

**ORDINANCE NO. 10**

**SERIES 2012**

**AN ORDINANCE AMENDING THE CRESTED BUTTE MUNICIPAL CODE TO INCLUDE CONGREGATE HOUSING AS A NEW CONDITIONAL USE IN THE "C" COMMERCIAL DISTRICT AND TO MAKE CERTAIN OTHER CORRESPONDING AMENDMENTS TO THE CODE IN CONNECTION THEREWITH**

**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**, Chapter 6, Article 5, Division 6 of the Crested Butte Municipal Code (the "**Code**") contains certain requirements regarding the use of real property in the "C" Commercial District (the "**C Zone**");

**WHEREAS**, the Code currently does not contemplate the use of real property in the C Zone for residential purposes by up to six unrelated persons living in a single unit;

**WHEREAS**, the Board of Zoning and Architectural Review (the "**Board**") found at its July 31, 2012 meeting that allowing the use of real property in the C Zone for residential purposes by up to six unrelated persons living in a single unit is consistent with the intents and purposes of the C Zone, provided that such uses are, among other things, used for long term housing and are accessory to the primary use of the underlying real property;

**WHEREAS**, based on the Board's findings, the Board recommended that the use of real property in the C Zone for residential purposes by up to six unrelated persons living in a single unit where such uses are maintained for long term housing and are accessory to the primary use of the underlying real property be allowed as a conditional use in the C Zone, provided that certain requirements to such use are satisfied and certain other conditions are met;

**WHEREAS**, based on the Board's findings and recommendations, the Town staff has recommended that the Town Council make certain amendments to the Code in order to accomplish, among other things, the specific recommendations of the Board cited above;

**WHEREAS**, the Town Council finds that the below amendments to the Code will accomplish the recommendations of the Board, that such amendments are consistent with the intents and purposes of the C Zone and that such amendments will serve to benefit the Town and the residents of Crested Butte; and

**WHEREAS**, the Town Council finds that amending the Code as set forth below, for the reasons stated above, is in the best interest of 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. Amending Section 16-1-20.** A new defined term is added to Section 16-1-20 and shall read as follows:

*“Congregate housing means a residential use utilized by no more than six (6) unrelated persons sharing common bath and kitchen facilities in a single unit.”*

**Section 2. Amending Section 16-5-530(1).** Subsection (1) of Section 16-5-530 is hereby deleted in its entirety and replaced with a new subsection (1) which shall read as follows:

*“(1) No more than three (3) residential units not to exceed six hundred (600) square feet each. Such residential unit may only be used as a long-term rental unit or, under the circumstances set forth herein, as an owner-occupied unit. No residential unit shall exist on the first floor of the building. The total square footage of all residential units in the structure shall not exceed fifty percent (50%) of the total building square footage. In the event that a conditional use for a residential unit is granted, that use may not in the future change to any other use except where a conditional use for congregate housing may otherwise be granted and provided that there shall not in any case be a net reduction in bedrooms. The unit thereafter shall be restricted to such use. In the event that the owner of a unit for which a conditional use for a residential unit is granted, owns and uses for his or her own use another nonresidential unit as a permitted use or an approved conditional use within the same building, the owner may occupy the residential unit. Only an owner conducting business himself or herself in his or her nonresidential unit may occupy his or her residential unit. Leasing the nonresidential unit to another person for his or her use is not considered using for his or her own use or conducting business himself or herself under this Section. Payment in lieu of providing parking is not allowed for parking required for residential uses.”*

**Section 3. Amending Section 16-5-530.** A new subsection (15) is added to Section 16-5-530 and shall read as follows:

*“(15) Congregate housing. Such use may only be used as a long-term rental unit. Congregate housing may not be maintained on the ground or first floor of the subject property and shall comprise no more than fifty percent (50%) of the building. The aggregate square footage of congregate housing in a building shall be no less than 1,200 and no greater than 2,000 square feet. All congregate housing uses shall be accessory to the underlying commercial use of the real property and shall be limited to use by nonprofit organization owners only. A congregate housing use may not be converted to any other conditional use except a residential use as described in subsection (1) of this Section. The unit thereafter shall be restricted to such residential use. Payment in lieu of providing parking is not allowed for congregate housing uses.”*

**Section 4. Amending Section 16-16-20.** A new subsection (16) is added to Section 16-16-20 and shall read as follows:

“(16) Congregate housing: one (1) space per bedroom.”

**Section 5. Amending Section 13-1-170.** A new item is added to the table in Section 13-1-170 which shall read as follows:

“11. Congregate housing

a. Base rate for every three (3) bedrooms 1.0”

**Section 6. Amending Section 16-21-60.** The following subsections (6) and (7) are hereby added to Section 16-21-60 and shall read as follows:

“(6) Congregate housing may not be used to satisfy the ROAH requirements set forth in Section 16-21-40.

(7) ROAH units may not at any time be released from the restrictive covenant and deed restriction requiring such ROAH units comply with the requirements of this Chapter 16, Article 21.”

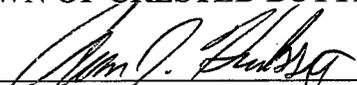
**Section 7. Severability.** If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions 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 8. 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.

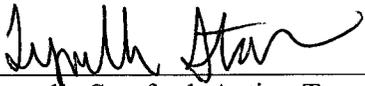
**INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 17<sup>th</sup> DAY OF SEPTEMBER, 2012.**

**ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 1<sup>ST</sup> DAY OF OCTOBER, 2012.**

**TOWN OF CRESTED BUTTE, COLORADO**

By:   
Aaron J. Huckstep, Mayor

**ATTEST:**

  
Lynelle Stanford, Acting Town Clerk

[SEAL]