

ORDINANCE NO. 16

SERIES 2007

**AN EMERGENCY ORDINANCE PLACING A NEW
MORATORIUM ON THE INSTALLATION OF
SNOWMELT SYSTEMS IN THE TOWN OF
CRESTED BUTTE THROUGH SEPTEMBER 17,
2007**

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, on March 5, 2007 the Town Council approved Ordinance No. 5, Series 2007 ("**Ordinance 5**"), which such Ordinance 5 placed a moratorium on the installation of new snowmelt systems;

WHEREAS, the Town Council imposed the moratorium so that, prior to the installation of any new snowmelt systems in Town, Town Staff and the Town Council could study, analyze and debate various methods of regulating snowmelt systems and determine whether the placement of certain restrictions on the installation of snowmelt systems in the Town's Energy Conservation Code (the "**Energy Code**") is appropriate as a means to increasing energy efficiency and reducing greenhouse gas emissions into the environment;

WHEREAS, on May 7, 2007 the Town Council approved Ordinance No. 13, Series 2007, extending said moratorium until August 15, 2007 ("**Ordinance 13**"; together with Ordinance 5, the "**Moratorium Ordinances**");

WHEREAS, the Town Council found in the Moratorium Ordinances that based on widely accepted scientific data, greenhouse gas emissions are adversely effecting the environment and climate change globally;

WHEREAS, the Town Council determined in the Moratorium Ordinances that placing restrictions on and regulating the installation of snowmelt systems may be necessary to reduce energy usage and greenhouse gas emissions into the environment and that said restrictions and regulations, if imposed, would be in the best interest of the environment and the health, safety and general welfare of the residents and visitors of the Town;

WHEREAS, the Town Council is still in the process of studying, analyzing and debating methods of regulating the installation of snowmelt systems and the placement of restrictions on said installation in the Energy Code; and

WHEREAS, the Town Council has determined that, so that it can complete its study, analysis and debate of the placement of said restrictions and the methods of regulation, and prepare amendments to the Energy Code so reflecting such studies, analysis and debate before

any new snowmelt systems are installed, it must impose a new moratorium on the installation of snowmelt systems and that such moratorium, as described below, is in the best interest of the environment and the health, safety and general welfare of the residents and visitors of the Town.

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

Section 1. Moratorium. A moratorium ("**Moratorium**") is hereby declared and imposed from the date of adoption of this ordinance until September 17, 2007 (the "**Moratorium Period**"), or until further action of the Town Council ending or modifying this Moratorium, whichever occurs first.

Section 2. Applicability. This Moratorium shall apply to all properties located in Town; except that such Moratorium shall not apply to the installation of snowmelt systems in public sidewalks which such snowmelt systems shall in all cases comply with provisions of the Energy Code. Other than as provided herein, from the date of adoption of this ordinance until September 17, 2007, no new snowmelt systems shall be installed unless they have a previously acquired vested right.

Section 3. Emergency; Need for Moratorium; Effective Upon Adoption. The Energy Code, by not containing provisions for the restriction and regulation of the installation and operation of snowmelt systems, is inadequate in protecting the environment and the public health, safety and welfare of the residents and visitors of the Town, and therefore, this ordinance, and the Moratorium imposed hereunder, is an emergency and it is necessary for the immediate preservation of the environment, public peace, health and safety. This ordinance shall take effect immediately upon adoption.

Section 4. 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 5. Savings Clause. The Crested Butte Town Code of 1987, as previously amended and amended hereby, 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 date of adoption hereof.

ADOPTED BY THE TOWN COUNCIL THIS 18TH DAY OF JUNE, 2007.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
Alan Bernholtz, Mayor

ATTEST:

Eileen Hughes, Town Clerk

(SEAL)