

ORDINANCE NO. 7

Series 2011

AN ORDINANCE AMENDING THE TOWN'S RESIDENT-OCCUPIED AFFORDABLE HOUSING REQUIREMENTS AND FEES CONTAINED IN CHAPTER 16, ARTICLE 12 OF THE CRESTED BUTTE MUNICIPAL CODE.

WHEREAS, the Town of Crested Butte, Colorado (the "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 the laws of the State of Colorado; and

WHEREAS, pursuant to Colorado Constitution Article 20 and CRS 31-23-101 et. seq. and CRS 29-20-101 et. seq., the Town has the authority to enact and enforce land use regulations, including requirements for affordable housing and impact fees in support thereof, and

WHEREAS, provision of a stable employee base is critical to employers in Crested Butte and the Crested Butte economy; and

WHEREAS, the Housing chapter of the Crested Butte Land Use Plan was amended on December 20, 2010 to update information on current housing conditions; and

WHEREAS, the 2010 amendments to the Crested Butte Land Use Plan document that some employees and residents cannot afford housing in Crested Butte, and demonstrates the relationship between the proposed requirements and fees and the need for housing caused by new residential development, new commercial development and new lodging development; and

WHEREAS, the 2010 amendments to the Crested Butte Land Use Plan document that additional residential and commercial floor area leads to additional employees based on the December 8, 2009 Gunnison County Housing Needs Assessment and on surveys of 1,995 employers conducted in Colorado, Idaho, and Wyoming by RRC Associates, Rees Consulting, and the Housing Collaborative and these additional employees will need housing; and

WHEREAS, The Town Council of the Town of Crested Butte wishes to implement the recently adopted affordable housing Land Use Plan strategies by amending Town requirements for affordable housing and the payment-in-lieu of providing affordable housing program; and

WHEREAS, the Town of Crested Butte wishes to amend incentives to have developers build affordable housing; and

WHEREAS, allowing a fee-in-lieu of providing affordable housing will provide an option to residential, commercial and lodging developers to participate in the housing program in a meaningful way even if the number of employees projected to be generated by their development is small.

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

Section 1. Creating the definition of Area Median Income. Section 16-1-20, Definitions, is hereby amended by the addition of following definition for Area Median Income:

"Area Median Income (AMI). Figures published annually for counties by the U.S. Department of Housing and Urban Development (HUD) by household size. When a single figure is referenced, like the median income for Gunnison County, it refers to 100% of the area median income for a 4-person family. Housing programs are generally targeted to serve a defined income group. HUD defines income limits for low-income households (\leq 80% AMI). Additional categories are usually used in high-cost mountain communities for various programs and policies."

Section 2. Amending the definition of Resident-Occupied Affordable Housing. The definition of Resident-occupied affordable housing in Section 16-1-20, Definitions, is hereby deleted in its entirety and replaced with the following:

"Resident-occupied affordable housing. (ROAH) means housing for which a deed restriction has been recorded with the Clerk and Recorder of Gunnison County that limits the occupancy of the unit(s) to those households which have incomes within one or more of the following categories:

- a. Low Income: \leq 80% Area Median Income (AMI)
- b. Moderate Income: 81% to 120% AMI
- c. Upper-Middle Income: 121% to 160% AMI
- d. Upper Income: 161% to 200% AMI

and requires at least 80% of the total household income to be earned in Gunnison County.

Such deed restriction shall require that all prospective buyers or renters must be qualified by the Town, or its designee; the restrictions shall be in perpetuity; shall be approved by the Town Attorney prior to recording; and shall provide that the

Town of Crested Butte may enforce the use restriction contained in the deed restriction.

ROAH units shall be deed restricted to either long-term rentals or owner occupied uses, unless other sections of the Code limit the units to long-term rentals. The minimum size of a ROAH unit shall vary by income category as follows:

Low income:	500 square feet
Moderate income:	900 square feet
Upper-middle income:	1,100 square feet
Upper income:	1,400 square feet

The average size of ROAH units, when two or more units are required, shall vary by income category as follows:

Low income:	800 square feet
Moderate income:	1,000 square feet
Upper-middle income:	1,200 square feet
Upper income:	1,500 square feet."

Occupants who have legally previously occupied a ROAH unit and reach the age of 59½ no longer need to comply with the AMI categories or the percentage of income earned in the County.

Section 3. Amending the requirements for Resident-Occupied Affordable Housing. Article 21 is hereby deleted in its entirety and replaced with the following:

"Resident-Occupied Affordable Housing

16-21-10. Intent.

The intent of this Article is to help provide housing for residents and employees who will work in new commercial space, lodging units, or in new residential units.

16-21-20. Requirements.

The requirements contained in this Article apply to all new residential units that are not deed restricted for affordable housing and all additional floor area for residential units that are not deed restricted for affordable housing (new residential development) in all zone Districts. The requirements contained in this Article also apply to all new or additional floor area for permitted and conditional commercial uses, hotel and lodging units, and short-term residential accommodations in the "C" District, the "B1" District, the "B2" District, the "B3" District, the "T" District and all "residential, commercial and lodging units" in Planned Unit Developments. These requirements do not apply to renovations or remodels that do not add additional floor area or to changes of use.

(1) Residential.

All new residential development shall use the formula below to determine the number of Resident-Occupied Affordable Housing (ROAH) units that will be required. Job generation rates, expressed in full-time equivalencies, vary by unit size and are grouped into the ranges shown below the formula. Unit size for a primary dwelling, includes heated and plumbed accessory buildings on site, if any. The source of job generation rates, employees per household, and linkage rates is the Housing chapter of the Crested Butte Land Use Plan and its appendices. When an addition is proposed, the ROAH requirement shall be based on the size range into which the finished unit falls. Because the ROAH requirement is based on the median job generation rate in the size range, all finished units in the size range will have the same ROAH requirement.

Formula

$$\begin{matrix} \# \text{ Units} & \times & \text{Job Generation} & \div & \text{Employees per} & \text{Mitigation} & = & \# \text{ ROAH} \\ \text{in the Size} & & \text{Rate (JGR)} & & \text{Household} & \text{Rate} & & \text{Units} \\ \text{Range} & & & & & & & \text{Required} \end{matrix}$$

Finished Size of Unit Range (sq.ft.)	JGR	Employees per Household	Mitigation Rate	=	ROAH Units Required
A. 1 - 499	.096	1.71	3 %		.0017
B. 500 - 999	.112	1.71	10 %		.0065
C. 1,000 - 1,499	.13	1.71	15 %		.0114
D. 1,500 - 1,999	.151	1.71	20 %		.0177
E. 2,000 - 2,499	.175	1.71	25 %		.0256
F. 2,500 - 2,999	.204	1.71	30 %		.0357
G. 3,000 - 3,499	.237	1.71	35 %		.0485
H. 3,500 - 3,999	.275	1.71	40 %		.0643
I. 4,000 - 4,499	.32	1.71	45 %		.0841
J. 4,500 - 4,750	.371	1.71	50 %		.1085

Example (1,700 sf finished unit size)

$$1 - \text{Range D. unit} \times .151 \div 1.71 \times 20\% = .0177 \text{ ROAH Units Required}$$

(2) Commercial.

All new commercial space, as measured for EQR calculations, shall use the formula below to determine the number of ROAH units that will be required. The source of job generation rates, jobs per employee, employees per household, and linkage rates is the Housing chapter of the Crested Butte Land Use Plan and its appendices. The mitigation for all commercial space will be 25%, unless otherwise stated.

Formula

Size of New commercial Development or Addition ÷ 1,000 X Job Generation Rate ÷ Jobs per Employee ÷ Employees per Household X Mitigation Rate = # ROAH Units Required

X sq. ft. ÷ 1,000 X 4 (overall median) ÷ 1.28 ÷ 1.71 X 25% = ROAH Units Required

Example(2,500 sf addition to an existing commercial use)

2,500 sf ÷ 1,000 X 4 ÷ 1.28 ÷ 1.71 X .25 = 1.14 ROAH Units Required

(3) Lodging.

All new hotel, lodging and short-term residential accommodation units (lodging units) shall use the formula below to determine the number of ROAH units that will be required. The source of job generation rates, jobs per employee, employees per household, and linkage rates is the Housing chapter of the Crested Butte Land Use Plan and its appendices. The mitigation for all lodging units will be 25%, unless otherwise stated.

Formula

Lodging Units X Job Generation Rate / Unit (room) ÷ Jobs per Employee ÷ Employees per Household X Mitigation Rate = # ROAH Units Required

.53 / unit 1.28 1.71 25%

Example

17 X .53 ÷ 1.28 ÷ 1.71 X .25 = 1.03 ROAH units required

16-21-30. Complying with Requirements.

Satisfaction of the requirements listed in Section 16-21-20 above may occur by one (1), or a combination, of the following methods:

- (1) Construction of new ROAH unit(s), as defined in Section 16-1-20. Such new housing shall be:
 - a. Provided either on or off site, but within the Town of Crested Butte, and
 - b. Constructed at the time the residential, commercial or lodging development is constructed because the need for employees will begin when the development is occupied.
 - c. Construction of new ROAH unit(s) may be proposed on Town owned land that is zoned for residential use. If accepted by the Town Council, the

number of ROAH units proposed shall be 200% of the required number of ROAH units that are not built by the developer on developer owned land. Nothing herein shall obligate the Town to accept construction of new ROAH unit(s) on Town owned land, instead of on developer owned land.

- (2) Land-in-lieu of building required ROAH units may be proposed for whole ROAH units or fractions. Land proposed in-lieu of building units must be located in the Town of Crested Butte, serviced by all utilities, serviced by a street, and approved for residential use in a residential Zone District. If accepted by the Town Council, the amount of land proposed shall be adequate in size and shall be zoned to accommodate 200% of the required ROAH units that are not built by the developer. Nothing herein shall obligate the Town to accept land-in-lieu of providing required units. Land-in-lieu of building required ROAH units must be conveyed to the Town prior to receiving a building permit to build the new commercial, lodging, residential units, or additions for which ROAH units are required.
- (3) An accessory dwelling built on a residential site shall fulfill the ROAH requirement for the primary residence(s) on the same property. If an accessory dwelling is intended to fulfill the ROAH requirements, a building permit for the accessory dwelling must be obtained prior to the issuance of a Certificate of Occupancy for the residential units, or residential additions, that are not deed restricted for affordable housing.
- (4) Deed restriction of existing housing unit(s) in Town to be the required ROAH unit(s), provided that:
 - a. The existing housing unit(s) is not already deed-restricted to be used only as a long-term rental, as defined in Section 16-1-20 of this Chapter or is otherwise deed-restricted to affordable housing;
 - b. The deed-restriction is imposed on the existing unit prior to obtaining the Certificate of Occupancy for the new construction or for a renovation or remodel resulting in additional square footage;
 - c. A signed subordination agreement from any lien holder of the property to be restricted is provided to the Town, which agreement provides that any existing lien is subordinate to the deed restriction to be imposed; and
 - d. The existing unit must meet current building code standards.
 - e. Existing units that do not meet current building code standards may be proposed but nothing herein shall obligate the Town to accept such proposed units and the Town reserves the right to require reasonable upgrades.
 - f. Deed restrictions on existing units shall be provided to the Town prior to issuance of the Certificate of Occupancy on the new commercial, lodging, residential units, or additions for which ROAH units are required.
- (5) For each five (5) ROAH units required, one unit may be deed restricted as

Resident Occupied (RO) with no income or appreciation caps, except that occupants must earn 80% of their income in Gunnison County and comply with unit sizes in the definition of ROAH.

(6) Payment-in-lieu of building required ROAH units.

a. Commercial and Lodging.

1. Payment-in-lieu of providing required ROAH units shall only be used for a fraction of a unit unless the developer proposes to pay for whole units at a higher mitigation rate (see (5)a.4. below). The amount of payment for a fraction of a unit shall be based on a 25% mitigation rate.
2. Commercial Fee. The payment-in-lieu of providing a fraction of a ROAH unit for new commercial floor area is set forth in Appendix A to this Code.
3. Lodging Fee. The payment-in-lieu of providing a fraction of a ROAH unit for new hotel, lodging or short-term residential accommodations (lodging units) is set forth in Appendix A to this Code.
4. Commercial Fee for Whole ROAH Units. Payment-in-lieu of providing required ROAH units for new commercial or lodging development may be proposed for whole ROAH units, and if accepted by the Town Council, the amount of payment shall be based on a 50% mitigation rate. Nothing herein shall obligate the Town to accept a payment in lieu of providing whole required units.

b. Residential.

1. Payment-in-lieu for Residential Development. The payment-in-lieu of providing a ROAH unit(s) for new residential development is based on the payment in lieu calculation described in the Housing chapter of the Crested Butte Land Use Plan, and its Appendices. The resulting fee per square foot is assessed on each square foot of new residential floor area. The fee per square foot changes, depending upon which Unit Range the total residential unit is within (See Unit Ranges below).

Unit Ranges (in Sq. Ft.)

- A. 1 - 499
- B. 500 - 999
- C. 1,000 - 1,499
- D. 1,500 - 1,999
- E. 2,000 - 2,499
- F. 2,500 - 2,999
- G. 3,000 - 3,499
- H. 3,500 - 3,999
- I. 4,000 - 4,499
- J. 4,500 - or more

2. The amount of the payment-in-lieu of providing a ROAH unit for new residential development is set forth in Appendix A to this Code.

3. The residential payment-in-lieu fees in Appendix A are based on the following formula:

$$\begin{array}{ccccccc} \text{Job generation} \div & \text{Employees per X} & \text{Mitigation} & = & \text{Units Required} & \times & \text{Gap in} & \div & \text{Mid-size Unit} & = & \text{fee per} \\ \text{Rate for} & \text{household} & \text{rate} & & \text{for Unit Range} & & \text{Financing} & & \text{in the Range} & & \text{sq. ft.} \\ \text{Unit Range} & & & & & & \text{for} & & & & \\ & & & & & & \text{Income} & & & & \\ & & & & & & \text{Category} & & & & \end{array}$$

- c. Uses of fees. Fees paid in lieu of providing ROAH units shall be placed in the Town's Affordable Housing Fund for uses that help create and maintain affordable housing including but not limited to:
1. affordable housing administration,
 2. construction of new affordable housing units,
 3. land acquisition for affordable housing,
 4. down payment assistance,
 5. infrastructure to serve new affordable housing units,
 6. contracts for affordable housing services,
 7. legal fees, and
 8. acquisition, repair, restoration and deed-restriction of existing units.
- d. Payment-in-lieu of providing a fraction of a ROAH unit, or for any other ROAH unit(s) approved by the Town Council, shall be made at the time the building permit is obtained for new construction or for a renovation or remodel resulting in additional square footage.
- (7) Measuring Square feet.
Square footage is measured using the same method used for Equivalent Residential Use (EQR) calculations. All hotel, motel, lodge and short-term residential accommodations space that is not used for overnight lodging, shall be counted as commercial space as measured for EQR calculations.
- (8) The Town prefers that units provided to meet the ROAH requirements be long-term rentals, but recognizes that long-term rentals may not be practical in all cases and encourages developers to work with the Town to determine the types of units that will be provided to meet the requirements.
- (9) Units provided through the residential linkage requirements shall be targeted primarily for Category 1 households ($\leq 80\%$ AMI). Up to one-half of the required units may serve Category 2 households (81% to 120% AMI). The average price of Category 1 units shall be affordable to households with incomes of 40% AMI and the average price of units affordable for households

with incomes in Category 2 shall be affordable to households with incomes of 100% AMI.

- (10) Units provided via the commercial linkage requirements shall be targeted for Category 2 households (81% to 120% AMI). The average price of such units shall be affordable for households with an income of 100% AMI.
- (11) Units provided via the lodging unit linkage requirements shall be targeted for Category 2 households (81% to 120% AMI). The average price of such units shall be affordable for households with an income of 100% AMI.
- (12) Housing units built to comply with the ROAH requirements should have a variety of housing types and sizes to accommodate targeted populations.
- (13) Design of all ROAH units shall meet the minimum and average unit sizes described in the Definition of Resident-Occupied Affordable Housing in Section 16-1-20.
- (14) When whole ROAH units are required, the Town prefers that such units be built rather than making payments-in-lieu for whole units.
- (15) Failure to comply with the ROAH requirements set forth herein, or to receive a certificate of occupancy for an accessory dwelling to comply with the requirements of this Section within twelve (12) months after receiving a Certificate of Occupancy for a residential unit, or residential addition, that is not deed restricted for affordable housing, shall be deemed to be a violation of this Chapter, and shall be subject to the offenses, actions and remedies described in Section 16-24-20.

16-21-40. Waiver of requirements.

The requirements of Section 16-21-20, for the provision of resident-occupied affordable housing, shall be waived when a residential unit is deed restricted as described below::

- (1) the unit to be constructed is deed-restricted for use only as a long-term rental, or
- (2) the unit to be constructed is deed-restricted to occupants who comply with a maximum income limit of up to 160% AMI, and earn 80% of their income in Gunnison County, or
- (3) the unit to be constructed is deed-restricted to have an appreciation cap on the unit of no more than 3% per year, or the change in the Denver-Boulder-Greeley Consumer Price Index for Urban Wage Earners, published by the U.S. Department of Labor, Bureau of Labor Statistics, or its successor agency, whichever is less."

Section 4. Amending Appendix A to the Town Code. Chapter 16 of Appendix A to the Town code is hereby deleted in its entirety and replaced with the following:

**“Chapter 16
Zoning**

Code Section	Description (sq. ft.)	Rate	Fee
16-21-30(5)a.2.	Resident-occupied affordable housing, assessed on new commercial floor area in lieu of providing a fraction of a ROAH unit	per square foot	\$83.14
16-21-30(5)a.3.	Resident-occupied affordable housing, assessed on newly constructed lodging units	per lodging unit	\$11,016.38
16-21-30(5)a.4.	Resident-occupied affordable housing, assessed on new commercial floor area in lieu of providing a whole ROAH unit	per square foot	\$166.28
16-21-30(5).b.	Resident-occupied affordable housing, new residential floor area in lieu of providing a fraction of a ROAH unit when total size of the residential unit is within the following range:		
	A. 1 - 499	per square foot	\$1.65
	B. 500 - 999	per square foot	\$2.12
	C. 1,000 - 1,499	per square foot	\$2.22
	D. 1,500 - 1,999	per square foot	\$2.46
	E. 2,000 - 2,499	per square foot	\$2.78
	F. 2,500 - 2,999	per square foot	\$3.17
	G. 3,000 - 3,499	per square foot	\$3.63
	H. 3,500 - 3,999	per square foot	\$4.18
	I. 4,000 - 4,499	per square foot	\$4.82
	J. 4,500 - or more	per square foot	\$5.57

Section 5. 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 6. Savings Clause. Except as hereby amended, the 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.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 21st DAY OF MARCH, 2011.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING AND PUBLIC HEARING THIS 6th DAY OF JUNE, 2011.

TOWN OF CRESTED BUTTE, COLORADO

By:

Leah B. Williams
Leah B. Williams, Mayor

ATTEST:

Eileen Hughes
Eileen Hughes, Town Clerk
SEAL

