

**ORDINANCE NO. 9**

**SERIES 2009**

**AN ORDINANCE APPROVING THE AMENDED AND  
RESTATED DEED OF CONSERVATION EASEMENT  
FOR THE PEANUT MINE PROPERTY**

**WHEREAS**, the Town of Crested Butte, Colorado (the "**Town**") is a home rule municipality duly and regularly organized and validly existing as a body corporate and politic under and by virtue of the Constitution and laws of the State of Colorado;

**WHEREAS**, the Town and the Peanut Mine, Inc. (the "**PMI**") are parties to that certain Deed of Conservation Easement recorded in the Office of the Clerk and Recorder of Gunnison County, Colorado on January 2, 2002 at Reception No. 517022 and re-recorded February 5, 2002 at Reception No. 517985 (the "**Conservation Easement**") by which the Town accepted a conservation easement in and to that certain real property described therein (the "**Easement Area**") (PMI having been transferred the Easement Area by the Crested Butte Land Trust);

**WHEREAS**, PMI desires to amend the Conservation Easement in order to (i) allow for the installation of an entrance gate to the south thirty five (35) acre parcel located immediately adjacent to and north of the Easement Area, (ii) allow for the lease of all or a portion of the Easement Area for nordic skiing purposes and the construction of a 1,100 square foot 24 foot high nordic building along with other related structures and improvements; and (iii) allow for a lease, separately fenced, of all or a portion of the Easement Area, as specifically described in the Conservation Easement, for agricultural purposes and an agricultural building no larger than 1,100 square feet and 24 feet high, and associated corrals;

**WHEREAS**, the Town staff has determined that amending the Conservation Easement as contemplated herein will uphold the Conservation Values (as defined in the Conservation Easement) of the Easement Area and, therefore, recommends to the Town Council that the Town make the amendments set forth herein; and

**WHEREAS**, the Town Council finds that the amendments to the Conservation Easement provided for herein will uphold the Conservation Values of the Easement Area, and, accordingly, such amendments are in the best interest of the health, safety and welfare of the Town, its residents and visitors.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,**

**Section 1. Acceptance and Amendment to Easement.** The Town Council hereby approves and accepts the Second Amended and Restated Deed of Conservation Easement attached hereto as **Exhibit "A"** (the "**Amendment**").

**Section 2. Authorization for Execution.** The Town Council hereby authorizes the Mayor, the Mayor Pro tem and other appropriate Town officials to execute, deliver and records, as necessary, any and all documents necessary and convenient for the purpose of accepting and entering into and effectuating the Amendment.

**Section 3. 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 shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

**Section 4. Savings Clause.** Except as amended hereby, the Crested Butte Municipal Code, 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 6th DAY OF JULY, 2009.**

**ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 17th DAY OF AUGUST, 2009.**

**TOWN OF CRESTED BUTTE, COLORADO,**

By:   
Alan Bernholtz, Mayor

ATTEST:  
  
Eileen Hughes, Town Clerk

(SEAL)

**EXHIBIT "A"**

**Second Amended and Restated Deed of Conservation Easement**

**[attach here]**