

ORDINANCE NO. 10

SERIES 2014

**AN EMERGENCY ORDINANCE AMENDING
CHAPTER 6 OF THE CRESTED BUTTE
MUNICIPAL CODE TO ADD REGULATIONS
RESPECTING THE CREATION OF AN
ENTERTAINMENT DISTRICT IN WHICH
COMMON AREAS FOR THE CONSUMPTION OF
ALCOHOL MAY BE OPERATED BY A
PROMOTIONAL ASSOCIATION**

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 laws of the State of Colorado;

WHEREAS, the Town staff has researched creating an "Entertainment District" authorized by C.R.S., § 12-47-301 adjoining the Elk Avenue business corridor between First and Fourth Streets;

WHEREAS, the Town staff has found that creating an Entertainment District would allow the consumption of alcoholic beverages in a common consumption area if the Town Council, acting as the Local Licensing Authority under Colorado law authorizes the same;

WHEREAS, based on its research in creating an Entertainment District, the Town staff has recommended that the Town Council create such an Entertainment District between First and Fourth Streets in order to allow the consumption of alcohol in a common consumption area for certain special events and other functions planned by the taverns, hotels, restaurants and brew pubs in Crested Butte;

WHEREAS, the Town Council, upon Town staff recommendation, has proposed an Entertainment District on the Elk Avenue business corridor between First and Fourth Streets that is less than 100 acres and has at least 20,000 square feet of adjacent premises licensed as taverns, hotels, restaurants and brew pubs;

WHEREAS, the Town Council finds that the creation of an Entertainment District on the Elk Avenue business corridor between First and Fourth Streets will enhance the community's quality of life and opportunities to engage in more activities, uses, events and socializing in the historic downtown and will enhance the economic vitality of downtown retail shops, taverns, hotels, restaurants, brew pubs and other businesses;

WHEREAS, in conjunction with creating an Entertainment District, the Town Council must also establish regulations for allow the consumption of alcohol in a common consumption area for certain special events and other functions planned by the

taverns, hotels, restaurants and brew pubs in Crested Butte in the Entertainment District, and for certifying the entity that is constituted by such taverns, hotels, restaurants and brew pubs; and

WHEREAS, for the foregoing reasons, the Town Council's creation of an Entertainment District on the Elk Avenue business corridor between First and Fourth Streets and the regulations set forth herein to establish common consumption area and certify the entity that is constituted by the taverns, hotels, restaurants and brew pubs that will utilize the same is in the best interest of the health, safety and welfare of the residents and visitors of Crested Butte, and, accordingly, the revisions to the Crested Butte Municipal Code set forth below are in the public interest.

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

Section 1. **Adding a New Article 7, Entertainment District to Chapter 6 of the Code.** A new Article 7 is added to Chapter 6 of the Code that shall read as follows:

“ARTICLE 7

Entertainment District

Sec. 6-7-10. Definitions.

As used in this Chapter, the following words shall have the following meanings:

Common Consumption Area means a pedestrian area located wholly within the Entertainment District and approved by the Local Licensing Authority that uses physical barriers to close the area to motor vehicle traffic and limit pedestrian access.

Common Consumption Area Law means Sections 12-47-301(11), 12-47-908, 12-47-909 of the Colorado Revised Statutes, as amended.

Entertainment District means the Town of Crested Butte Elk Avenue Entertainment District with a size no more than 100 acres and containing at least 20,000 square feet of premises licensed as a tavern, hotel and restaurant, brew pub or vintner's restaurant at the time said District is created.

Licensee means a person to whom a license is granted by the Local Licensing Authority to manufacture or sell alcoholic beverages as provided under the Colorado Liquor Code.

Local Licensing Authority means the Town Council of the Town of Crested Butte.

Promotional Association means an association that is incorporated within the State of Colorado that organizes and promotes entertainment activities within a Common Consumption Area, is organized or authorized by two or more persons who own or lease property within the Entertainment District and is certified by the Local Licensing Authority.

In addition to the definitions provided above, the other defined terms in C.R.S. Section 12-47-103 are incorporated into this Article by reference.

Sec. 6-7-20. Creation of Entertainment District and General Requirements.

(a) In order to exercise the Town's local option to allow Common Consumption Areas in the Town and to effectuate the purposes and intent of C.R.S. Section 12-47-301(11), there is hereby designated the "Town of Crested Butte Elk Avenue Entertainment District" whose boundaries include:

From the northwest corner of Lot 17 of Block 29, continuing north along the east side of the First Street right-of-way to the southwest corner of Lot 16 of Block 20, thence east along the north side of the alleys of Blocks 20, 21, and 22 and the Second Street and Third Street rights-of way to the southeast corner of Lot 1, Block 22, thence south along the west side of the Fourth Street right-of-way to the northeast corner of Lot 32, Block 27, thence west along the south side of the alleys of Blocks 27, 28, and 29 and the Third Street and Second Street rights-of-way to the point of beginning. Inclusive of Block 21, Lot 5 and the adjacent Third Street right-of-way and Block 28, East 100 feet of Lots 28-29 and the adjacent west 28 feet of the Third Street right-of-way.

Such Entertainment District has been established by Resolution No. 10, Series 2014.

(b) Properties may be included or excluded from the Entertainment District by resolutions of the Town Council. By establishing the Entertainment District, the Town authorizes the licensing of designated Common Consumption Areas in which alcoholic beverages may be sold and consumed subject to the requirements of this Article, the Code and the Common Consumption Area Law.

(c) The Local Licensing Authority has the following powers with respect to Common Consumption Areas and Promotional Associations:

- (1) designate one or more Common Consumption Areas;
- (2) certify or decertify a Promotional Association;
- (3) authorize, de-authorize or refuse to authorize or reauthorize a licensee's attachment of licensed establishment to a Common Consumption Area;

(4) impose reasonable conditions of approval on the licensing of Common Consumption Areas, certification of Promotional Associations or the attachment of licensed establishments to Common Consumption Area; and

(5) exercise all powers necessary to effectuate the purposes of the Common Consumption Area Law.

(d) The standards for Common Consumption Area licenses issued to Promotional Associations shall be in addition to all other standards applicable under this Article, the Code and the Colorado Liquor Code.

(e) Decisions on applications for Common Consumption Areas, Promotional Associations and inclusions and exclusions from the Common Consumption Area shall be made by the Local Licensing Authority within 30 days of receipt of a complete application therefor. A decision to deny any such application by the Local Licensing Authority shall be in writing and shall be provided to the applicant within five business days of the decision having been rendered.

Sec. 6-7-30. Common Consumption Areas.

(a) Within the Entertainment District, Common Consumption Areas may be licensed by the Local Licensing Authority upon application by a Promotional Association in conformance with the requirements of this Article and the Colorado Liquor Code.

(b) Promotional Association may submit an application for the designation of a Common Consumption Area on forms provided by the Town Clerk and approved by the Town Attorney in accordance with the following minimum information:

(1) application and license fees;

(2) name, address and list of all officers of Promotional Association;

(3) documentation of how the application addresses the reasonable requirements of the neighborhood or desires of the adult inhabitants;

(4) the size in terms of acreage or square footage of the Common Consumption Area;

(5) proposed hours, dates and days of operation of the Common Consumption Area;

(6) a site plan detailing the proposed Common Consumption Area including, without limitation, the following information: boundaries of the area, location and description of physical barriers, location of all entrances and exits, location of all attached licensed premises and location of signs to be posted notifying customers of the hours of operation and restrictions associated with the Common Consumption Area;

(7) a security plan detailing security arrangements for the Common Consumption Area including but not limited to the following information: evidence of completed liquor training of all serving personnel approved by the Town Clerk and number and location of security personnel during the days and hours of operation of the Common Consumption Area;

(8) signed statement that the Common Consumption Area and all licensed establishments therein can be operated in compliance with this Article, all applicable provisions of this Code and the Colorado Liquor Code;

(9) lease, license or other right evidencing legal authorization for use of the Common Consumption Area; and

(10) proof of insurance of general liability and liquor liability naming the Town of Crested Butte, its elected, officers, employees, agents, attorneys and insurers as additional insureds in a minimum amount of \$1,000,000.00.

(c) An application for establishment of a Common Consumption Area shall be considered at a duly noticed public hearing of the Liquor Licensing Authority based on the following criteria of approval:

(1) there must be at least two licensed establishments attached to a Common Consumption Area;

(2) use of the Common Consumption Area is compatible with the reasonable requirements of the neighborhood or the desires of the adult inhabitants; and

(3) evidence that the Common Consumption Area is clearly delineated maintained using physical barriers to prohibit motor vehicle traffic (except emergency vehicles) and to limit pedestrian access.

(d) A tavern, hotel and restaurant, brew pub, retail gaming tavern or vintner's restaurant Licensee may request attachment to the licensed Common Consumption Area by submitting an application to the Local Licensing Authority with the following information:

(1) Written request and approval from the Promotional Association to allow the Licensee to be attached to a Common Consumption Area.

(2) Confirmation that the Licensee's licensed premises is located within or on the perimeter of the Entertainment District and attached to a Common Consumption Area.

(e) The Local Licensing Authority may reject a Licensee's attachment to a Common Consumption Area if the licensed premises is not within or on the perimeter of the Common Consumption Area and if the Licensee:

(1) fails to obtain consent from the Promotional Association to be attached to a Common Consumption Area;

(2) fails to establish that the licensed premises and Common Consumption Area can be operated without violating this Article or the Common Consumption Law;

(3) creates a public safety risk to the neighborhood in terms of law enforcement call-outs, breaches in securing the perimeter of the Common Consumption Area, unauthorized liquor consumption outside of the Common Consumption Area, noise or nuisance complaints generated from activities within the Common Consumption Area, or similar, documented public safety risks; or

(4) violates Section 12-47-909 of the Colorado Liquor Code.

(f) All renewal applications for Common Consumption Areas shall be submitted to the City Clerk no later than 45 days prior to the date on which the license expires. If there is evidence that the license should not be renewed, the Town Clerk shall set the application for hearing with the Local Licensing Authority.

Sec. 6-7-30. Promotional Associations.

(a) For certification and re-certification as a Promotional Association, the following information is required to be submitted to the Town Clerk in conjunction with or prior to application for establishment of a Common Consumption Area:

(1) application fee;

(2) copy of articles of incorporation and bylaws;

(3) list of names of all directors and officers of the Promotional Association;

(4) list of licensed establishments attached to a Common Consumption Area; and

(5) certificates of general liability and liquor liability insurance are provided in the amounts required under this Article.

(b) The Local Licensing Authority may certify a Promotional Association if the following criteria of approval are met:

- (1) the annual reporting requirements have been or will be met;
 - (2) evidence establishes that the Common Consumption Area can be and is operated without violating the Colorado Liquor Code, this Article or other applicable provision of this Code;
 - (3) there are at least two (2) licensed premises attached to a Common Consumption Area; and
 - (4) the required insurance as set forth in this Article is provided and will be continuously maintained.
- (c) A Promotional Association shall apply for annual recertification by March 1 of each year on forms prepared and approved by the Town Clerk.
- (d) The Local Licensing Authority may decertify a Promotional Association subject to the process as provided in Section 12-47-601 of the Colorado Liquor Code.
- (e) Operational Requirements of Promotional Associations.
- (1) The size of the licensed Common Consumption Area shall not be modified except with the approval of the Local Licensing Authority.
 - (2) The Promotional Association shall provide adequate security in terms of personnel, physical barriers, training and similar means, to ensure compliance with the Colorado Liquor Code and to prevent a public safety risk to the neighborhood.
 - (3) The Promotional Association shall post signs at the entrances and exits of the Common Consumption notifying customers of the hours of operation and restrictions associated with the Common Consumption Area.
 - (4) No one shall leave the Common Consumption Area with an unconsumed alcohol beverage.
 - (5) All serving personnel must complete a liquor training program approved by the Town Clerk prior to staffing the Common Consumption Area.

Sec. 6-7-40. Violations.

Noncompliance with any provision of this Article or the Common Consumption Law shall be deemed a violation of this Code. Violations of this Article shall be cause for suspension or revocation of the licensed premises, the Common Consumption Area license or decertification of the Promotional Association, as applicable and may be subject to other enforcement provisions set forth in the Code and the Common Consumption Law.

Sec. 6-7-50. Fees.

Application, renewal and licensing fees shall be established and amended by resolutions of the Town Council.”

Section 2. Effective Upon Adoption; Emergency. The Town Council hereby finds that until these regulations are effective, allowing a Common Consumption Area is not possible under the Code and the Town is currently anticipating a Major Special Event (as defined in the Code) that necessitates the use of a Common Consumption Area. Accordingly, the Town Council finds that this ordinance and the amendments to the Code set forth herein are an emergency and as such shall take effect immediately in order to, among other things, effectively regulate the consumption of alcohol at such Major Special Event.

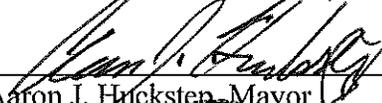
Section 3. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions 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.

Section 4. Savings Clause. Except as hereby amended, the Crested Butte Municipal Code, as previously amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town Council that is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 5TH DAY OF AUGUST, 2014.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 8TH DAY OF AUGUST, 2014.

TOWN OF CRESTED BUTTE, COLORADO

By: 
Aaron J. Huckstep, Mayor

ATTEST:

Lynelle Stanford, Town Clerk

(SEAL)

