

n. The terms and conditions relative to any warranties provided, including, without limitation, statutory warranties and limitations on the enforcement thereof or on damages.

o. A statement that the proposed Project and the Applicant has complied with all applicable requirements of § 12-61-401 et seq., C.R.S. and such rules and regulations promulgated by the Commission applicable to Timeshare Development Projects as contemplated under these Timeshare Development Guidelines.

p. The extent to which a Timeshare unit may become subject to a tax or other lien arising out of claims against other Timeshare owners of the same Timeshare unit.

q. The minimum percentage of Timeshare Estates the Applicant will require be sold before the Applicant will proceed with the completion of the Project.

r. A description of the management and maintenance to be supplied to the Project including how and when such services will be provided and the time periods during each calendar year which will be set aside for only maintenance and no occupancy.

s. How the Project will deal with the problem of a unit not being available to an owner because of a prior occupant holding over and not yielding possession of the unit; and, in the case of a holdover problem, what means are available to discourage and penalize persons who do holdover.

t. A description of the amenities and recreational facilities that are available for use by the Timeshare Estates owners on a deeded or contractual basis, and whether such amenities and facilities are available on-site or off-site and owned by the Association (or the owners in common) or by a commercial owner. If there are any off-site amenities or facilities that are related to the Project or owned by a commercial owner, these shall also be described, including a summary of any fees that Timeshare interest owners will be required to pay to use those off-site amenities or facilities or amenities or facilities not owned by the Association.

u. A statement describing the number of persons who can occupy a unit at any one time and what those limitations are for each unit in the Project. Said requirement must meet the State of Colorado's occupancy requirements.

v. For any Timeshare Development that is a conversion of an existing property, a statement shall be provided by the Applicant, based on a report prepared by an independent architect or engineer licensed by the State of Colorado describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the Project and the differences between said conditions and their compliance with current life safety standards or requirements contained in the most currently-

adopted building, fire, health and safety codes upon completion of the conversion of the Project. The statement shall also provide a list of any outstanding notices of uncured violations of building codes or other municipal regulations, together with the estimated cost of curing those violations.

w. A statement by the Applicant of the expected useful life of each item reported in Subsection v. above.

To the extent that these Timeshare Development Guidelines require that the Timeshare Disclosure Statement contain a disclosure that is duplicative of a disclosure required by the Commission, the Applicant may reference such disclosure to the Commission in the Timeshare Disclosure Statement by referring to the applicable provision(s) thereof, it being the Town's intent to not require the Applicant to submit duplicative disclosures to the Town and the Commission. Notwithstanding the foregoing, the burden of proof shall be on the Applicant to demonstrate to the satisfaction of the Town that a disclosure required in the Timeshare Disclosure Statement is duplicative of a Commission required disclosure.

3. **Fiscal Impact Study.** In the case of a conversion of an existing property into a Timeshare Development Project, the Project shall be required to demonstrate that the proposed conversion will not have a negative tax consequence to the Town. In order to demonstrate the tax consequences of the Project, the Applicant shall prepare a detailed Fiscal Impact Study thereof. The Fiscal Impact Study shall contain at least the following comparisons between the existing operation and the proposed converted Project:

a. A summary of the sales taxes paid to the Town for the rental of units during the prior five (5) years of its operation. If the subject property stopped renting rooms prior to the time of submission of the Application, then the summary shall reflect the final five (5) years that the subject property was in operation. The summary of past taxes paid shall be compared to a projection of the sales taxes the proposed Project will pay to the Town over the first five (5) years of its operation. As part of this projection, the Applicant shall specify the number of nights that the Applicant anticipates each unit will be available for daily rental to visitors (that is, the annual number of nights when the unit will not be occupied by the owner or the owner's guests), the expected visitor occupancy rate for these units, the expected average daily cost to rent the unit and the resulting amount of sales tax that will be paid to the Town.

b. An estimation of the land transfer excise taxes that will be paid to the Town for Timeshare Estates as they are sold. If an actual sale of a Timeshare Estate has occurred within the last twelve (12) months, then the real estate taxes paid for that sale thereof shall be used. This estimation shall be compared to a projection of the land transfer excise taxes the proposed Project will pay to the Town over the first five (5) years of its operation. This projection shall include a statement of the expected sales prices for the Timeshare Estates and the applicable tax rate that will be applied to each sale.

c. A summary of the Town portion of the property taxes paid for the property for the prior five (5) years of its operation and a projection of the property taxes the proposed Project will pay to the Town over the first five (5) years of its operation. This projection shall include a statement of the expected value that will be assigned to the property and the Timeshare interests by the tax assessor and the applicable tax rate.

d. Such other information that the Applicant believes is relevant to the Town understanding the tax consequences of the proposed Project. For example, the Applicant may provide information demonstrating there will be "secondary" or "indirect" tax benefits to the Town from the occupancy of the units in terms of increased retail sales and other economic activity in the community as compared to the existing uses of the property. The Applicant shall be expected to prove definitively why the Timeshare units would cause such economic advantages that would not be achieved by a traditional Hotel or Lodge or Motel. Any such additional information provided shall compare the taxes paid during the prior five (5) years of the property's operation to the first five (5) years of the proposed Project's operation.

e. If the Fiscal Impact Study demonstrates there will be an annual tax loss to the Town from the conversion of an existing property to a Timeshare Development in any of the specific tax categories (e.g., property tax, sales tax, land transfer excise tax), then the Applicant shall be required to propose a mitigation program that offsets the negative consequences. Analysis of the Fiscal Impact Study shall compare existing tax revenues for a lodging property with anticipated tax revenues. The accepted mitigation program shall be documented in the CC&Rs and shall be complied with for the life of the Project, unless amended earlier as permitted hereunder.

4. Management and Maintenance Plan; Taxes. The Management and Maintenance Plan shall demonstrate how the Project will be appropriately managed and maintained in a manner that will be both stable and continuous for the life of the Project. This shall include an identification of when and how maintenance will be provided and shall also address, at a minimum, the following requirements:

a. A fair procedure shall be established for the Timeshare Estate owners to review and approve any fee increases which may be made throughout the life of the Project to provide assurance and protection to Timeshare Estate owners that all fees will be applied and used appropriately.

b. The Applicant shall also demonstrate that there will be a reserve fund of not less than three (3) months of the costs and expenses associated with the management and maintenance of the Project to provide funds to properly manage and maintain the Project by the Association throughout its lifetime.

c. The management and maintenance agent responsible for the Project shall acquire a business license and each such designated agent shall provide the Town with said agent's name, address and phone number. Said agent and the Association shall be

responsible to keep all information in the Management and Maintenance Plan, the management and maintenance agreement and any other records or other matters addressed in Subsections O. and P. current and up to date. Each designated management agent shall have a local business office within the Town.

d. A reasonable amount of time shall be allocated periodically to the performance of routine maintenance to the Project.

e. The management and maintenance agreement shall contain the following, at a minimum:

(1) the Association shall designate a managing agent or officer;

(2) an up to date copy of said agreement shall be kept on file at the Project and shall be available for review by the Town during normal business hours;

(3) in the event the managing agent is terminated, a new managing agent shall be designated as soon as possible by the Association without interruption in services to the owners;

(4) the Association shall notify the Town of any change in its managing agent or the management and maintenance agreement within thirty (30) days of such change and provide a copy of any changes of the maintenance and management agreement on file with the Town; and

(5) the management and maintenance agreement shall specify the managing agent's duties and responsibilities to manage and maintain the Project.

f. Regarding the payment of sales and transfer excise taxes:

(1) The Association shall acquire and maintain a Town sales tax license. The Association shall use best efforts to collect Town sales tax, and in connection with such collection efforts, shall prepare and file sales tax returns and remit to the Town of sales taxes, for rentals or lodging services of the physical units in the Project irrespective of how such units are rented and by whom. The Association shall keep and maintain suitable records of rentals or lodging services relative to the use of the units. Such records shall be available for audit by the Town during normal business hours in accordance with Section Article 4-7.

(2) Regardless of the Association's responsibilities relative to the remittance of sales taxes as described in Subsection f. (1) above, each owner of a Timeshare Estate shall ultimately be responsible to the Town for the timely payment of sales tax to the Town on rentals and lodging services provided in connection with his or her unit, including, without limitation, those provided on a private basis or otherwise separate from the Project's managing agent and/or reservation system. The Association shall require that each owner keep

and maintain suitable records of rentals or lodging services relative to the use of his or her unit on such a basis and shall require that the owner provide such records to the Association no less frequently than annually.

(3) Before the Association will recognize a purchaser of a Timeshare Estate as a member in good standing with the Association, the new member must provide proof of payment of the Town's land transfer excise tax (such as a tax report made to the Town Manager, collection report of the transfer closing agent or notation by the Clerk and Recorder for Gunnison County) or proof of the Town's approval of a certificate of exemption. The Association will maintain all proof of payment or certificates of exemption for at least three (3) years after the transfer date and shall make such records available for the Town's inspection during normal business hours upon reasonable request.

The CC&Rs shall contain assurances that the terms and conditions of this Subsection shall be complied with for the life of the Project, unless earlier amended as provided hereunder. In connection therewith, the management and maintenance company and the Association shall submit to periodic inspections, compliance reviews and reporting programs.

5. Marketing and Sales Plan. The marketing and sale of Timeshare Estates shall be governed by the provisions of § 12-61-401 et seq., C.R.S. The Marketing and Sales Plan for the Project shall demonstrate compliance therewith as well as the following:

a. The following marketing and sales practices for a Timeshare Development Project shall not be permitted: (i) the solicitation of prospective purchasers of Timeshare interests on any street, mall or other public property or facility; and (ii) any unethical sales and marketing practices that tend to mislead potential purchasers.

b. Giving of gifts to encourage potential purchasers to attend a sales presentation or to visit a Project is permitted, provided the gift or otherwise is reflective of the local Crested Butte economy. For example, and not by way of limitation, gifts for travel to or accommodations in Crested Butte, restaurants in Crested Butte and local attractions (e.g., area ski passes, local concert tickets, regional rafting trips, etc.) are permitted. Gifts that have no relationship to the local Crested Butte area or economy are not permitted. The following gifts are also not permitted: (i) any gift for which an accurate description relative to the Project is not given; (ii) any gift package for which notice is not given to the prospective purchaser that the purchaser will be required to attend a sales presentation as a condition of receiving the gifts; or (iii) any gift package for which the printed announcement or the requirement to attend a sales presentation is in smaller type face than the information on the gift being offered.

c. Before transfer of a Timeshare Estate to a perspective purchaser, the Applicant or any other seller of a Timeshare Estate shall provide the intended transferee with a copy of the Timeshare Disclosure Statement and any amendments thereto. Conveyance of a Timeshare Estate shall be subject to the Timeshare Instruments.

d. Without limiting any other right or remedy the Town may have at law or in equity, upon deviation from an approved Marketing and Sales Plan, the Town shall have the right to enjoin the sales and marketing techniques thereof.

The Applicant shall submit the Project to periodic compliance reviews to ensure the Project's compliance with the foregoing requirements.

6. Upgrading Plan.

a. In the case of a conversion of an existing property into a Timeshare Development Project, the Upgrading Plan shall demonstrate that the existing property that is proposed to be converted to a Timeshare Development Project shall be physically upgraded and modernized in a manner that creates a Timeshare Development Project and that embodies the standards for acceptable Timeshare Development projects under these Timeshare Development Guidelines. Further, Upgrading Plan shall establish that the project will conform with all current life safety standards or requirements contained in the most currently-adopted building, fire, health and safety codes. The extent of the upgrading shall be determined as part of the conditional use permit approval considering the condition of the existing facilities, with the goal of making the Project compatible in character with surrounding properties and to extend the useful life of the existing structures. No sale of any Timeshare Estate shall be closed until a certificate of occupancy has been issued for the subject property.

b. The Applicant shall demonstrate in the Upgrading Plan that the existing declaration of real covenants, conditions and restrictions encumbering the property that is the subject of a conversion to a Timeshare Development Project permit Timesharing and that one hundred percent (100%) of the owners of the Condominiums therein have approved Timesharing of the subject property.

7. CC&Rs.

a. The CC&Rs shall comply with § 38-33.3-101 et seq., C.R.S. and Section 15-2-18.5.

b. The CC&R's shall include provisions addressing those assurances and requirements mandated as part of the Timeshare Use Plan, the Fiscal Impact Study and Management and Maintenance Plan and such other requirements as specified by the Town to be included in the CC&Rs in the conditional use approval for Timeshare Development and by these Timeshare Development Guidelines. Such provisions shall encumber the Timeshare Development Project for the life of the Project unless and until amended or modified as permitted under Subsection N. and shall run with the land. The CC&Rs shall further include a statement to the effect that any amendment or modification of the foregoing sections shall require prior approval of the Town as provided in these Timeshare Development Guidelines.

c. The CC&Rs shall include the following: (i) any restrictions on the

use, occupancy, alteration or alienation of Timeshare Estates; (ii) the ultimate responsibility for management and maintenance of the Project shall reside with the Association; and (iii) any other matters that the Applicant or the Town deems reasonably necessary or relevant to the Timeshare Development Project and the granting of the conditional use in connection therewith.

d. The CC&Rs shall contain requirements that (i) the rental or provision of lodging services in any unit in the Project shall be subject to the Town's sales tax; (ii) the Association shall collect Town sales tax, prepare and file sales tax returns and remit to the Town of sales tax payments, for rentals or lodging services of the physical units in the Project and in this regard the Association shall keep and maintain suitable records of rentals or lodging services relative to the use of the units irrespective of how such units are rented and by whom; and (iii) regardless of the Association's responsibilities relative to the remittance of sales taxes as described in the preceding sentence, each owner of a Timeshare Estate shall be responsible to the Town for the timely payment of sales tax to the Town on rentals and lodging services provided in connection with his or her unit on a private basis or otherwise separate from the Project's managing agent and/or reservation system and in this regard each owner shall keep and maintain suitable records of rentals or lodging services relative to the use of his or her unit on such a basis.

e. The CC&Rs shall contain adequate assurances that the transferor of a Timeshare Estate shall provide the Association proof of payment or exemption from payment of all land transfer excise taxes to the Town upon the transfer of a Timeshare Estate. In connection therewith, the CC&Rs shall contain a provision that makes the purchaser of a Timeshare interest obligated to pay all unpaid land transfer excise taxes and that upon non-payment such tax becomes a lien on the subject property.

f. The CC&Rs shall contain provisions permitting Timesharing.

g. The CC&Rs shall contain a provision relative to the service of process in connection with any unit that complies with the requirements of Section 15-2-18.5.C.4.

h. Where the Town has required that certain provisions be included in the CC&Rs and, where proper, such provisions would more appropriately, in the opinion of the Director, be included in the conditional use approval for Timeshare Development instead, such provisions may be included in said conditional use approval in lieu upon the request of the Applicant and approval of the Director.

8. **Use Plan Regulations.** A draft of the Use Plan Regulations governing, without limitation, the reservation, use, exchange and occupancy of the physical units divided into Timeshare interests in the Timeshare Development Project. The Use Plan Regulations may be incorporated in the CC&Rs at the Applicant's election, but in all cases shall be consistent with the Timeshare Use Plan on file with the Town and shall be recorded in the office of the Clerk and Recorder for Gunnison County as one of the Timeshare Instruments.

9. **Condominium Plat.** A draft of the Plat.

I. **Parking, Tap Fee Requirements.**

1. The parking requirements for Timeshare Development Projects shall be calculated by applying the parking standards for Hotel or Lodge uses. The parking requirements shall be calculated based on the maximum number of proposed lock-out rooms or keys in the Project.

2. The owner of a Timeshare Estate shall be prohibited from storing a vehicle in a parking space on-site when said owner is not using a unit. The CC&Rs shall contain adequate assurances that this requirement shall be complied with for the life of the Project, unless amended earlier as permitted hereunder.

3. To the extent that a Project includes one or more uses, the parking requirements shall be calculated by applying the parking requirements applicable to said uses as further delineated in the Zoning and Land Use Ordinance.

4. The Applicant shall pay tap fees under the Code at a rate that is the greater of that applicable to Residential Units or Hotel or Lodge units.

J. **Miscellaneous Requirements.** In addition to the Application and the associated submittals demonstrating compliance with the review criteria set forth in Subsection G., the Project must also satisfy the following requirements, if applicable:

1. If the Project requires approval by the Board of one or more Planned Unit Developments, the Project must comply with the requirements applicable to Planned Unit Developments set forth in Section 15-2-15.2.

2. If the Project requires Board approval of one or more conditional uses, i.e., in addition to the conditional use approval required for a Timeshare Development Project, the Project must comply with the conditional use requirements applicable thereto set forth in Section 15-2-16 and 15-2-26.

3. Where any other use is combined with Timeshare Development, such use shall comply separately with the requirements of the underlying zone district contained in the Zoning and Land Use Ordinance.

4. The Applicant for a Timeshare Development Project shall pay the established fees for any conditional use permits. Such fees shall be in addition to all costs and expenses reasonably incurred by the Town in connection with the review, approval and prosecution of the Application for Timeshare Development by the Town.

K. Director Approval, Disapproval of Application.

1. Upon submission of the Application to the Director, the Director shall review the Application and associated submittals and determine if the same are complete and comply with these Timeshare Development Guidelines within sixty (60) days of their submission.

2. If the Director has determined that the Application is complete and meets the requirements of these Timeshare Development Guidelines, the Director shall refer the Application to the Board for its review and approval pursuant to Sections 15-2-16 and 15-2-26 within sixty (60) days of the Application's submission, subject to Subsection L. of these Timeshare Development Guidelines. As part of the Director's referral of the Application, the Director shall provide a staff report which shall include, without limitation, feedback and recommendations as to the feasibility of the Project and any potential issues that the Director determines are important or relevant to the Project and its approval or disapproval as a conditional use. The Application shall be placed on the Board's agenda for its review in accordance with Sections 15-2-16 and 15-2-26.

3. In the event that the Director finds that the Application is incomplete or fails to meet the requirements of these Timeshare Development Guidelines, the Director shall return the Application to the Applicant along with a written response outlining in reasonable detail the reasons for his findings within sixty (60) days of the Application's submission. Upon correction of those issues identified by the Director, the Applicant may resubmit the Application incorporating such corrections. The Applicant shall pay all costs and expenses of the Town in connection with the Town's review and approval of the resubmitted Application. Upon resubmission, the process described in this Subsection K. shall again be applied to the amended Application's review and approval or disapproval.

4. The Director's incompleteness determination shall not be subject to appeal by the Board pursuant to Section 15-2-26.

L. Concurrent Review of Conditional Use and Planned Unit Development Approvals with Review of Application. The Application may be submitted by the Applicant for compliance review by the Director concurrently with review of any other application for a conditional use or Planned Unit Development by the Board. The Director may find the Application to be complete before such other conditional use or Planned Unit Development approvals have been granted by the Board; however, the Director may not refer the Application to the Board for approval of the conditional use for Timeshare Development until such time as the Board has approved such other conditional uses or Planned Unit Developments, as applicable; or, at the Director's discretion, the Director may refer the Application for approval of the conditional use Timeshare Development conditional upon the approval of such other conditional use or Planned Unit Developments.

M. Condominium Plat, CC&Rs Approval by Town Council. Once the Board has

granted the conditional use for Timeshare Development and the Director has issued a temporary certificate of occupancy, the final, executable version of the Plat and the CC&Rs shall be submitted by the Applicant to the Director and the Town Attorney for review and approval by the Town Council in accordance with Section 15-2-18.5.

N. Recordation of Timeshare Instruments. Upon approval of the conditional use for Timeshare Development by the Board and execution of the same by the Town Council, and upon approval by the Town Council of the final Plat and CC&Rs executed by the Applicant, the Town Council, having executed the Plat and the conditional use for Timeshare Development, shall authorize the Applicant's delivery and recordation of the final Timeshare Instruments with the Office of the Clerk and Recorder for Gunnison County. The Applicant thereafter shall record the same within five (5) business days, failing which the Town Council's conditional use approval shall be null and void. The Town Council shall order the Town Clerk to concurrently cause the conditional use approval for Timeshare Development to be recorded along with the Timeshare Development Instruments.

O. Continuing Obligation Regarding Updating and Filing. The Association shall have a continuing obligation to update the Application, any submittals delivered in connection therewith and any final, recorded Timeshare Instruments and to timely file with the Director (filing with the Office of the Clerk and Recorder for Gunnison County not being deemed sufficient for this filing requirement with the Town) all amendments to the same. Such amendments shall comply with the following requirements:

1. The Association and not the individual Timeshare Estate owners shall have the continuing responsibility to submit to the Director any amendments to the Timeshare Instruments and any other components of the Application and associated submittals that would alter any condition imposed by the Town or materially alter any prior representation made by the Applicant in the Application and associated submittals to obtain approval of the Project. Once the Association has been formed, the Town shall not accept any amendments for review without prior approval thereof by the Association.

2. No amendment that materially alters any component of the Application or associated submittals or the Timeshare Instruments shall be effective unless approved and accepted in advance by the Director, such unapproved and unaccepted amendments hereby being made null and void.

3. All amendments shall be initially submitted for review by the Director who shall have authority to either approve a proposed amendment that makes a material change to any component of or submittal under the Application or Timeshare Instrument as in compliance with these Timeshare Development Guidelines or disapprove such amendment as not in compliance herewith. The Director shall review and render a decision on such proposed amendment within sixty (60) days of its submission thereto.

4. Any such amendment may be referred by the Director to the Board if the Director determines that the amendment proposes changes to the Project that, on balance, had

they been submitted at the time of the initial approval of the Timeshare Development conditional use might have caused the Board to impose additional conditions or might have been grounds for a denial of the conditional use for Timeshare Development. The Board's review of such amendment shall be in accordance with Section 15-2-16 and 15-2-26.

5. Within fifteen (15) days after the Director's decision on a proposed amendment, the Applicant or the Association, as the case may be, may request a reconsideration by the Board of said Director's decision. The Board shall reconsider the Director's decision in accordance with Section 15-2-16 and 15-2-26.

P. Reporting Requirements; Compliance Reviews; Inspections.

1. Without limiting the requirements of Subsection O. hereof, the Association shall submit to the Director, on an annual basis no later than March 1 of each calendar year, a report detailing the following:

a. monthly occupancy rates delineating the amount of use of the Project by owners, their guests, exchange participants and the amount of use by the general public or rental guests;

b. sales tax generated by Timeshare Estate and unit and other transactions in the Project including a description of the source of generation of such taxes;

c. average room rates charged, broken down by month;

d. the management and maintenance agreement, unless the manager is engaged as an employee of the Association;

e. the Association's managing and maintenance entity for the Project;

f. all managing entities involved in the Project and the specific physical units divided into Timeshare Interests that said entities manage;

g. transfers of ownership of Timeshare Estates, including the dates of such transfers;

h. Timeshare Estates owned by the Applicant;

i. reserve balances for management and maintenance;

j. annual Budget;

k. a statement that all sales taxes required to be paid for the Project have been collected and paid to the Town in connection with the Project for the preceding

year;

l. improvements, upgrades and alterations made to the Project; and

m. changes and amendments to the Application and any associated submittals and the Timeshare Instruments.

2. After the conclusion of the fifth (5th) year following the conditional use approval for a Timeshare Development Project (inclusive of any material amendments thereto), the Association may apply to the Director for a waiver or one or more the foregoing reporting requirements/submittals. The Director may waive the requested reporting requirements/submittals only for good cause shown, the burden of proof of which shall be on the Association.

3. In addition to the reporting requirements herein set forth, the Association and the Applicant may be required to submit to periodic compliance reviews conducted by the Town to confirm the Association and the Applicant's ongoing compliance with these Timeshare Development Guidelines and the Timesharing conditional use approval for the Project. Such compliance reviews may be conducted no more often than annually, upon reasonable advanced notice and during normal business hours.

4. The Association and the Applicant may be required to submit the Project to periodic physical inspections conducted by the Town to confirm the Project's ongoing compliance with these Timeshare Development Guidelines and the conditional use approvals for the Project. Such inspections may be conducted no more than twice annually, upon reasonable advanced notice and during normal business hours.

Q. Protection of Certain Records. Pursuant to § 24-72-204(3)(a)(IV), C.R.S., the Town shall use reasonable efforts to protect the reporting records submitted to the Town pursuant to Subsection P.1.a., c., d., g. and h. If a request for inspection of any of said records is filed with the Town under the Colorado Open Records Law, codified at § 24-72-201 et seq., C.R.S., or under any like federal law, the Town shall deny the request and notify the Association and/or the Applicant, as the case may be, of its having been made. If an action is filed against the Town in any court to compel inspection or disclosure of any of such records, the Town shall notify the Association and/or the Applicant and shall permit the same to participate in such action to protect the contents of said records from inspection or disclosure at the sole cost and expense of the Association and/or the Applicant. Notwithstanding anything contained herein or in § 24-72-201 et seq., C.R.S. to the contrary, the Town shall have no obligation or liability to expend its funds or resources to defend against such action, and shall have no liability hereunder for complying with any final, non-appealable order of the court entered in such action. Nothing contained herein is intended to or shall limit the tax information confidentiality requirements set forth in Section 4-7-22.

R. Prohibited Uses and Practices. It shall be unlawful for any person to engage in any of the following practices in connection with any Timeshare Development Project:

1. intentional misrepresentation of any matter contained in the Application or associated submittals for Timeshare Development, whether to the Town or to any third party;
2. violating any requirement of these Timeshare Development Guidelines;
3. the act of operating any Timeshare Development Project in the Town without first obtaining a business license in accordance with the Town's standard business licensing procedures; and/or
4. acting in any manner to intentionally circumvent the terms, conditions and requirements of these Timeshare Development Guidelines.

S. Remedies for Non-compliance. In addition to any and all remedies provided by law, the Town shall have the following remedies for non-compliance with these Timeshare Development Guidelines:

1. The Town may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent or enjoin a use, occupancy or conveyance relating to a Timeshare Development Project or any portion thereof or to enjoin any property owner or Applicant from selling, agreeing to sell or offering to sell or otherwise conveying a Timeshare Estate without full compliance with these Timeshare Development Guidelines and receipt of all approvals required herein.

2. The Board may withdraw any approval of a Project or require certain corrective measures be taken following the determination that information provided by the Applicant, or by anyone on its behalf, on which a decision in granting the Timeshare Development conditional use was based, was materially false or inaccurate. The Town's rights and remedies in connection with such materially false or inaccurate information shall be only as against the Applicant and their respective assignees, and shall not apply to individuals who have purchased units from the Applicant, unless such individuals actively participated in providing such false or inaccurate information or had actual knowledge thereof. The Town Manager shall cause written notice to be served on the Applicant and their respective assignees, setting out a clear and concise statement of the alleged false or inaccurate information provided by the Applicant, or anyone on his behalf, directing the Applicant to appear at a time certain for a hearing before the Board not less than ten (10) days or more than thirty (30) days after the date of service of notice. The Board shall determine at the hearing the nature and extent of the alleged false or inaccurate information and shall have power, on good cause being shown, to withdraw any conditional use approval or require that certain corrective measures be taken in the event it finds the allegedly false or inaccurate information is indeed materially false or inaccurate in any regard and had the correct information been supplied at the time of initial approval the outcome could have been different. Withdrawal of approval or

imposition of corrective requirements shall not, however, be an exclusive remedy and any and all remedies provided by law and in equity may be exercised by the Town cumulatively and concurrently.

3. Nothing contained herein is intended to or shall limit, restrict or otherwise abrogate the Town's ability to pursue all rights and remedies of the Town at law and in equity to collect any unpaid land transfer excise tax from the seller and/or the purchaser of a Timeshare interest.

4. In addition to any rights and remedies provided for specifically in these Timeshare Development Guidelines, the Town shall have all rights and remedies available at law and in equity to enforce the terms, conditions and provisions of hereof, the same being cumulative and concurrent.

5. In the event that any person creates, operates, sells or otherwise deals in a Timeshare Development Project, or any interest therein, in violation of the requirements of these Timeshare Development Guidelines and Section 15-2-16, said offending party and its offense shall be subject to the violation and penalty provisions set forth in Section 15-2-29."

Section 5. Amending Section 15-2-16, Conditional Use Procedure, to Add Criteria for Board Decisions Relative to Timeshare Development Projects. A new Subsection 15-2-16.G. is added to the Section, with existing Subsection G. and the following existing Subsections to be re-lettered accordingly. New Subsection 15-2-16.G. shall read as follows:

"G. Criteria for Board Decisions Relative to Timeshare Development Projects.

1. No conditional use shall be approved for a Timeshare Development Project unless the Board finds that the Project complies with the following criteria for a Timeshare Development Project. If the Project does not comply with all of the following criteria, the Project may be approved with conditions that ensure adequate compliance with all of such criteria or it shall be denied by motion of the Board. The Project shall:

a. be consistent with the purpose, intent, goals and objectives of these Timeshare Development Guidelines;

b. shall demonstrate that the negative impacts caused by the Project through the life thereof upon, without limitation, the Town's image as a historic residential community, infrastructure and other structures, revenue sources, transportation systems, amenities, programs and facilities, programs and facilities of special districts providing services to the Town will be satisfactorily mitigated; and

c. any other matter of consideration that the Board deems to be relevant in upholding the purposes, intents, goals and objectives of these Timeshare Development Guidelines.

2. The conditional use approval for Timeshare Development shall meet the criteria established under Section 15-2-16.B.

3. In granting the conditional use approval for Timesharing, the Board shall also consider the affect of the Project to the availability of short-term rentals available to the general public on a year-round basis."

Section 6. Amending Section 15-2-19.H., Limitation on Leasing, by Deleting the Section in its Entirety and Replacing said Section. Section 15-2-19.H. is hereby amended by deleting the Section in its entirety and replacing it with the following:

"H. Limitation on Leasing.

1. There shall be imposed a limitation on the Rentals, Short-term, of property as herein provided:

(a) In the "B1" zone district, no property shall be rented for a period shorter than one (1) month more than twice in any calendar year.

(b) In the "R1", "R1A", "R1C", "R2", "R2C", "R3C", and "B3" zone districts unlimited Rentals, Short-term shall be allowed provided that the owner obtains a revocable license for such use from the Town. Such revocable license shall be granted upon a showing of:

- (i) adequate parking;
- (ii) receipt of required business licenses, including the Business Occupation License Tax;
- (iii) identification of a management contact person or entity within Gunnison County;
- (iv) adequate rubbish storage and removal; and
- (v) adequate instruction to tenants regarding solid fuel burning devices and parking restrictions.

2. The terms and conditions of this Subsection H. shall not apply to Timesharing, Condo Hotels and Hotel or Lodges, as the same shall not be considered Rentals, Short-term."

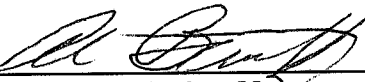
Section 7. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions 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.

Section 8. Savings Clause. Except as amended hereby, the Town of Crested Butte Municipal Code of 1987, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town which is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 21st DAY OF July, 2008.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 18th DAY OF August, 2008.

TOWN OF CRESTED BUTTE, COLORADO

By: 
Alan Bernholtz, Mayor

ATTEST:


Eileen Hughes, Town Clerk

(SEAL)

