

ORDINANCE NO. 14

SERIES 2005

AN ORDINANCE CLARIFYING THE BUSINESS ORGANIZATION, REORGANIZATION OR RESTRUCTURING EXEMPTION FROM IMPOSITION OF THE TOWN'S LAND TRANSFER EXCISE TAX.

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, Article 4-3 of the 1987 Crested Butte Municipal Code (hereafter "Code") sets forth the imposition of an excise tax on the transfer of real property within the Town , and exceptions to the tax imposed; and

WHEREAS, Subsection 4-3-5.E. of the Code states that there is an exception to the imposition of the tax for "Any transfer made pursuant to business organization, reorganization, or restructuring including but not limited to mergers or consolidations of corporations, or by a subsidiary to a parent corporation for no consideration other than cancellation or surrender of the subsidiary's stock"; and

WHEREAS, by Ordinance No. 19, Series 1998, the Town Council found that the Council's intent, when Article 4-3 was originally enacted, was to have the transfer tax imposed on "any grant or conveyance of the ownership of title to real property that is evidenced by any deed, conveyance, instrument or writing wherein or whereby title to real property situated in the Town of Crested Butte is granted or conveyed, or the conveyance of a possessory interest and all other indicia of ownership in real property without the passing of legal title..."(section 4-3-3.C.), including situations where land is transferred by virtue of the sale of corporate stock in a corporation whose assets include land within the Town; and

WHEREAS, the Town Council found that there was a need to clarify this intent for imposition of the transfer tax and the ordinance was amended accordingly; and

WHEREAS, at the time the above amendment to the Code was enacted, the most common entity form was the corporation, and because currently many other different types of entities are commonly used, it is appropriate that the Code be amended to reflect the intent of the Council to have the transfer tax imposed on the conveyance of a possessory interest and all other indicia of ownership in real property without the passing of legal title including situations where land is transferred by virtue of the sale of ownership interests in an entity whose assets include land within the Town; and

WHEREAS, the Town Council finds that the below amendment is 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. Clarification of Exemption. Subsection 4-3-5.E. of the Code is hereby amended by the addition of the following language in bold:

“E) Any transfer made pursuant to business organization, reorganization or restructuring including but not limited to mergers or consolidations of corporations, or by a subsidiary to a parent corporation for no consideration other than cancellation or surrender of the subsidiary’s stock **or ownership interest**. The transfer of at least seventeen percent (17%) of the stock in a corporation **or seventeen percent (17%) of any ownership interest in a business entity** whose assets include real property within the Town shall not be included in this exemption, and such transfer shall be subject to imposition of the excise tax imposed under Section 4-3-1 above.”

Section 2. Savings Clause. Except as hereby amended, the 1987 Crested Butte Municipal Code shall remain valid, and in full force and effect. Any provision of any ordinance previously adopted by the Town of Crested Butte which is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

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 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. If any section, provision or part of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance and the application thereof to other persons or circumstances shall not be affected thereby.

INTRODUCED, AND FIRST READ BEFORE THE TOWN COUNCIL THIS _____ DAY OF _____, 2005.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING AND PUBLIC HEARING THIS _____ DAY OF _____, 2005.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
James Schmidt, Mayor

ATTEST:

Eileen Hughes, Town Clerk

(SEAL)