery or other natural features, or signs or other constructed improvements while using the trail.

(7) Bicyclists shall yield the right-of-way to pedestrians on the trail.

(8) All users shall obey temporary closure signs and directives.

(b) Any person engaging in any activity not in compliance with the regulations set forth in this Section shall have committed a misdemeanor and shall be fined in accordance with the provisions of Section 1-4-20 of this Code. Nothing herein shall limit the Town from seeking any other remedies that may be provided by law, including restitution or payment of costs and reasonable attorney's fees for enforcement.

(33) Sec. 11-4-40. Defacing cemetery property or lots. (Chapter 11, Article 4, Cemetery Regulations)

Any person who in any manner defaces or damages any fence, monument, tombstone memorial, lot or other fixture or object situated in or belonging to any part of the property known

as the Crested Butte Cemetery shall be guilty of a misdemeanor and, on conviction of a violation of this Section, shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00), together with all costs of prosecution, including reasonable attorney fees, occasioned by reason of such act, and/or by imprisonment not exceeding ninety (90) days. Any person convicted under this Section shall additionally be liable and responsible to the Town for any and all expense, cost, loss and damages occasioned by such violation.

(34) Sec. 13-1-350. Violation, liability and penalty. (Chapter 13, Article 1, Water and Sewer Systems)

Any person who violates any provision of this Article may be fined as provided in Section 1-4-20 of this Code. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this Article. Any person violating any provision of this Article shall be liable to the Town for any expense, loss or damage, including reasonable attorneys' fees, occasioned by reason of such violation. The remedies provided by this Article are cumulative and not exclusive, and are in addition to any other remedies provided by law.

(35) Sec. 13-2-40. Use of lawn sprinklers and other domestic irrigation. (Chapter 13, Article 2, Water and Sewer Regulations)

(a) No user of water from the Town water system shall use or allow the use of Town water for watering and/or domestic irrigation except as hereafter set forth:

(1) No person, customer or property owner whose use or property is located on the north or west side of a Town street or having a street address ending in an odd number shall use Town water for lawn watering or domestic irrigation on any numbered day of the month ending in zero or an even number.

(2) No person, customer or property owner whose use or property is located on the south or east side of a Town street or having a street address ending in zero or an even number shall use Town water for lawn watering or domestic irrigation on any numbered day of the month ending in an odd number.

(3) Notwithstanding Paragraphs (1) and (2) above, no person, customer or owner shall use Town water for lawn watering or domestic irrigation between the hours of 10:00 a.m. and 5:00 p.m. or 10:00 p.m. and 5:00 a.m. on any day.

(4) For the purpose of this Section, *domestic irrigation* shall mean any outside watering of gardens, soil or vegetation.

(5) Notwithstanding any provision of this Section, a person, customer or property owner installing a new lawn may obtain permission from the Town Manager for daily watering of said lawn until such time as the grasses are established, so long as such daily watering is limited to the hours set forth in Paragraph (3) above.

(6) Notwithstanding any other section of this Code to the contrary, any person who violates the provisions of this Section shall commit offenses and be subject to a penalty as follows:

a. Any first offense shall be a petty offense subject to a twenty-five-dollar penalty assessment fine.

b. Any second offense shall be a petty offense subject to a fifty-dollar penalty assessment fine.

c. Any third or subsequent offense shall be a misdemeanor punishable by a mandatory minimum fine of one hundred dollars (\$100.00), up to and including three hundred dollars (\$300.00) for each offense.

(7) Notwithstanding the above restrictions on the use of lawn sprinklers and other domestic irrigation, the Town Manager may direct the use of lawn sprinklers and other domestic irrigation on public property at such times and on such schedule as the Town Manager may determine is necessary for the preservation of public property.

(b) The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this Article. Any person violating any provisions of this Article shall be liable to the Town for any expense, loss or damage, including reasonable attorney's fees, occasioned by reason of such violation. The remedies provided by this Article are cumulative and not exclusive, and are in addition to other remedies provided by law.

(36) Sec. 13-2-110. Violation and penalty. (Chapter 13, Article 2, Water and Sewer Regulations)

(a) Offense. Any person who violates any of the provisions of this Chapter shall be fined in accordance with the provisions of Section 1-4-20 of this Code.

(b) Actions. The erection, construction, alteration, enlargement, conversion, moving or maintenance of any building; and the use of any land, building or structure; which activity or use is continued, operated or maintained contrary to any provision of this Chapter; shall be unlawful. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove such violation. Such action may also be maintained and instituted by any property owner who is damaged by a violation of this Chapter.

(c) Remedies. The remedies herein provided shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(37) Sec. 13-3-860. Legal action. (Chapter 13, Article 3, Watershed Protection District)

Upon determination of a violation of this Article, in addition to utilization of the enforcement and penalty powers of the Town, the Town may commence an action for appropriate legal or equitable relief in a court of competent jurisdiction, including the Municipal Court. In addition to the penalties provided herein, the Town shall be entitled to reasonable expert fees and attorneys' fees and costs of litigation.

(38) Sec. 16-2-60. Demolition of historic structures. (Chapter 16, Article 2, Historic Preservation and Architectural Control Historic District)

(a) Notwithstanding any other provision of this Article, no structure over fifty (50) years of age (for purposes of this Section only, an "historic structure") shall be demolished unless the Board finds that the following criteria are first met.

(1) The historic structure is dangerous or unsafe as determined by the Building Inspector.

(2) The record owner of the subject property submits a plan for the site designed to preserve other historic structures on the property that are not currently dangerous or unsafe.

(3) The Board may allow the demolition of a historic structure as part of an approved redevelopment plan for the subject property.

Nothing contained herein to the contrary shall limit or otherwise affect the requirement of any person in charge of or having control and supervision of the property where a structure is located to comply with Section 16-2-20 of this Article. For purposes of this Section, *demolish* or *demolition, mutatis mutandis*, shall mean the failure, both knowingly and unknowingly, by a person in charge of or having control and supervision of the property where a historic structure is located, to maintain and keep up, or otherwise destroy and/or dismantle either fully or partially, a historic structure, whether by active or passive conduct or a failure to act to preserve said historic structure.

(b) The Building Official may, at any time, order any person in charge of or having control and supervision of the property where a historic structure is located, to maintain and keep up a historic structure where it appears in the Building Official's reasonable judgment that said historic structure may suffer demolition. No failure by the Building Official to order such maintenance and upkeep shall preclude the person in charge of or having control and supervision of the property where a historic structure is located from liability for the demolition of a historic structure.

(c) No person in charge of or having control and supervision of the subject property where a historic structure is located, including, without limitation, the record owner thereof, shall demolish said structure without compliance with the requirements of this Section. Any person who violates this Section shall be punished in accordance with the provisions of Section 1-4-20 of this Code. Each day any such historic structure is out of compliance with this Section shall be a separate offense hereunder. The Town Marshal or the Town Manager may enforce the penalties provided hereunder, including, without limitation, by proper summons to appear in a court of competent jurisdiction and/or by notice to the offending person to cure said violation of this Section. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or otherwise remove or protect from any violation of this Section. In the event that the Town elects to abate, remove or protect such a violation, the Town's reasonable costs and expenses in conjunction with such actions by the Town shall be properly chargeable to the offending person. No election by the Town to so act shall limit the responsibility or liability of the offending party or cause the Town to incur such responsibility or liability.

(d) Upon a conviction pursuant to Subsection (b) above in a court of competent jurisdiction, the Building Official shall be authorized to order up to a ten-year moratorium on the issuance of any permit and/or certificate of occupancy in connection with the subject property, except as otherwise described in Subsection (e) below. The Building Official shall consider the following factors in deciding whether to impose such a moratorium:

(1) The impact of the demolition upon the historical integrity and architectural character of the Town;

(2) The factual circumstances concerning the cause of the demolition, as may be identified after reasonable investigation by the Building Official; and

(3) Whether the demolition would have been approved by the Board had an application for the same been submitted.

(e) During the pendency of prosecution described in Subsection (b) above, the Building Official may impose a temporary moratorium on the issuance of any permit and/or certificate of occupancy in connection with the subject property. In electing to impose such a temporary moratorium, the Building Official shall consider the same factors as described in Subsection (d) above. Such temporary moratorium shall remain in effect for the duration of the prosecution and any appeal therefrom.

(f) Notice of the imposition and duration of any moratorium imposed pursuant to this Section shall be recorded in the official real property records of the office of the County Clerk and Recorder.

(g) Notwithstanding anything contained in this Section to the contrary, the existence of a moratorium on property as described under this Section shall not serve as a restriction on the Building Official's ability to issue a building permit for such property in connection with the rehabilitation or repair of any demolished historic structure that is the subject of the moratorium or any improvement, bracing or other construction activity intended or designed to protect, keep up, save and/or maintain any historic structure on the subject property, the Building Official being at all times permitted to issue a building permit for such activities where otherwise permitted under and in accordance with this Code.

(h) The Building Official may order the lifting of any moratorium as described under this Section where the subject demolished historic structure has been restored and rehabilitated to a condition that previously existed prior to its demolition. Upon the lifting of any such moratorium, notice of release of the moratorium lifted shall be recorded in the official real property records of the office of the County Clerk and Recorder.

(i) Remedies provided in this Section may be exercised cumulatively and concurrently and are not intended to be exclusive, and the same are in addition to all other rights provided at law and in equity.

(39) Sec. 16-9-70. Recordation of discretionary approvals. (Chapter 16, Article 9, Variances)

Whenever the Board under the terms of this Code requires an applicant to agree to comply with certain conditions as to use or occupancy, or to restrict such use or occupancy in any manner, such conditions or representations shall be recorded by the Board and become part of the building permit. Further, the applicant shall execute a "Notice of Agreement for Land Use Conditions and Restrictive Covenants", in the form attached to this Code as Appendix F, which the Town shall record in the real property records of the County. A violation of any such restrictive covenant, condition or representation shall constitute an offense under Section 16-24-20 of this Chapter and subject the violator to the penalties and the Town's remedies as set forth therein. In addition, a certificate of occupancy may be withheld or revoked unless or until such conditions are met. The Board may require that such notice contain a time deadline for compliance with all conditions and covenants, which deadline shall not be more than three (3) years from the date of approval of the application by the Board. Such conditions or covenants shall be deemed to run with the land, and shall be binding on the applicant and his or her successors and assigns. These same procedures shall apply to any legislative action changing a zoning classification or approving a subdivision proposal which is based upon representations by an applicant or conditioned upon certain uses and/or performances by the applicant. In the event that such representations or conditions of rezoning or subdivision are not met, the subject property shall automatically revert to its prior

zoning or unzoned classification and its prior subdivision of land and use. No construction or repair shall occur except in strict compliance with such conditions or covenants and until the documentation of the same is provided to the satisfaction of the Town. The Board or Town Council may also require such performance bond or financial performance guarantee as it deems appropriate to ensure that conditions or representations are met by the applicant.

(40) Sec. 16-16-60. Off-street parking policy. (Chapter 16, Article 16, Parking)

The requirements of this Article relative to off-street parking are set forth in order to permanently mitigate the parking impacts caused by new development. Any such off-street parking required and made a condition of any building permit approval shall be provided permanently. The failure, at any time in the future, to provide agreed-upon and required off-street parking shall be a violation of this Article and shall subject the owner to the penalty set forth in Section 16-24-20 of this Chapter and shall subject the building or use in question to revocation of its certificate of occupancy. The details of any such off-street parking arrangement shall be set forth with particularity in the "Notice of Agreement for Land Use Conditions and Restrictive Covenants" provided for in Section 16-9-70 of this Chapter. However, the Board may allow a change or modification in the means of satisfying the previously established off-street parking requirements so long as the number of required spaces are still provided and/or payment in lieu for these required spaces is approved and provided.

(41) Sec. 16-24-20. Violation and penalty. (Chapter 16, Article 24, Enforcement)

(a) Offense. Any person who violates any of the provisions of this Chapter shall be fined an amount not to exceed one thousand dollars (\$1,000.00) for each offense. Each day that such violation continues to exist shall be deemed a separate offense.

(b) Actions. The erection, construction, alteration, enlargement, conversion, moving or maintenance of any building, and the use of any land, building or structure, which activity or use is continued, operated or maintained contrary to any provision of this Chapter, shall be unlawful. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove such violation. Such action may also be maintained and instituted by any property owner who is damaged by a violation of this Article.

(c) Remedies. The remedies herein provided shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(42) Sec. 17-15-20. Violation; penalty. (Chapter 17, Article 15, Enforcement and Penalty)

(a) Violation. It is unlawful for any person to violate any of the provisions of these subdivision regulations or to transfer, sell, lease or agree to sell or lease any lot, tract, parcel, site, separate interest (including a leasehold interest), condominium interest, time-share estate or any other interest within a subdivision or resubdivision within the Town which is subject to review and approval under these subdivision regulations unless and until the provisions of these subdivision regulations have been waived by the Building Official for a condominiumization or creation of townhouses, or such subdivision or resubdivision has been approved in writing by the Town and the final plat thereof recorded in the office of the County Clerk and Recorder, and any improvements described in the subdivision improvements agreement and in the final plan have been constructed and preliminarily accepted by the Town.

(b) Penalty. Any person who violates any of the provisions of these subdivision regulations, or who knowingly provides false information for the Town to use as the basis for its decision when considering the proposed subdivision, shall be fined an amount not to exceed one thousand dollars (\$1,000.00) per day for each offense, incarceration in the County jail for not more than one (1) year or both, and required to pay any expenses and costs incurred by the Town to successfully prosecute the violation, including reasonable attorneys' fees.

(c) Actions. The use of any land, building or structure, which activity or use is continued, operated or maintained contrary to any provision of these subdivision regulations, shall be unlawful. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove such violation. Such remedies may include, without limitation, refusal to issue building permits, suspension of all building permits in the subdivision and refusal to issue certificates of occupancy in the subdivision.

(d) Remedies. The remedies herein provided shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(e) Attorneys' fees. Any person who is found to be in violation of these subdivision regulations shall, in addition to any other penalties or remedies, pay the Town its reasonable attorneys' fees to ensure compliance with these subdivision regulations.

(43) Sec. 18-1-70. Violations, liability and penalty. (Chapter 18, Article 1, Building Code)

(a) Any person who violates any provision of this Article or this Chapter shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) for each offense. Each day that a violation of this Article or this Chapter continues to exist shall constitute a separate and additional offense.

(b) Any person violating any provisions of this Article or this Chapter shall be liable to the Town for any expense, loss or damage, including reasonable attorneys' fees, occasioned by reason of such violation.

(c) The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin or abate any violation of this Article or this Chapter.

(d) The remedies provided by this Section are cumulative and not exclusive, and are in addition to any other remedies provided by law.

(44) Sec. 18-3-70. Violation, liability and penalties. (Chapter 18, Article 3, Mechanical Code)

(a) Any person who violates any provision of the IMC shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) for each offense. Each day that a violation continues to exist shall constitute a separate and additional offense.

(b) Any person who violates any provision of the IMC shall be liable to the Town for any expense, loss or damage, including reasonable attorneys' fees, occasioned by reason of such violation.

(c) The Town may institute injunction, abatement or any other action to prevent, enjoin or abate any violation of the IMC.

(d) The remedies provided by this Section are cumulative and not exclusive, and are in addition to any other remedies provided by law.

(45) Sec. 18-4-60. Violation, liability and penalties. (Chapter 18, Article 4, Plumbing Code)

(a) Any person who violates any provision of the IPC shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) for each offense. Each day that a violation continues to exist shall constitute a separate and additional offense.

(b) Any person who violates any provision of the IPC shall be liable to the Town for any expense, loss or damage, including reasonable attorneys' fees, occasioned by reason of such violation.

(c) The Town may institute injunction, abatement or any other action to prevent, enjoin or abate any violation of the IPC.

(d) The remedies provided by this Section are cumulative and not exclusive, and are in addition to any other remedies provided by law.

(46) Sec. 18-5-60. Violation, liability and penalties. (Chapter 18, Article 5, Electrical Code)

(a) Any person who violates any provision of the NEC shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) for each offense. Each day that a violation continues to exist shall constitute a separate and additional offense.

(b) Any person who violates any provision of the NEC shall be liable to the Town for any expense, loss or damage, including reasonable attorneys' fees, occasioned by reason of such violation.

(c) The Town may institute injunction, abatement or any other action to prevent, enjoin or abate any violation of the NEC.

(d) The remedies provided by this Section are cumulative and not exclusive, and are in addition to any other remedies provided by law.

(47) Sec. 18-6-10. Definitions. (Chapter 18, Article 6, Fire Code)

For purposes of this Article, *Code* shall mean the *International Fire Code*, 2003 Edition, including Appendix Chapters B, C, D, E, F and G, as published by the International Code Council, with the following revisions:

(1) Section 101, General. 101.1, Title. Insert: (The Town of Crested Butte)

(2) Section 102, Applicability. 102.6, Referenced Codes and Standards, and 102.7, Subjects not regulated by this Code. Add: "The most current NFPA edition shall be utilized."

(3) Section 106, Inspections. Add: "106.4, Requests for inspections. Requests for inspections shall be submitted at least five (5) working days prior to the date of the requested inspections."

(4) Section 108, Board of Appeals. 108.1. Add: "The Town Council shall be considered as the Board of Appeals."

(5) Section 109, Violations. 109.3, Violation penalties. Insert: "... shall be guilty of a misdemeanor, punishable by a fine of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding one (1) year, or both such fine and imprisonment."

(6) Section 111, Stop Work Order. 111.4, Failure to Comply. Insert: "... shall be liable to a fine of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00)."

....

(48) Sec. 18-6-70. Violation, liability and penalty. (Chapter 18, Article 6, Fire Code)

(a) Any person who violates any provision of this Article shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) for each offense. Each day that a violation of this Article continues to exist shall constitute a separate and additional offense.

(b) Any person violating any provisions of this Article shall be liable to the Town for any expense, loss or damage, including reasonable attorneys' fees, occasioned by reason of such violation.

(c) The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin or abate any violation of this Article.

(d) The remedies provided by this Section are cumulative and not exclusive, and are in addition to any other remedies provided by law.

(49) Sec. 18-7-70. Violation, liability and penalties. (Chapter 18, Article 7, Fuel Gas Code)

(a) Any person who violates any provision of the IFGC shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) for each offense. Each day that a violation continues to exist shall constitute a separate and additional offense.

(b) Any person who violates any provision of the IFGC shall be liable to the Town for any expense, loss or damage, including reasonable attorneys' fees, occasioned by reason of such violation.

(c) The Town may institute injunction, abatement or any other action to prevent, enjoin or abate any violation of the IFGC.

(d) The remedies provided by this Section are cumulative and not exclusive, and are in addition to any other remedies provided by law.

(50) Sec. 18-8-90. Penalty and delinquencies. (Chapter 18, Article 8, Solid Fuel-Burning Devices)

Any person violating any provision or section of this Article, including a failure to obtain the required permit, shall be guilty of a misdemeanor and, upon conviction thereof, may be punished in accordance with the provisions of Section 1-4-20 of this Code. Any person or entity who does not

pay the license fee when required shall also be deemed in violation of this Article. Any unpaid permit fee shall accrue a delinquency charge of three percent (3%) per month, compounded monthly. Any such delinquency shall become a lien upon the real property on which the permitted solid fuel-burning device exists, which lien may be collected in the same manner as a tax lien. The Town shall be entitled to recover all of its collection costs, including attorneys' fees, as part of any action or proceeding to collect delinquent permit fees due pursuant to this Article.

(51) Sec. 18-9-100. Renewable Energy Mitigation Program. (Chapter 18, Article 9, Energy Standards)

All outdoor snowmelt systems, and outdoor pools, hot tubs and spas with a top surface area in excess of sixty-four (64) square feet, must comply with the following renewable energy mitigation program (REMP) requirements:

(1) REMP; Applicability. For purposes hereof, an "outdoor snowmelt system" shall include any heating system installed in any walkway, driveway, roof or any other exterior surface. All energy utilized in operating outdoor snowmelt systems, and outdoor pools, hot tubs and spas with a top surface area in excess of sixty-four (64) square feet (as determined by the unit's manufacturer), shall be produced by a renewable energy system; or, in lieu thereof, the owner of the property with said outdoor snowmelt system and/or subject pool, hot tub or spa shall make payment to the Town in lieu of providing energy produced by a renewable energy system. The owner of the subject property shall have the right to choose between providing energy from a Town-approved renewable energy system or making payment in lieu thereof, or a combination of both, in order to offset energy used by outdoor snowmelt systems and subject pools, hot tubs and spas. For any subject hot tub or spa, only that surface area over said sixty-four (64) square feet shall be subject to the requirements of this Section. Any outdoor snowmelt system or subject pool, hot tub or spa that has been installed prior to June 25, 2007, shall be exempt from the requirements of this Section. Said exemption shall not apply, however, to any modification to any existing outdoor snowmelt system or outdoor pool increasing the square footage thereof, said modification requiring an outdoor energy usage permit as defined hereunder.

(2) Outdoor energy usage permit. Prior to the installation of any (i) outdoor snowmelt system and/or (ii) outdoor pool, hot tub or spa with a top surface area in excess of sixty-four (64) square feet (as determined by the unit's manufacturer), the owner of the property affected by such installation shall obtain an outdoor energy usage permit. No outdoor snowmelt system or subject pool, hot tub or spa shall be installed without first obtaining an outdoor energy usage permit, as well as a plumbing and mechanical permit as applicable, from the Building Official. No outdoor energy usage permit shall be required for any outdoor snowmelt system or subject pool, hot tub or spa located on public property or any portable outdoor heat lamp. An owner may install up to ten (10) square feet of hydronic heat tape as part of any roof-installed snowmelt system, and such installation shall not require said owner to obtain an outdoor energy usage permit.

a. An outdoor energy usage permit shall not be issued until the owner of the subject property has complied with the requirements of this Section. All outdoor snowmelt systems shall be in compliance with Section 18-9-90 above.

b. An outdoor energy usage permit shall be obtained by said owner for each outdoor snowmelt system and subject pool, hot tub and spa, or any modification to any

outdoor snowmelt system and outdoor pool increasing the square footage thereof. An outdoor energy usage permit shall include a processing fee that shall cover the cost and expense of the Building Official of reviewing and processing said outdoor energy usage permit application.

c. The Building Official shall review and approve any complete and properly submitted application for an outdoor energy usage permit within thirty (30) days of its submission; except that, if the installation of any outdoor snowmelt system or subject pool, hot tub or spa is part of any new construction, addition, renovation or remodel that otherwise requires a building permit under this Code, the application for said outdoor energy usage permit shall be approved, if at all, along with the approval and issuance of said building permit, and the installation shall be considered part of the structure for purposes of Article 13 of this Chapter. In such circumstances, the issuance of an outdoor energy usage permit shall be subject to Board approval as provided in this Code. No outdoor energy usage permit shall be granted, however, until a Town-approved renewable energy system or other Town-approved system, as described in Subparagraph (3)b. of this Section, has been selected by the owner of the affected property and/or payment in lieu has been made, as applicable, as further described in Paragraph (3) of this Section. The owner shall provide the following supporting documentation along with the application for an outdoor energy usage permit:

1. The legal description of the affected property;
2. The signature of the owner of the property or other person with the written legal authority (e.g., power of attorney) of the owner;
3. A site development plan drawn to scale for the building and/or sidewalk, driveway or patio, as applicable, that is the subject of the outdoor snowmelt system or subject pool, hot tub or spa installation;
4. A complete set of drawings, plans and specifications, to scale, depicting any outdoor snowmelt system or subject pool, hot tub or spa installation, along with the type and efficiency of the same;
5. If the owner of the affected property elects to incorporate a renewable energy system or other Town-approved system, a complete set of drawings, plans and specifications, to scale, of the renewable energy system or other Town-approved system and its proposed installation location, along with the type and efficiency of the same;
6. The owner's election to either utilize a renewable energy system or other Town-approved system or make payment in lieu, or a combination of both, as set forth in Paragraph (3) of this Section; and
7. Any other information requested by the Building Official in order to review the application for compliance with this Section and Section 18-9-90 above.

Only subsections (1), (2), (5), (6) and (7) hereof shall apply to subject pools, hot tubs and spas. The items listed above are hereby incorporated into the application for the outdoor energy usage permit.

d. Outdoor energy usage permit applications, unless otherwise included as part of a building permit for any new construction, addition, renovation or remodel as discussed above, shall be submitted only to the Building Official and not the Board for approval.

e. All installations of outdoor snowmelt systems shall be in strict compliance with the application requirements for an outdoor energy usage permit. Any deviation from the application requirements shall require a new outdoor energy usage permit. All installations of outdoor snowmelt systems shall be completed within six (6) months of issuance of an outdoor energy usage permit; except that, where the installation of an outdoor snowmelt system is otherwise associated with a building permit for any new construction, addition, renovation or remodel as discussed above, such longer permitted time under this Code as it relates to said building permit shall apply.

f. Should the Building Official discover the installation of any outdoor snowmelt system or subject pool, hot tub or spa in violation of this Section, the same shall attach a "stop work order" to said installation in a conspicuous place. Where the Building Official discovers any use of property in violation of this Section, the same shall attach a "desist order" to the property and attempt to deliver a copy of the same to the occupier of the property. Any stop work order or desist order shall be signed by the Building Official and indicate the subject area in which the violations exists. The removal of a stop work order or desist order by any person before the violation is corrected shall constitute a violation of this Section. The continuation of construction or use in violation of a stop work or desist order shall also constitute a violation of this Section.

g. An outdoor energy usage permit shall not be issued in connection with any property until all due and owing fees for sewer, water, sanitation, street or other improvement assessments, real property taxes, real estate transfer taxes and/or other fees or taxes due to the Town in connection with said property have been paid in full and are current in all respects.

(3) Calculations; Renewable energy systems; Payment in lieu.

a. Calculations. The amount of energy used by an outdoor snowmelt system or subject pool, hot tub or spa shall be calculated by the Town using a system adopted by the Town. Said system shall also calculate the payment in lieu of providing energy produced by a renewable energy system or other Town-approved system. The Town shall utilize the Town of Crested Butte Outdoor Energy Worksheet attached as Exhibit "A" to the ordinance codified herein, a copy of which is on file in the Town Clerk's office, to calculate the mitigation required for outdoor energy usage. Said Town of Crested Butte Outdoor Energy Worksheet shall also be utilized to calculate the renewable energy mitigation credit proposed to offset the proposed outdoor energy usage. The assumptions and calculations incorporated into the Town of Crested Butte Outdoor Energy Worksheet are incorporated in the Calculation Assumptions attached as Exhibit "B" to the ordinance codified herein, a copy of which is on file in the Town Clerk's office. Once said energy usage and payment in lieu are calculated by the Town, the owner of the property affected by the outdoor snowmelt system or subject pool, hot tub or spa shall select whether it will utilize either a Town-approved renewable energy system or other Town-approved system to offset energy usage by any outdoor snowmelt system or subject pool, hot tub or spa, or make payment in lieu thereof. The owner of

the affected property may select use of a combination of both a Town-approved renewable energy system or other Town-approved system to offset energy usage by any outdoor snowmelt system or subject pool, hot tub or spa and payment in lieu thereof. Such combination shall, however, be approved in advance by the Building Official. No outdoor energy usage permit may be issued until the owner of the affected property has selected either a Town-approved renewable energy system or other Town-approved system to offset energy usage by any outdoor snowmelt system or subject pool, hot tub or spa or payment in lieu thereof, or a combination of both as approved by the Town.

b. Renewable energy systems. All renewable energy systems and other systems must be approved in advance by the Building Official. Said renewable energy systems may be solar or geothermal in nature. Other energy usage mitigation systems may be proposed but must be approved in advance by the Building Official. Any renewable energy system utilized as mitigation for outdoor energy usage must conform to the requirements set forth in the Project Checklist attached as Exhibit "C" to the ordinance codified herein, a copy of which is on file in the Town Clerk's office, as applicable. Other systems must provide an engineering analysis that calculates the renewable energy mitigation credit for the proposed system and provides all necessary information as determined by the Building Official. Review of the system will be at the expense of the owner. No renewable energy system or other system shall be approved which does not cause the mitigation of energy usage to be made within the Town. All proposed renewable energy mitigation systems and any other systems shall be included as part of the application for an outdoor energy usage permit. If the proposed renewable energy system is solar in nature, the panels and/or collectors must be approved through the standard building permit process and must be approved by the Board. The type of renewable energy system or other system, the specifications and efficiency thereof, the location of the installation of said renewable energy system or other system and any other additional information requested by the Building Official must be submitted with the application for an outdoor energy usage permit.

c. Payments in lieu. The Town may accept payment from the owner of an affected property as described in this Section in lieu of providing energy produced by a Town-approved renewable energy system, or partial payment in lieu from said owner of an affected property providing only partial energy produced by a Town-approved renewable energy system, as delineated in this Section. Acceptable payments shall be made by cash or check only. The owner of the affected property shall make payment in lieu at the time of, and as a condition precedent to, issuance of an outdoor energy usage permit. Such payment requirements shall apply to any addition or modification to any outdoor snowmelt system or outdoor pool where the owner has selected payments in lieu as described in this Section. In the event that an owner of an outdoor snowmelt system, subject pool, hot tub or spa with an outdoor energy usage permit for such energy usage seeks to make modifications to such usage such that any payment in lieu previously made could otherwise be reduced, no refund shall be given by the Town.

d. Appropriation of funds. All payments in lieu received pursuant to this Section shall be deposited into a separate account with the Town. Funds derived from payments in lieu made pursuant to this Section shall be utilized by the Town to, in no order of preference: (i) defray any costs and expenses associated with the operation, administration and enforcement of the REMP program described in this Section; (ii)

reduce and offset energy consumption in public buildings; (iii) reduce energy consumption in residential affordable housing units; (iv) defray the cost and expense of engineering and education to promote energy consciousness, renewable energy installation and reducing energy use; and/or (iv) cover such other costs and expenses consistent with the goals of the REMP and the Energy Code, as determined by the Town Council.

e. Updating and monitoring. The Building Official may monitor and, to the extent necessary, update and amend, as determined by the Building Official, the Town of Crested Butte Outdoor Energy Worksheet, the Calculation Assumptions and the Project Checklist in order to promote and advance the goals of the REMP.

(4) Violations. Any person who violates any of the provisions of this Section may be fined an amount not to exceed one thousand dollars (\$1,000.00) for each offense. Each day that such violation continues to exist shall be deemed to be a separate offense.

(52) Sec. 18-9-110. Penalties. (Chapter 18, Article 9, Energy Standards)

(a) Offense. Any person who violates any of the provisions of this Chapter shall be fined an amount not to exceed one thousand dollars (\$1,000.00) for each offense. Each day that such violation continues to exist shall be deemed a separate offense.

(b) Actions. The erection, construction, alteration, enlargement, conversion, moving or maintenance of any building, and the use of any land, building or structure, which activity or use is continued, operated or maintained contrary to any provision of this Chapter, shall be unlawful. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove such violation. Such action may also be maintained and instituted by any property owner who is damaged by a violation of this Article.

(53) Sec. 18-12-40. Violation, liability and penalty. (Chapter 18, Article 12, Construction Site Regulations)

(a) The failure to comply with this Article shall constitute a nuisance. The owner of the property upon which such violation occurs shall be jointly and severally liable for the violation.

(b) Offense. Any person who violates any of the provisions of this Article shall be fined an amount not to exceed one thousand dollars (\$1,000.00) for each offense. Each day that such violation continues to exist shall be deemed a separate offense.

(c) In addition, any person who violates any provision of this Article shall be liable to the Town for any expense, loss or damage, including reasonable attorneys' fees, occasioned by reason of such violation.

(d) The Town may institute injunction, abatement or any other action to prevent, enjoin or abate any violation of this Article.

(e) The remedies provided by this Article are cumulative and not exclusive, and are in addition to any other remedies provided by law.

(54) Sec. 18-13-40. Building permit. (Chapter 18, Article 13, Building Inspector and Building Permits)

(a) No building or structure shall be erected, constructed, structurally altered, moved, demolished or changed without first obtaining a building permit issued by the Building Inspector. Such building permit shall be issued when the applicant has complied with all requirements of this Chapter and any code adopted herein, including the requirement for the submission of construction documents and payment of such fees as are required to review such documents, and when the applicant has obtained all approvals required hereunder. The determination of value or valuation under any provisions of this Chapter shall be made by the Building Official based on the Valuation Schedule published in the most recent edition of the *Building Safety Journal* magazine by the International Code Council, multiplied by the regional modifier of 1.54, or other evidence of value, whichever is greater, as determined by the Building Official. The value to be used in computing the building permit and building plan review fees shall be the total value of all construction work for which the permit is issued. The approval by the Board of a building permit application shall be valid for the period of time set forth in Section 24-68-104, C.R.S., as implemented by Section 16-19-30 of this Code, so long as said sections remain in effect.

(b) No building permit shall be issued unless and until a performance deposit has been deposited with the Building Department.

(1) The amount of the performance deposit shall be the amount of the valuation of the structure for which a building permit is sought multiplied by fifty hundredths percent (.50%).

(2) The performance deposit will be released upon the issuance of a certificate of occupancy for the structure for which the building permit is sought, if the Building Department determines that all improvements have been completed in accordance with all approved plans, including landscaping and parking requirements.

(3) Two hundred fifty dollars (\$250.00) per violation may be retained by the Town where the applicant has failed to perform any building, construction, structural alteration, movement, demolition or change work to any building or other structure in strict compliance with the approved plans and specifications therefor. Such retained deposit amounts shall represent the estimated costs and expenses of the Building Inspector in processing and handling said failures. Following such failure to perform, the Building Inspector shall notify the applicant of such failure and thereafter may retain the same without further action on the part of the Town. Nothing contained herein shall prohibit the Town from exercising any other remedies provided at law or in equity, including, without limitation, an action for attorneys' fees, costs and expenses in connection with any such failure to comply.

(c) No building permit shall be issued until written approval of the application is given by the Building Inspector and the Board when the latter is required under the terms of this Article.

(d) No building permit shall be issued unless the proposed erection, construction, alteration or change of the building or use of the building or land is in full conformance with this Article.

(e) Upon issuance of the building permit, the applicant shall perform all work thereunder in strict accordance and compliance with the application, plans and specifications, representations to the Board and Building Inspector, and any memoranda of agreement. The Building Inspector, members of the Board and other Town officials shall monitor and inspect the work being

performed and, upon the discovery of any deviation from the plans, application or representations, shall report the deviation to the Building Inspector who shall order all work on the structure to cease until the Board considers, at its next regular meeting, if the deviation is substantial, in which case a new building permit shall be required.

(f) After the issuance of a building permit, any substantial deviation from the plans, application or representations shall require a new building permit, which shall be applied for and considered in the same fashion as a new application.

(g) Any application or other request under this Article shall be made by an owner of the property or his or her legal representative as evidenced by a written power of attorney. Any permits, approvals, conditions or other decisions under this Article shall benefit and/or bind such applicant, the owner, other co-owners of the property and their heirs or assigns.

(h) Penalties; enforcement. No person shall build, construct, structurally alter, move, demolish or change any building or other structure for which a building permit is required without compliance with the requirements of the Section. Any person who violates this Section shall be guilty of a misdemeanor and subject to a maximum fine of one thousand dollars (\$1,000.00) per offense, or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment. Each day any such building or structure is out of compliance with this Section shall be a separate offense hereunder. The Marshal's Department, the Building Inspector or the Town Manager may enforce the penalties provided hereunder, including, without limitation, by proper summons to appear in a court of competent jurisdiction. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this Section. Remedies provided in this Section are cumulative and concurrent and not intended to be exclusive, and the same are in addition to all other rights provided at law and in equity.

Section 6. Additions or amendments to the Code, when passed in the form as to indicate the intention of the Town to make the same a part of the Code, shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 7. For a period of six (6) months from the date of adoption of this Ordinance, any Town official entitled to or permitted under the Code to cite any person for an infraction or violation of any provision, term, condition or requirement contained in the Code, may so cite such person under either the previously numbered Code section or the newly numbered Code section, each such citation so numbered having equal effect and enforceability. Following the expiration of said six-month period, all citations shall be pursuant to the newly numbered Code section.

Section 8. Ordinances adopted after this Ordinance that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to those provisions of the Code.

Section 9. This Ordinance shall become effective five (5) days after publication thereof.

Section 10. If any section, sentence, clause, phrase, word or other provision of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this Ordinance, or the validity of this Ordinance as an entirety, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 4TH DAY OF MAY, 2009.

TOWN OF CRESTED BUTTE , COLORADO

ATTEST:

(signature)

Alan Bernholtz, Mayor

(signature)

Eileen Hughes, Town Clerk

(SEAL)

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING AND PUBLIC HEARING
THIS 1ST DAY OF JUNE, 2009.

TOWN OF CRESTED BUTTE, COLORADO

ATTEST:

(signature)

Alan Bernholtz, Mayor

(signature)

Eileen Hughes, Town Clerk

(SEAL)

TOWN OF CRESTED BUTTE

CODE TABLE OF CONTENTS

Chapter 1	General Provisions.....	1-i
	Article 1 Code	
	Article 2 Definitions and Usage	
	Article 3 General	
	Article 4 General Penalty	
	Article 5 Inspections	
	Article 6 Seal	
	Article 7 Administration and Disposition of Unclaimed Property	
Chapter 2	Administration.....	2-i
	Article 1 Elections	
	Article 2 Mayor and Town Council	
	Article 3 Officers and Employees	
	Article 4 Code of Conduct	
	Article 5 Municipal Court	
	<i>Division 1 Administration</i>	
	<i>Division 2 Procedures</i>	

	Article 6	Marshal's Department	
	Article 7	Planning Commission	
Chapter 3	Reserved		
Chapter 4	Revenue and Finance		4-i
	Article 1	General and Special Funds	
	Article 2	Sales Tax	
	Article 3	Use Tax	
	Article 4	Land Transfer Excise Tax	
	Article 5	Telephone Utility Occupation Tax	
	Article 6	Public Improvements Contracts	
	Article 7	Industrial Revenue Development Bonds	
	Article 8	Collection of Delinquent Amounts	
Chapter 5	Franchises and Communication Systems.....		5-i
	Article 1	Franchises Generally	
	Article 2	Cable TV Franchise	
		<i>Division 1 General Provisions</i>	
		<i>Division 2 Franchise Fee and Financial Controls</i>	
		<i>Division 3 Administration and Regulation</i>	
		<i>Division 4 Financial and Insurance Requirements</i>	
		<i>Division 5 Customer Service</i>	
		<i>Division 6 Reports and Records</i>	
		<i>Division 7 Programming and Access</i>	
		<i>Division 8 Street Use and Construction</i>	
		<i>Division 9 System Configuration, Service Availability</i>	
		<i>Division 10 Agreement Violations, Bankruptcy,</i>	
		<i>Immunities</i>	
		<i>Division 11 Purchase, Abandonment or Transfer of</i>	
		<i>Cable System</i>	
		<i>Division 12 Miscellaneous Provisions</i>	
	Article 3	Electric Franchise	
		<i>Division 1 Grant of Franchise, Fees</i>	
		<i>Division 2 Supply, Construction and Design</i>	
		<i>Division 3 Compliance</i>	
		<i>Division 4 Miscellaneous Provisions</i>	
	Article 4	Gas Franchise	
	Article 5	Emergency Telephone Charge	
Chapter 6	Business Licenses and Regulations		6-i
	Article 1	Licensing Provisions	
	Article 2	Business Occupation Licenses	
	Article 3	Liquor Licenses	
	Article 4	Vending Licenses and Special Events	
	Article 5	Medical Marijuana Dispensaries Licenses	
Chapter 7	Health, Sanitation and Animals		7-i

	Article 1	Administration and Abatement of Nuisances	
	Article 2	Nuisances	
	Article 3	Weeds and Brush	
	Article 4	Trees	
	Article 5	Animals	
		<i>Division 1 Dogs</i>	
		<i>Division 2 Livestock</i>	
		<i>Division 3 Wildlife Protection</i>	
Chapter 8	Vehicles and Traffic		8-i
	Article 1	Model Traffic Code	
	Article 2	Parking Regulations	
	Article 3	Towing and Impoundment Regulations	
	Article 4	Speed Limits	
	Article 5	Vehicle Weight Limits	
	Article 6	Idling Vehicles	
Chapter 9	Reserved		
Chapter 10	General Offenses.....		10-i
	Article 1	General Provisions	
	Article 2	Government and Public Officers	
	Article 3	Streets and Public Places	
	Article 4	Public, Private and Personal Property	
	Article 5	Public Peace, Order and Decency	
	Article 6	Minors	
	Article 7	Alcoholic Beverages and Drugs	
	Article 8	Weapons	
	Article 9	Regulation of Noise	
	Article 10	Alarm Systems	
	Article 11	Discriminatory Practices	
Chapter 11	Streets, Sidewalks and Public Property.....		11-i
	Article 1	Streets and Sidewalks	
	Article 2	Excavations	
	Article 3	Public Parks	
	Article 4	Cemetery Regulations	
Chapter 12	Reserved		
Chapter 13	Municipal Utilities		13-i
	Article 1	Water and Sewer Systems	
	Article 2	Water and Sewer Regulations	
	Article 3	Watershed Protection District	
		<i>Division 1 General Provisions</i>	
		<i>Division 2 Watershed Protection Standards</i>	
		<i>Division 3 Watershed Permits</i>	
		<i>Division 4 Review Process</i>	

	<i>Division 5 Enforcement</i>	
	Article 4	Water Management Plan
	Article 5	Refuse and Sanitation System
Chapter 14	Reserved	
Chapter 15	Annexations	15-i
	Article 1	Annexation Procedure
Chapter 16	Zoning	16-i
	Article 1	General Provisions
	Article 2	Historic Preservation and Architectural Control Historic District
	Article 3	Zoning Districts
	Article 4	Residential Districts
		<i>Division 1 "R1" Residential District</i>
		<i>Division 2 "R1D" Residential District</i>
		<i>Division 3 "R1E" Residential District</i>
		<i>Division 4 "R1A" Residential District</i>
		<i>Division 5 "R1B" Residential District</i>
		<i>Division 6 "R1C" Core Residential District</i>
		<i>Division 7 "R2C" Core Residential District</i>
		<i>Division 8 "R3C" Residential District</i>
		<i>Division 9 "R2" Residential District</i>
		<i>Division 10 "R2A" Residential District</i>
		<i>Division 11 "R4" Residential District</i>
	Article 5	Business and Commercial Districts
		<i>Division 1 "T" Tourist District</i>
		<i>Division 2 "B1" Business District</i>
		<i>Division 3 "B2" Business District</i>
		<i>Division 4 "B3" Business District</i>
		<i>Division 5 "B4" West End Business/Historic Residential District</i>
		<i>Division 6 "C" Commercial District</i>
	Article 6	Miscellaneous Districts
		<i>Division 1 "M" Mobile Home District</i>
		<i>Division 1 "P" Public District</i>
		<i>Division 1 "A-O" Agriculture-Open District</i>
	Article 7	Overlay Districts
		<i>Division 1 Planned Unit Developments</i>
		<i>Division 1 Historic Preservation and Architectural Control Historic District</i>
	Article 8	Timeshares
	Article 9	Conditional Uses
	Article 10	Variances
	Article 11	Special Development Permits
	Article 12	Floodplain Regulations
		<i>Division 1 General Provisions</i>

	<i>Division 2 Administration</i>
	<i>Division 3 Standards</i>
Article 13	Condominium and Townhouse Plats
Article 14	Transient Mobile Home Regulations
Article 15	Supplemental Regulations
Article 16	Landscaping
Article 17	Parking
Article 18	Signs
Article 19	Nonconforming Uses
Article 20	Vested Property Rights
Article 21	Resident-Occupied Affordable Housing
Article 22	Board of Zoning and Architectural Review
Article 23	Amendments
Article 24	Enforcement

Chapter 17 Subdivisions 17-i

Article 1	General Provisions
Article 2	Administrative Provisions
Article 3	Major and Minor Subdivisions Generally
Article 4	Minor Subdivisions
Article 5	Major Subdivisions
Article 6	Major Subdivision Design Standards
Article 7	Tract and Block Design Standards
Article 8	Compatibility With Natural Features
Article 9	Open Land
Article 10	Street and Sidewalk Standards
	<i>Division 1 Street Standards</i>
	<i>Division 2 Standards for Trails</i>
	<i>Division 3 Sidewalks</i>
Article 11	Utility Standards
	<i>Division 1 Utility Standards Generally</i>
	<i>Division 2 Drainage Standards</i>
	<i>Division 3 Water Supply</i>
	<i>Division 4 Sewage Disposal</i>
	<i>Division 5 Irrigation Systems</i>
Article 12	Affordable Housing and Local Housing
Article 13	Miscellaneous Design Standards
Article 14	Appeals
Article 15	Enforcement and Penalty
Article 16	Wetland Functional Analysis

Chapter 18 Building Regulations 18-i

Article 1	Building Code
Article 2	Residential Code
Article 2.5	Existing Building Code
Article 3	Mechanical Code
Article 4	Plumbing Code
Article 5	Electrical Code

Article 6	Fire Code
Article 7	Fuel Gas Code
Article 8	Solid Fuel-Burning Devices
Article 9	Energy Standards
Article 10	Sanitary Standards and Regulations
Article 11	Utility Undergrounding Requirements
Article 12	Construction Site Regulations
Article 13	Building Inspector and Building Permits
Article 14	Carbon Monoxide Detector/Alarm Regulations
Article 15	Deconstruction and Recycle Plan
Article 16	Basement Construction Requirements

APPENDIX

Appx-i

Appendix A	Fee Schedule
Appendix B	Streets Upon Which Skiing Is Permitted
Appendix C	Water Quality Monitoring Plan Outline
Appendix D	Spill Prevention, Storage, Control, Countermeasure and Contingency Plan
Appendix E	Hearing Procedure and Record of Decision
Appendix F	Notice of Agreement for Land Use Conditions and Restrictive Covenants
Appendix G	Restaurant Uses and Their Approximate Square Footage as They Existed on May 14, 1994
Appendix H	Vested Property Rights: Option for Application Form; Waiver of Vested Property Rights Form
Appendix I	Required Wording on Minor Subdivision Final Plat
Appendix J	Subdivision Improvements Agreement Form
Appendix K	Subdivision Application Form
Appendix L	Utility Location Plan
Appendix M	Required Wording on Major Subdivision Final Plat
Appendix N	Affordable Housing Guidelines
	<i>Part I The Kapushion Annexation, Owner-Occupied Affordable Housing</i>
	<i>Part II Red Lady Estates Mobile Home Park Spaces</i>
	<i>Part III Red Lady Estates Condominiums</i>
	<i>Part IV Town Ranch House Occupancy Guidelines</i>
	<i>Part V Relationship to Subdivision Regulations</i>
	<i>Part VI Butte Avenue and Seventh Street</i>
	<i>Part VII Verzuh Annexation</i>
	<i>Part VIII Paradise Park Subdivision, Blocks 77 and 78</i>

Appendix O Land Transfer Excise Tax Exemption Application and Certificate

Appendix P Wastewater Service Area

Appendix Q Model Subdivision Cost and Expense Reimbursement Agreement

TABLES

Code Comparison Table	T-1
Disposition of Ordinances Table	T-21
Table of Up-to-Date Pages.....	T-101

INDEX

.....	I-1
-------	------------