

ORDINANCE NO. 16

SERIES 2006

**AN ORDINANCE AMENDING THE TOWN'S
SUBDIVISION REGULATIONS BY AMENDING
CERTAIN MAJOR SUBDIVISION DEDICATION
REQUIREMENTS AND MAJOR SUBDIVISION
DESIGN AND IMPROVEMENT STANDARDS IN
ORDER TO IMPLEMENT CERTAIN POLICIES
CONTAINED WITHIN THE CRESTED BUTTE AREA
PLAN.**

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

WHEREAS, the Town's Subdivision Regulations (hereafter "Regulations") set forth certain dedication requirements and open space preservation, lighting and affordable housing design and improvement standards for Major Subdivisions; and

WHEREAS, the Crested Butte Area Plan adopted July 5, 2006 (the "Crested Butte Area Plan") updated the 1993 Three Mile Plan and made, among other things, certain policy recommendations regarding park, public and school lands dedication, open lands preservation, a buffer along State Highway 135, setbacks from water bodies, lighting and local housing; and

WHEREAS, the Town Council has determined that, in order to implement certain policies contained within the Crested Butte Area Plan with regard to certain park, public and school lands dedication, open lands preservation, a buffer along State Highway 135, setbacks from water bodies, lighting and local housing matters, the Regulations need to be amended to include, or amend, the dedication of lands for parks, public usage and schools within the subdivision dedication requirements and lands eligible for preservation, a buffer along State Highway 135, setbacks from water bodies, new lighting requirements and affordable housing requirements in the design and improvement standards set forth in the Regulations; and

WHEREAS, additional changes to the Regulations are necessary to clarify the intent of the changes made to the Regulations under this Ordinance; and

WHEREAS, the Town Council finds that the below amendments are in the best interests of the health, safety and general welfare of the residents of the Town.

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

Section 1. Amending the Definition of Land Use Plan. Section 15-3-2. of the Regulations is hereby amended to replace the Crested Butte Three Mile Plan with the Crested Butte Area Plan in the definition of Land Use Plan.

Section 2. Adding the Defined Terms of Local Housing and Recognized Environmental Conditions. Section 15-3-2. of the Regulations is hereby amended to include the new defined terms of “Local Housing” and “Recognized Environmental Conditions”, which shall be defined as follows:

“Local Housing. Local Housing is permanently deed restricted housing. The intended beneficiaries for Local Housing are people who cannot afford unrestricted sale or rental housing prices. At a minimum, the occupants of Local Housing are a variety of mixed income people who earn at least eighty percent (80%) of their income in Gunnison County. “Earned Income” is defined by the Internal Revenue Service. (IRC § 32 (c)(2)). Other restrictions such as maximum income, maximum assets and/or maximum resale price may also be a part of a deed restriction on Local Housing.”

“Recognized Environmental Conditions. The presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property. The term includes hazardous substances or petroleum products even under conditions in compliance with laws. The term is not intended to include de minimis conditions that generally do not present a material risk of harm to public health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies.”

Section 3. Amending the Park Dedication Requirement of Subdivision Dedication Requirements. Section 15-3-6.1.5. is hereby deleted in its entirety and replaced with the following:

“5. Park, Public Land, and School Land Dedication Requirement.

(a) The following minimum land acreage shall be dedicated to the Town for public park purposes, as recommended in the Crested Butte Area Plan in Section III., Land Use, Residential Site Design, Public Lands, Policy 24:

i. for each residential unit, including mobile home units, .028 acres (1,220 square feet) of developable land.

(b) The following minimum land acreage shall be dedicated to the Town for public purposes to be used for, for example, the location of a public meeting hall, a fire hall, equipment maintenance and

storage, water and sewer treatment facilities, or for other public purposes, as recommended in the Crested Butte Area Plan in Section III., Land Use, Residential Site Design, Public Lands, Policy 23:

- i. for each residential unit, including mobile home units, .028 acres (1,220 square feet) of developable land.

(c) The following minimum land acreage shall be dedicated to the Town for schools supported with public funds, as recommended in the Crested Butte Area Plan in Section III., Land Use, Residential Site Design, Public Lands, Policy 25:

- i. for each residential unit, including mobile home units, .0034 acres (146 square feet) of developable land.

(d) Land dedicated for public park, public or school purposes for a subdivision may include historic or natural features and shall:

- i. lend itself to utilization (a) for active recreational use (such as play areas, picnic areas, trails, ball fields, or recreational structures), (b) for public uses to be used for the location of, for example, public meeting halls, equipment maintenance and storage sites, water and sewer treatment facilities, or for other public purposes, and (c) for schools. (To achieve these uses, park sites, public use sites and school sites shall, at a minimum, not be located in any type of wetland, be dry, accessible from a street or trail if approved by the Town, and shall include a minimum of ninety percent (90%) of the land with a slope of five percent (5%) or less.);
- ii. include the dedication of water rights adequate to irrigate all land dedicated for park use, public use, or school use;
- iii. not mix uses so that, for instance, land dedicated for school use does not interrupt continuous public use of a park;
- iv. not include steep slopes, hazardous geologic formations, hazardous waste sites, adverse topography, or other features that may be harmful to the health, safety, or welfare of the public or may restrict the reasonable public use thereof;

- v. not be less than three thousand (3,000) square feet in size unless approved by the Town;
- vi. be located to create large public spaces rather than many small public spaces at the minimum size, unless approved by the Town;
- vii. be located so as to preserve air quality, the natural environment and community integrity in the most practicable, attractive manner possible;
- viii. be designed to link open lands, trails, and other major components of the Town's recreational system;
- ix. not include land developed for stormwater control unless the design of any recreational amenities is clearly safe from hazards caused by use of the land as a storm water control area; and
- x. be located within or in the vicinity of the proposed subdivision so that the park land, public uses and schools benefit residents of the subdivision.

(e) Where the required park, public or school lands dedication per unit within the proposed subdivision would not meet or exceed the minimum size defined in Sections 15-3-6.1.5.(d) above because of the small size of the subdivision, the subdivider shall make a payment of a fee in lieu equivalent to the costs of dedicating the required acreage of park, public purpose or school land as further described in Section 15-3-6.1.10.”

Section 4. Amending the Trail Dedication Requirements of Subdivision Dedication Requirements. Section 15-3-6.1.6.(a) is hereby deleted in its entirety and replaced with the following:

“(a) Trail dedications shall be made within each subdivision in accordance with Section 15-3-7.F. Such dedications shall be made in the form of public easement or right-of-way as determined by the Town. For each proposed residential unit, including mobile homes, forty (40) lineal feet of trail right-of-way or easement shall be provided.”

Section 5. Amending the School Site Dedication Requirements of Subdivision Dedication Requirements. Section 15-3-6.1.8. is hereby deleted in its entirety and the subsequent subsections are renumbered as appropriate.

Section 6. Amending the Subdivision Design Requirements of Major Subdivision Design and Improvement Standards. Section 15-3-7.C.5. is hereby deleted in its entirety and replaced with the following:

“5. Major Highways. No tract or parcel shall front on nor shall any private driveway obtain access to or from arterial roads such as the Gothic Road or State Highway 135. Access to all tracts or parcels shall be from a public subdivision street or frontage road or the Slate River Road because the buildable area along the Slate River Road is minimal.

(a) The right-of-way for Gothic Road shall be a minimum of one hundred (100) feet wide. There shall be a minimum of fifty (50) feet from the centerline of the Gothic Road to each tract or parcel. The Town may require screening or a buffer between tracts or parcels and arterial roads such as the Gothic Road.

(b) Within three miles of Town, on parcels of land that extend more than one-quarter ($\frac{1}{4}$) mile from State Highway 135, residential and commercial development shall be located at least one-quarter ($\frac{1}{4}$) mile from the State Highway to help preserve the views from the State Highway unless:

- i. development more than one-quarter ($\frac{1}{4}$) mile from the State Highway right-of-way would be more visible than development within one-quarter ($\frac{1}{4}$) mile, such as development on a hillside;
- ii. buildings are proposed on a site adjacent to existing buildings;
- iii. development can be screened by existing topography or trees so that only roof tops are visible from the State Highway;
- iv. light industrial development is proposed adjacent to Riverland Industrial Park, on the west side of the State Highway;
- v. the entire parcel of land is within the one-quarter ($\frac{1}{4}$) mile buffer, or
- vi. agricultural buildings or operations are proposed. The location of riding arenas exceeding 8,000 square feet shall also be at least one-quarter ($\frac{1}{4}$) mile from the State Highway.

The requirements of this subsection are recommended in the

Crested Butte Area Plan in Section V., Natural Resources, Visual Resources, Scenic Corridors, Policy 24.”

Section 7. Amending the Residential Open Lands Preservation Requirements of Major Subdivision Design and Improvement Standards. Sections 15-3-7.D.1., 2., 4. and 5. are hereby deleted in their entirety and replaced with the following:

“1. Amount.

(a) For subdivisions within the Town. The subdivider shall provide for the preservation of at least 2.1 acres of open lands for each residential unit proposed within the subdivision, based upon the number of residential units in Crested Butte and the number of acres of open lands, or open space, in which the Town has participated in preserving as of 2006.

(b) For subdivisions of land annexed into the Town. The subdivider shall provide at least five (5) acres of open lands, or open space, for each additional residential unit and for each 5,000 square feet of commercial development. As an incentive, if land is preserved in “Priority Preservation Areas” (as shown on the Preservation Priorities maps in the Crested Butte Area Plan), less open space shall be required as a way to preserve the more important open spaces. As another incentive, if Local Housing or affordable housing units are proposed, less open space is required. The requirements for the preservation of open lands or open space contained in this subsection are recommended in the Crested Butte Area Plan in Section III., Land Use, General Policies for Land Use, Density and Density Transfers, Policy 5. Table D1 below sets forth the required amount of open space per additional residential unit and for each 5,000 square feet of commercial development.

**Table D1
Number of Acres Required for Preservation**

Type of Development	<u>Type of Land Preserved</u>	
	Hazard Areas, Developable Land, or land beyond the end of plowed roads	Priority Preservation Areas (Resource Areas)
Each free market dwelling unit	5 acres	3 acres
Each Local Housing or affordable housing unit	1 acre	1 acre
Each 5,000 sq. ft. of commercial development	5 acres	3 acres

2. Eligible Lands.

(a) All lands shown on the Preservation Priorities #1 map and on the Preservation Priorities #2 map and labeled "Priority Preservation Areas" or "Other Preservation" in the legend, in the Crested Butte Area Plan, shall be eligible for preservation as open lands under this subsection, provided, however that land with the following characteristics shall not be eligible:

- i. Lands from which the subsurface mineral interests have been severed and are available for location and mining of minerals, and the mineral interests are not conveyed or appropriately restricted concurrently with the surface interests.
- ii. Lands that are presently subdivided or platted under a recorded plat, unless such subdivision approval or plat is revoked or rescinded and such revocation or rescission is placed on public record, except a lot in a subdivision that is 35 acres or more may be preserved if no structures exist on the lot or will be allowed on the lot.

(b) The percentage of open lands currently in the Town limits compared to the total amount of open lands preserved by the Town and the Crested Butte Land Trust shall be the minimum percentage of open lands preserved within the subdivision compared to the total open lands preserved by the subdivider. The above applies only to lands preserved by the Town and the Crested Butte Land Trust within three (3) miles of the Town.

4. Procedure for Preservation. Prior to the Town's acceptance of any lands as eligible and as qualifying for preservation under this subsection, and prior to, or simultaneous with, Final Plat approval, the subdivider shall provide to the Town evidence of title to and encumbrances upon such lands, accompanied by the proposed means of conveyance or title restriction. Such open lands may include open lands that were previously preserved by the subdivider as open lands or open space prior to the submission of the present subdivision application, provided that the Town must approve such open lands as Priority Preservation Areas or Other Preservation areas and therefore deem such open lands or open space acceptable for preservation, and the open lands have not previously been used to satisfy open lands or open space requirements of the Town, the County of Gunnison or Mt. Crested Butte.

5. Priority Open Lands. The following areas are encouraged to be preserved as undeveloped open lands to avoid development in inappropriate areas and to preserve sensitive and unique lands:

(a) all lands shown on the Preservation Priorities #1 map and on

the Preservation Priorities #2 map and labeled "Priority Preservation Areas" in the legend in the Crested Butte Area Plan;

(b) unique and or fragile areas, including but not limited to geologic formations, forested areas, critical viewsheds, ridgelines, bodies of water, streams and rivers (including 100 year flood plains), and wetlands and their one hundred (100) foot buffer as defined in these subdivision regulations and verified by field inspection;

(c) steep slopes in excess of thirty (30) percent as measured over a ten (10) foot interval;

(d) critical wildlife winter range and significant wildlife habitat as identified in Section 15-3-7.I.6. and by the Colorado Division of Wildlife;

(e) historically significant structures and sites, as listed on federal or state lists of historical places, or reasonably determined by the Town; and

(f) areas which have historically provided, or are reasonably identified as desirable for, public access to public lands."

Section 8. Amending the Hazardous Areas Requirements of Major Subdivision Design and Improvement Standards. Section 15-3-7.H. is hereby deleted in its entirety and replaced with the following:

"1. Development in hazardous areas shall be prohibited unless a subdivider can demonstrate, using an appropriate professional in the field, that the areas proposed for development are not in a hazardous area. Hazardous areas are mapped in the Crested Butte Area Plan. They have the following titles:

- a. Avalanche Hazards;
- b. Flood Hazards;
- c. Geologic Hazards;
- d. Wildfire Hazards; and
- e. Slope 30% and Greater.

If all of the land owned by a person is in a hazardous area, then the density transfers described in Section 15-3-7.W. may be applicable to allow some economic beneficial use of the property in addition to grazing.

2. Development in the 100 year flood plain shall be prohibited except for arterial streets which cross Coal Creek or the Slate River, or trails approved by the Town and the exemptions applicable to the Restrictive Inner Buffer listed in Section 15-3-7.I.9.(b).

3. A twenty (20) foot strip of land measured horizontally from the 100 year flood plain designation on each side of any stream located within the boundaries of the subdivision, and of any stream located on land adjacent to the subdivision property, shall be protected in its natural

state and shall be available for emergency access during periods of high water flow with the exception that footpaths and the exemptions applicable to the Restrictive Inner Buffer listed in Section 15-3-7.1.9.(b) may be constructed or conducted thereon. Underground utilities may be located in such protected areas, provided that there is no practical alternative location for such utilities, the plans are approved by the Planning Commission, and that all construction scars are re-vegetated and the natural flow of water is not constricted. The setback resulting in the largest distance from the water body or stream in section 15-3-7.H.3. or 15-3-7.I. shall be maintained.

4. Proposed cut and fill slopes for roads, building excavations, and other earthwork must be based upon evaluations by a qualified soils engineer or engineering geologist.

5. Because hazardous areas also include other areas posing a risk to public health or safety, a Phase 1 Environmental Audit, or a Phase 1 Environmental Assessment, shall be conducted on all properties proposed for subdivision. All Recognized Environmental Conditions shall be reported by the subdivider to the Town and the County and the applicable state and federal agencies. The subdivider shall address any such Recognized Environmental Conditions in accordance with applicable law.”

Section 9. Amending the Design to be Compatible with Natural Features Requirements of Major Subdivision Design and Improvement Standards. Section 15-3-7.I. is hereby amended by adding a new subsection 9. to the Section which shall read as follows:

“9. Restrictive Inner Buffer.

(a) Distance. A setback of twenty five (25) feet shall be maintained from all water bodies, including wetlands, unless a 100 foot setback from high quality wetlands is appropriate as discussed in subsection 5. above. The setback shall be measured horizontally from the ordinary high water mark in average hydrologic years on each side of a water body. This setback is referred to as the “Restrictive Inner Buffer”. The following activities shall not be allowed in the Restrictive Inner Buffer:

- i. construction, installation or placement of any obstruction or the erection of a structure;
- ii. placement of material, including soil, sand, gravel, mineral, aggregate, organic material or snow plowed from roadways and parking areas;
- iii. removal, excavation, or dredging of solid material, including soil, sand, gravel, mineral, aggregate, or organic material;

iv. removal of any existing vegetation or conduct of any activity that will cause any loss of vegetation, unless it involves the approved removal of noxious weeds, non-native species or dead or diseased trees;

v. lowering of the water level or water table by any means, except as allowed by the Colorado Division of Water Resources;

vi. use of equipment within the buffer, except for the construction of roads or bridges across the water body; and

vii. disturbance of existing natural surface drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics by any means including grading and alteration of existing topography. Measures taken to restore existing topography, to improve drainage flow patterns, or flood control shall be approved by the Town prior to taking the measures.

(b) Exemptions for the Restrictive Inner Buffer. The following structures, improvements and activities are exempt from the Restrictive Inner Buffer:

i. structures for decreed water rights, docks, piers, watercraft launches, and ramps;

ii. activities and structures in wetlands resulting from agricultural operations;

iii. projects primarily for water protection that have received required state or federal permits such as those projects designed for the enhancement, protection and/or restoration of water body banks, channels, wetlands, riparian areas and /or piscatorial wildlife habitat;

iv. emergency flood control measures; and

v. maintenance, repair, or replacement of roads, roads that approach bridges, and bridges existing as of the effective date of the Crested Butte Area Plan.

(c) Variable Outer Buffer. A "Variable Outer Buffer" shall also be maintained. The width of the Variable Outer Buffer need not be uniform across a parcel. Specific features within 100 feet of the closest border of a water body should define the width of the Variable Outer Buffer on a site-specific basis and include:

- i. slopes steeper than 15 percent and draining into a water body;
- ii. presence of highly erodible soils; and
- iii. presence of features that provide bank stability or riparian area protection. Trees, shrubs, vegetation or other natural features that provide for bank stability or riparian area protection should be maintained.

(d) Maximum buffer size. In no circumstance shall a Variable Outer Buffer be required to extend more than 100 feet beyond the outer boundary of the Restrictive Inner Buffer.

(e) Exemptions for the Restrictive Inner Buffer. The activities listed in Section 15-3-7.1.9.(a) shall not be allowed in the Variable Outer Buffer and the exemptions in 15-3-7.1.9.(b) shall also be exempt in the Variable Outer Buffer.

The requirements for setbacks from all water bodies contained in this subsection are recommended in the Crested Butte Area Plan in Section V., Natural Resources, Wetlands, Avoidance , Policies 32 - 36.”

Section 10. Amending the Lighting Requirements of Major Subdivision Design and Improvement Standards. Section 15-3-7.O.2. is hereby deleted in its entirety and replaced with the following:

“2. Light Pollution. All exterior lighting or illumination shall be designed, located, placed, and shielded to be architecturally and aesthetically in keeping with the buildings and surroundings, should create minimum visual pollution or impact on any other lot, tract or parcel in the Town, shall not directly illuminate adjoining, lots, tracts or parcels, or rights-of-way, including alleys and shall comply with Article 15-7 “Lighting Regulations” of the Town Code.”

Section 11. Amending the Affordable Housing Requirements of Major Subdivision Design and Improvement Standards. Sections 15-3-7.V. is hereby deleted in its entirety and replaced with the following new Section 15-3-7.V. All tables of contents contained in the Town Code referencing this Section shall be amended to reflect the change of the title to this Section.

“V. Affordable Housing and Local Housing.

“1. Legislative Intent. It is the purpose of this section to promote owner occupied and rental unit, deed restricted, affordable housing in major subdivisions which will serve many segments of the community that

need affordable housing. The target groups for this housing are people who desire, but cannot afford to purchase, tracts or units for long term housing in Crested Butte and who qualify for Local Housing, and/or affordable housing in major subdivisions as described in this section and in Part IV of the "Town of Crested Butte Affordable Housing Guidelines," hereafter referred to as "Guidelines," as amended at the time of Final Plat approval. {rev. Ord. 20, 1997}

2. Affordable Housing and Local Housing Requirements. Any development of property that includes more than four (4) residential units shall:

(a) reserve at least sixty (60) percent of the total number of proposed residential units in the new development annexed to the Town as Local Housing units. Such units shall, at a minimum, be deed-restricted to a variety of mixed income people who earn at least eighty percent (80%) of their income in Gunnison County. The requirements for the reservation of Local Housing units as part of a new development annexed to Town set forth in this subsection are based on the recommendations set forth in the Crested Butte Area Plan in Section VII, Housing, Policy 2.

(b) reserve at least twenty-one (21) percent of the total number of residential units in the development, which may be a portion of the Local Housing units required above, to be affordable to households earning 111 to 153% of the Area Median Income for Gunnison County as published by the U.S. Department of Housing and Urban Development, or the agency that publishes such a number in its place in the future; or (Ordinance 24, 2003).

(c) as an alternative means of satisfying the required reservation of affordable housing and/or Local Housing units within a subdivision, as provided by this subsection, a subdivider may offer to the Town a substitute percentage of affordable housing and/or Local Housing units to be built by the subdivider provided, however, that nothing herein shall obligate the Town to accept such amount of substitute built affordable housing and/or Local Housing units; (The Town shall not accept any substitute affordable housing or Local Housing that attempts to solve the entire affordable housing or Local Housing requirements by locating all units in only one geographic area of a subdivision.) {rev. Ord. 20, 1997}

3. Location of Affordable Housing and Local Housing.

(a) All Local Housing and/or affordable housing units required within a subdivision shall be located within and dispersed throughout the boundaries of the subdivision unless existing units are deed restricted to affordable housing and/or Local Housing as described in Section 15-3-7.V.7. If the Town Council finds that unusual circumstances resulting from zoning and subdivision requirements or the location or size of the subdivision make it

unfeasible to reserve for use all or any portion of the required Local Housing and/or affordable housing units within the boundaries of the subdivision, the Town Council may, at its discretion, authorize the owner or subdivider to construct and reserve Local Housing and/or affordable housing units outside of the subdivision's boundaries to meet the Local Housing and affordable housing requirements for the subdivision.

(b) Regardless of the type of housing proposed in a subdivision (e.g., single family, multi-family, duplex, mobile home) the same proportion of each housing type to be used for free market housing shall be reserved for Local Housing and/or affordable housing, except as provided in Section 15-3-7.V.7.

(c) The Final Plat shall identify each tract which shall have Local Housing and affordable housing units and it shall identify:

- i. the number of Local Housing and affordable housing units on each Local Housing or affordable housing tract,
- ii. the number of affordable housing units in each Category on the affordable housing tract (the Categories are described in the Guidelines), and
- iii. the number of unrestricted units that may be built on the Local Housing and/or affordable housing tract, excluding accessory dwellings.

(d) The required number of affordable housing units shall be divided equally among the four Categories.

(e) The minimum size and minimum number of bedrooms in each Category are described in the Guidelines, as amended at the time of Final Plat approval.

(f) To maintain compatibility with existing ratios of owner occupied and rental units in Crested Butte, at least forty percent (40%) of the affordable housing shall be owner occupied units and at least forty percent (40%) shall be rental units. {rev. Ord. 20, 1997}.

4. Qualifying Affordable Housing and Local Housing Units. Affordable housing and Local Housing units intended for sale or rental use shall comply with paragraph a. below and affordable housing units shall also comply with paragraphs b., c., or d.

(a) The subdivider shall record with the Clerk and Recorder of Gunnison County either a deed or an irrevocable covenant running with the property that limits the use of the Local Housing units and affordable housing units and the appropriate portion of the tracts to Local Housing and affordable housing. Such deed or covenant shall be in perpetuity and shall be approved by the Town Attorney prior to recordation and shall provide that the Town may enforce

the use restriction contained in the covenant. Examples of the deed restriction are located in the Guidelines.

(b) The subdivider may convey all affordable housing units or tracts to the Town or a housing authority approved by the Town Council, at the Town's discretion. If conveyed to a housing authority, the housing authority may sell the owner occupied units and may manage the rental units for the Town.

(c) If the affordable housing tracts are conveyed to a housing authority, such housing authority may seek approval from the Town to place duplexes on the single family tracts to satisfy the unit requirements in Categories 2 and 3 only. This allowance is made in recognition that Category 2 and 3 units may be more cost effective as duplexes rather than single family units. The subdivider will receive no additional credit for such duplex units.

(d) If the subdivider chooses to build the affordable housing units, the subdivider may construct duplex units on some of the single family tracts to satisfy the unit requirements in Categories 2 and 3 only. This allowance is made in recognition that Category 2 and 3 units may be more cost effective as duplexes rather than single family units. The subdivider will receive credit for each such built additional duplex unit towards the single family residential unit requirement.

5. Eligible Occupants. Eligible occupants of Local Housing in the subdivision shall be those people who, at a minimum, earn eighty percent (80%) of their income in Gunnison County as described in the Crested Butte Area Plan. Eligible occupants of affordable housing in the subdivision shall be those people described in the Guidelines, as amended at the time of Final Plat approval. Unless otherwise stated in the Guidelines, eligible occupants for affordable housing shall:

(a) be residents of Gunnison County;

(b) have earned income eighty percent (80%) of which shall be earned income from within Gunnison County;

(c) have worked in Gunnison County for least three (3) of the past five (5) years;

(d) shall not exceed the income categories established in the Guidelines or by a housing authority that has been given the responsibility to set income guidelines by the Town;

(e) own no other developed residential land for rental units and no residential land for owner occupied units;

(f) live on site, and

(g) work at least an average of 120 hours per month during each calendar year in Gunnison County.

6. Rent and Sales Price Limits. The Guidelines, as amended at the time of Final Plat approval, shall establish the maximum rent and sales price for each Category of tenant or owner for all affordable housing units in major subdivisions. {rev. Ord. 20, 1997}

7. Satisfying the Local Housing and/or the affordable housing owner occupied unit requirements by deed restricting units. A subdivider may satisfy up to twenty five percent (25%) of the requirements for Local Housing or for owner occupied affordable housing by deed restricting existing units in the Town.

(a) Each existing unit that is deed restricted to affordable housing shall be identified as a Category 1, 2, 3, or 4 unit and the percentages of units in each Category shall be maintained as required in section 15-3-7.V.3.d. above.

(b) The sales prices in the Guidelines, as amended at the time of Final Plat approval, shall apply to existing affordable housing units. Price increases for the resale of units shall take effect as described in the Guidelines, after the deed restriction is placed on the existing unit.

(c) No more than twenty five percent (25%) of the affordable housing requirement may be met by deed restricting existing units.

(d) Once deed restricted, an affordable housing unit must be owner occupied as set forth in the Guidelines. {rev. Ord. 20, 1997}

8. Sale of Local Housing and/or Affordable Housing Tracts. Local Housing and/or affordable housing tracts shall be sold with unrestricted tracts or, in the case of Local Housing and/or affordable housing tracts, conveyed to the Town or a housing authority approved by the Town. All tracts must be developed so they are ready for conveyance and construction, i.e., improved tracts water, sewer, telephone, electricity, gas, and streets in place to the property line. A soils report, prepared by a qualified engineer and based upon test holes within the building envelope of each tract, stipulating that the tract is suitable for construction of the intended dwelling type without requiring unusual excavation, foundation work or accommodation of other unusual conditions shall accompany the conveyance if deemed necessary by

the Building Official. When conveying Local Housing and/or affordable housing tracts to the Town, or its designee, conveyance shall be concurrent with preliminary acceptance by the Town of the subdivision improvements. {rev. Ord. 20, 1997}

Unless the tracts are conveyed to the Town, or its designee, subdividers shall comply with the following rate of sales for each phase of a subdivision to ensure a reasonable number of Local Housing tracts and/or affordable housing tracts are sold prior to unrestricted tracts. {rev. Ord. 20, 1997}

(a) No more than twenty five percent (25%) of the free market tracts in each phase of a subdivision shall be sold until twenty five percent (25%) of either the Local Housing tracts or the affordable housing tracts, or a combination of both, are sold.

(b) No more than fifty percent (50%) of the free market tracts in each phase of a subdivision shall be sold until fifty percent (50%) of either the Local Housing tracts or the affordable housing tracts, or a combination of both, are sold.

(c) No more than seventy five percent (75%) of the free market tracts in each phase of a subdivision shall be sold until one hundred percent (100%) of either the Local Housing tracts or the affordable housing tracts, or a combination of both, are sold. {rev. Ord. 20, 1997}

In the event the subdivider builds affordable housing, the Town Council shall reasonably decide how many free market tracts may be sold prior to the sale or rental of the affordable housing units or the Local Housing units, to be built by the subdivider. {rev. Ord. 20, 1997}

9. Administration of Section. The Town Manager, or his/her designee, shall administer this section and, subject to prior approval by the Town Council, may promulgate and enforce rules and regulations to implement its provisions. {rev. Ord. 20, 1997}”

Section 12. 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 13. Savings Clause. Except as hereby amended, the Town Code 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 _____ DAY OF _____, 2006.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS _____ DAY OF _____, 2006.

TOWN OF CRESTED BUTTE, COLORADO

**By: _____
Alan Bernholtz, Mayor**

ATTEST:

Eileen Hughes, Town Clerk

(SEAL)