

ORDINANCE NO. 23

SERIES 2011

AN ORDINANCE AMENDING CHAPTER 13, ARTICLE 5 OF THE CRESTED BUTTE MUNICIPAL CODE TO INCLUDE THEREIN THE RIGHT OF ANY OCCUPANT OF ANY DWELLING TO OPT OUT OF THE COMPULSORY REFUSE COLLECTION REQUIREMENT WHERE CERTAIN REQUIREMENTS ARE MET

WHEREAS, the Town of Crested Butte, Colorado ("**Town**") 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;

WHEREAS, the Chapter 13, Article 5 of the Crested Butte Municipal Code ("**Code**") contains certain compulsory refuse requirements that mandate, in pertinent part, that the occupants of any dwelling (as defined in Chapter 13, Article 5) utilize solely the Town or its contractors for the disposition of refuse accumulated or generated by such occupants;

WHEREAS, the Town staff has recommended that the Code be amended to allow for the occupants of any dwelling that accumulates or generates refuse to not be required to utilize solely the Town or its contractors for the disposition of such refuse;

WHEREAS, the Town Council has received and reviewed the Town staff's recommendation that the Code be amended to allow for the occupants of any dwelling that accumulate or generate refuse to not be required to utilize solely the Town or its contractors for the disposition of such refuse; and

WHEREAS, the Town Council finds that the Town staff's recommendation that the Code be amended to allow for the occupants of any dwelling that accumulate or generate refuse to not be required to utilize solely the Town or its contractors for the disposition of such refuse is in the best interest of the health, safety and general welfare of the residents and visitors of Crested Butte, and therefore, adopts the following changes to the Code pursuant thereto.

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

Section 1. Amending Section 13-5-20, Compulsory Refuse Collection. Section 13-5-20 of the Code is hereby deleted in its entirety and replaced with the following new Section which shall read as follows:

"Sec. 13-5-20. Compulsory refuse collection; Opt out Requirements.

(a) All refuse and ashes accumulated at or generated by the occupants of any dwelling within the Town shall be collected, conveyed and disposed of by the Town or its

contractors. No other person shall collect, convey over any of the streets or alleys of the Town or dispose of any refuse accumulated at or generated by the occupants of any dwelling; provided, however, that this Article shall not prohibit the actual producer of refuse, or the owner or occupant of a dwelling at which refuse has accumulated, from personally collecting, conveying and disposing of bulky refuse of a type not normally collected by the Town or its contractors. All commercial uses must dispose of refuse and ashes generated by such use.

(b) (1) The occupants of any dwelling unit that meet any of the following qualifications may opt out of the Town's compulsory refuse collection requirements described in subsection (a) of this Section:

(A) when a single building consists of both residential and commercial uses and the entire building is owned by one (1) owner;

(B) when a single or multiple building property consists of both residential and commercial uses owned by different owners within the same property in which the common elements, as such term is defined under the Colorado Common Interest Ownership Act, codified at Section 38-33.3-101 et seq., C.R.S. (CCIOA) are owned and managed by a homeowners or unit owners' association;

(C) four (4) or more multi-family residences within the same building are owned by the same owner; or

(D) four (4) or more multi-family residences are owned by different owners within a single or multiple building property in which the common elements, as such term is defined under CCIOA are owned and managed by a homeowners or unit owners' association.

(c) For any of the four (4) exemptions described in subsection (b) of this Section, the owner or association must elect to opt out of Town's compulsory refuse collection requirements in writing to the Town Manager or its designee on forms provided by the Town. Such election shall adequately describe the property subject to the election and must meet the following requirements:

(1) Any election for calendar year 2012 by any owner or association must be received by the Town Manager by June 1, 2012. The exemption shall become effective the next succeeding calendar month where the election is received by the Town Manager before the first day of the preceding calendar month. Any election given after the first day of the calendar month shall become effective in the calendar month immediately following the succeeding calendar month.

(2) For all calendar years subsequent to 2012, such election by any owner or association must be received by the Town Manager by December 1 of the preceding calendar year.

(d) The election by the owner or association will remain in effect until the owner or association otherwise notifies the Town Manager in writing, which shall be given before the first day of the preceding calendar month to be effective in the next succeeding calendar month. Any notice given after the first day of the calendar month shall become effective in the calendar month immediately following the succeeding calendar month.

(e) Any property owner or association that has elected out of or is not subject to the Town's compulsory refuse collection requirements as afore-described must obtain adequate refuse collection service in order to comply with this Chapter."

Section 2. 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 3. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision thereof that is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 7th DAY OF NOVEMBER, 2011.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 21st DAY OF NOVEMBER, 2011.

TOWN OF CRESTED BUTTE, COLORADO

By: *Aaron J. Huckstep*
Aaron J. Huckstep, Mayor

ATTEST:

Eileen Hughes
Eileen Hughes, Town Clerk

[SEAL]

