

ORDINANCE NO. 23

SERIES 2007

**AN EMERGENCY ORDINANCE PLACING A
TEMPORARY MORATORIUM ON ALL
DEVELOPMENT IN THE TOWN OF CRESTED
BUTTE'S WATERSHED**

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 has in place a Watershed Protection District Ordinance (the "Watershed Ordinance"), promulgated in the Crested Butte Municipal Code of 1986, as amended (the "Town Code"), at Article 14-5 *et seq.*;

WHEREAS, the Watershed Ordinance protects the Town's waterworks from the threat to or actual pollution or injury to said waterworks pursuant to the authority granted municipalities by Colorado Revised Statutes (C.R.S.) § 31-15-707(1)(b);

WHEREAS, the County of Gunnison (the "County") has designated areas of state interest that fall within the Town's watershed, and according to C.R.S. § 24-65.1-1 *et seq.*, after an area of state interest has been so designated, no person shall engage in development in such area until the designation and regulations for such area are finally determined and a permit has been issued;

WHEREAS, the Town Council is currently in the process of revising the Watershed Ordinance to, among other things, more comprehensively address and regulate development that poses a threat to or causes actual pollution or injury to the Town's waterworks and regulate such development in a manner not inconsistent with the County's regulation of said areas of state interest in the Town's watershed;

WHEREAS, the Town Council has determined that protecting the Town's waterworks from development that poses a threat to or causes actual pollution or injury to said waterworks and the regulation of such development in a manner not inconsistent with the County's regulation of said areas of state interest in the Town's watershed is of vital importance to the environment, health, safety and general welfare of the residents and visitors of the Town; and

WHEREAS, the Town Council has determined that until the Town Council has completed the aforesaid revisions to the Watershed Ordinance and adopted an amended watershed ordinance addressing the matters described above, it is in the best interest of the environment and the health, safety and general welfare of the residents and visitors of the Town that the Town Council impose a temporary moratorium on all further new development in the Town's watershed.

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

Section 1. Temporary Moratorium. A temporary moratorium (the “**Moratorium**”) is hereby declared and imposed on all development located in the Town’s watershed.

Section 2. Moratorium Term. The Moratorium shall run from the date of adoption of this ordinance until such time as the Town Council has adopted an amended watershed ordinance addressing the matters described herein, or six (6) months from the date of adoption of this ordinance have expired, whichever occurs first (the “**Moratorium Term**”). This Moratorium may be terminated at any time by the Town Council for the immediate preservation of the health, safety and general welfare of the residents and visitors of the Town.

Section 3. Applicability. The Moratorium shall apply to all development located in Town’s watershed. For purposes hereof, “development” shall include, without limitation, any activity not being conducted as of the effective date of this ordinance that disturbs or modifies the condition of the surface or subsurface land or water within the Town’s watershed. During the Moratorium Term, no development may be undertaken in the Town’s watershed. Development shall not include agricultural activities such as plowing, haying, seeding, cultivating, minor drainage, harvesting for the production of food, livestock or grazing.

Section 4. Enforcement. Any person engaging in any activity not in compliance with this ordinance may be enjoined by the Town from engaging in such activity and shall be fined an amount not to exceed \$1,000.00 a day for each offense or by imprisonment not exceeding one year, or both. Nothing contained herein shall limit the Town from seeking any other remedies that may be available at law and in equity, including payment of costs and reasonable attorneys’ fees. All remedies shall be cumulative and concurrent.

Section 5. Effective Upon Adoption; Emergency. The Town Council hereby finds that the Watershed Ordinance, until revised to, among other things, more comprehensively address and regulate development that poses a threat to or causes actual pollution or injury to the Town’s waterworks and regulate such development in a manner not inconsistent with the County’s regulation of said areas of state interest in the Town’s watershed, is inadequate in protecting the environment and the public health, safety and general welfare of the residents and visitors of the Town; and, therefore, this ordinance and the Moratorium established hereby is necessary to the immediate preservation of the environment and public health, safety and general welfare; and, therefore, this ordinance is an emergency and shall take effect immediately upon adoption.

Section 6. 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 7. Savings Clause. Except as hereby amended, the Town Code shall remain valid and in full force and effect.

INTRODUCED, READ AND ADOPTED BY THE TOWN COUNCIL THIS 7TH DAY OF AUGUST, 2007.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
Alan Bernholtz, Mayor

ATTEST:

Eileen Hughes, Town Clerk

(SEAL)