

**ORDINANCE NO. 6**

**SERIES 2013**

**AN ORDINANCE AMENDING CHAPTER 16,  
ARTICLE 21 AND APPENDIX A, CHAPTER 16 OF  
THE CRESTED BUTTE MUNICIPAL CODE TO  
UPDATE THE PAYMENT-IN-LIEU OF PROVIDING  
RESIDENT OCCUPIED AFFORDABLE HOUSING**

**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**, pursuant to Article XX of the Colorado Constitution, as implemented through the Town of Crested Butte Charter, Title 31, Article 23, and Title 20, Article 29, C.R.S., the Local Government Land Use Control Enabling Act of 1974, the Town has the authority to enact and enforce land use regulations, including, without limitation, requirements for affordable housing;

**WHEREAS**, the Crested Butte Municipal Code (the "**Code**") contains regulations respecting resident occupied affordable housing designed to create more affordable housing units where new and expanded development increases the demand therefor;

**WHEREAS**, the Crested Butte Resident-Occupied Affordable Housing Administrative Procedures require that payment-in-lieu of providing resident occupied affordable housing units be updated each year to reflect the most recent free market residential unit sales in Crested Butte and any change in the Area Median Income (AMI);

**WHEREAS**, based on the foregoing, the Town staff has recommended that the Town Council adopt the following amendments to the Code updating the payment-in-lieu of providing resident occupied affordable housing units; and

**WHEREAS**, the Town Council finds that the below amendments to the Code accomplish the goals of updating the payment-in-lieu of providing resident occupied affordable housing units as described herein and such updates are in the best interest of the general health, safety and welfare of the residents and visitors of Crested Butte.

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

**Section 1.** Amending Appendix A, Chapter 16. Appendix A, Chapter 16 of the Code is hereby deleted in its entirety and replaced with the following new Chapter 16 which shall read as follows:

**"Chapter 16  
Zoning**

<i>Code Section</i>	<i>Description</i>	<i>Rate</i>	<i>Fee</i>
16-21-50(6)d.	Resident-occupied affordable housing payment assessed on newly constructed non-residential floor area in-lieu of providing ROAH units:		
	from June, 2012 through June, 2014	Per sq. ft.	\$ 18.51
	from July, 2014 through June, 2016	Per sq. ft.	\$ 27.76
	from July 2016 and thereafter	Per sq. ft.	\$ 37.01
16-21-50(6)d.	Resident-occupied affordable housing payment assessed on newly constructed lodging units or short-term residential accommodation units in-lieu of providing ROAH units.		
	from June, 2012 through June, 2014	Per lodging unit	\$2,197.61
	from July 2014 through June, 2016	Per lodging unit	\$3,296.42
	from July 2016 and thereafter	Per lodging unit	\$4,395.22
16-21-50(6)d.	Resident-occupied affordable housing payment assessed on 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 unit range:		
	Unit range (Sq. ft.)		
	A 1 - 499	Per sq. ft.	\$1.38
	B 500 - 999	Per sq. ft.	\$1.95
	C 1,000 - 1,499	Per sq. ft.	\$2.11
	D 1,500 - 1,999	Per sq. ft.	\$2.36
	E 2,000 - 2,499	Per sq. ft.	\$2.69
	F 2,500 - 2,999	Per sq. ft.	\$3.09
	G 3,000 - 3,499	Per sq. ft.	\$3.56
	H 3,500 - 3,999	Per sq. ft.	\$4.11
	I 4,000 - 4,499	Per sq. ft.	\$4.75
J 4,500 - or more	Per sq. ft.	\$5.40"	

**Section 2. Amending Section 16-21-50.** A new subsection shall be added to Section 16-21-50 which shall read as follows:

"(16) Payment-in-lieu of providing resident occupied affordable housing units shall be updated annually to reflect the most recent median cost per square foot paid for free market residential units in Crested Butte and any change in the Area

Median Income (AMI). Such updates shall be approved by duly adopted resolutions of the Town Council.”

**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 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 18th DAY OF MARCH, 2013.**

**ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 1<sup>st</sup> DAY OF APRIL, 2013.**

TOWN OF CRESTED BUTTE, COLORADO

By:   
Aaron J. Huckstep, Mayor

ATTEST:

  
Shelley Jansen, Town Clerk

[SEAL]



**CRESTED BUTTE  
RESIDENT-OCCUPIED AFFORDABLE HOUSING  
ADMINISTRATIVE PROCEDURES**

April 1, 2013

**PART 1 – RESIDENT-OCCUPIED AFFORDABLE HOUSING**

The Crested Butte Resident-Occupied Affordable Housing Administrative Procedures (Administrative Procedures) are intended to provide implementation information about the requirements and incentives in Chapter 16, Article 21 of the Crested Butte Municipal Code (Chapter 16, Article 21). The Town Manager shall implement these Administrative Procedures together with Chapter 16, Article 21 and the Guidelines, Rules, and Requirements Governing Resident-Occupied Affordable Housing in the Town of Crested Butte (Guidelines). Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in Chapter 16, Article 21 or in the Guidelines.

**A. Gunnison County Incomes**

The income limits presented in Table 1 A are presented as reference information for use whenever the terms “Area Median Income” or “AMI” are used in these Administrative Procedures or Chapter 16, Article 21 in calendar year 2013 and until updated by the Town in 2014. Table 1 A should be updated annually.

**Table 1 A  
2013 Gunnison County AMI Levels**

# Persons In Household	Percent of Area Median Income (AMI)			
	120%	100%	80%	40%
1	\$57,676	\$48,063	\$38,450	\$19,225
2	\$65,926	\$54,938	\$43,950	\$21,975
3	\$74,176	\$61,813	\$49,450	\$24,725
4	\$82,590	\$68,825	\$55,060	\$27,530
5	\$88,950	\$74,125	\$59,300	\$29,650
6	\$95,550	\$79,625	\$63,700	\$31,850

Source: U.S. Department of Housing and Urban Development ([HTTP://Portal.HUD.GOV/HUDPortal/HUD](http://portal.hud.gov/hudportal/hud)) -- Data Sets for FY 2013 Income Limits Summary

**B. Maximum Sale Prices for ROAH Units**

Table 1 B shows the maximum sales prices of ROAH units for Category 1 and 2 households containing one (1) to four (4) people in 2013. The prices in Table 1 B are also the initial Maximum Sale Price for ROAH units as discussed in Paragraph A. of Exhibit A of the Guidelines when a developer or owner of property subject to Chapter 16, Article 21 provides ROAH units and sells them to Qualified Buyers. As shown in the 1 person column for a Category 2 unit, the Maximum Sale Price for a ROAH unit when sold to a one (1) person household shall be no more than \$188,490 in 2013. The Maximum Sale Price for a ROAH unit when sold to a two (2) person household shall be no more than \$215,451 in 2013. Since the average size of a Category 2 unit in Chapter 16, Article 21 shall be a minimum of 900 sq. ft., the Town assumes that no more than two (2) bedrooms will be included in such units and no more than four (4) people should live in a unit of that size and of that many bedrooms. Therefore, the largest household size in Table 1 B is four (4) persons. The initial Maximum Sales Price for a household larger than four (4) people shall be the maximum sales price shown for a four (4) person household.

Category 1 includes all incomes  $\leq 80\%$  AMI for each household size but the Maximum Sale Prices shown for Category 1 in Table 1 B are based on 40% AMI as recommended in the Housing chapter of the Crested Butte Land Use Plan (LUPAH). Category 2 includes a range of incomes from 81 to 120% AMI for each household size, but Maximum Sale Prices for Category 2 are based on 100% AMI, as recommended in the LUPAH.

**Table 1 B  
Initial Maximum Sale Prices for ROAH Units  
by Category and by Household Size  
2013**

	<b>Maximum Sales Price</b>	<b>Maximum Sales Price</b>	<b>Maximum Sales Price</b>	<b>Maximum Sales Price</b>
<b>Household size</b>	<b>1 person</b>	<b>2 person</b>	<b>3 person</b>	<b>4 person +</b>
<b>Category 1 2012</b>	\$75,395	\$86,180	\$96,964	\$107,651
<b>Category 2 2012</b>	\$188,490	\$215,451	\$242,413	\$269,912

Maximum Sales Prices for ROAH units were calculated using the following calculation factors:

1. prices are based on the middle income in each income range
2. residents pay no more than 30% of their Gross Household Income as housing payments
3. 5% fixed mortgage rate
4. 5% down payment
5. thirty-year (30-year) amortization
6. property tax, insurance, homeowners association dues, and PMI (mortgage insurance) are assumed at 20% of 30% of monthly Gross Household Income (Affordable Monthly Housing payment)

These assumptions should be updated annually to take into account changes in mortgage rates, changes in the AMI and changes in the free market sales price per square foot in the Town of Crested Butte.

More information about how maximum sale prices in Table 1 B were calculated is shown in Table 2 C.

**PART 2— ADMINISTRATIVE PROCEDURES GOVERNING NON-RESIDENTIAL AND LODGING DEVELOPMENT MITIGATION**

**A. Quantification of Effects of ROAH Requirements**

Two (2) primary recent sources of data were used to quantify the impacts of development and to generate the requirements found in Chapter 16, Article 21. They are:

1. Town of Crested Butte, Colorado Affordable Housing – Strategy Support Study, March 2010 prepared by Rees Consulting, Inc. / RRC Associates Inc., which is located in Appendix C-5 of the LUPAH.
2. Gunnison County Housing Needs Assessment, 2009 prepared by BBC Research & Consulting.

Chapter 16, Article 21 sets forth different mitigation rates for different years for non-residential and lodging development. Table 2 A presents the number of non-residential square feet, which will require one (1) ROAH unit for each mitigation rate used in Chapter 16, Article 21. The “Sq. Ft. of building” row in the chart shows the first five hundred (500) sq. ft. subtracted from each building size when the number of ROAH units required was calculated.

**Table 2 A  
Number of Square Feet of Non-residential Development  
Which Require One ROAH Unit as Mitigation Rate Changes**

	<b>10% Mitigation Rate</b>	<b>15% Mitigation Rate</b>	<b>20% Mitigation Rate</b>
<b>Sq. Ft. of building</b>	<b>5975-500</b>	<b>4150-500</b>	<b>3235-500</b>
Median Jobs / 1,000 sq. ft.	4	4	4
Jobs generated	21.9	14.6	10.94
Jobs per employee	1.28	1.28	1.28
Employees generated	17.1	11.4	8.5
Employees per household	1.71	1.71	1.71
Housing demand generated	10.0	6.7	5.0
<b>Mitigation rate</b>	<b>10%</b>	<b>15%</b>	<b>20%</b>
ROAH units required	1.001	1.001	1.000

Table 2 B presents the number of lodging units which will require one (1) ROAH unit for each mitigation rate. Chapter 16, Article 21 exempts the first two (2) lodging units from complying with the requirements of the Article. Table 2 B shows the exemption of the first two (2) units in the “Number of lodging units” row.

**Table 2 B  
Number of Lodging Units that Require One ROAH Unit  
at Various Mitigation Rates**

	<b>Lodging Per Unit</b>	<b>Lodging Per Unit</b>	<b>Lodging Per Unit</b>
<b>Number of lodging units</b>	<b>50-2</b>	<b>35-2</b>	<b>26-2</b>
Median Jobs / 1,000 sq. ft.	0.475	0.475	0.475
Jobs generated	22.8	15.675	11.4
Jobs per employee	1.28	1.28	1.28
Employees generated	17.81	12.25	8.91
Employees per household	1.71	1.71	1.71
Housing demand generated	10.4	7.2	5.2
<b>Mitigation rate</b>	<b>10%</b>	<b>15%</b>	<b>20%</b>
<b>ROAH units required</b>	<b>1.042</b>	<b>1.074</b>	<b>1.042</b>

“Median Jobs / 1,000 sq. ft.”, “Jobs per employee”, and “Employees per household” are not expected to change until a new needs assessment and a support study are conducted for the Town. The numbers that will change frequently are numbers used to arrive at the payment-in-lieu. Those numbers are further discussed in Tables 2 C i 2 C ii and 2 D.

### **B. Calculating Payment-in-lieu Updates**

Each year the payment-in-lieu for non-residential development, lodging development and residential development should be updated. This section identifies the numbers that should be updated annually and describes the payment-in-lieu calculation.

#### **Non-Residential**

##### **First Step**

The first step is to update the “Median cost per sq. ft.” The Median cost per sq. ft. in Table 2 C i is the price paid for free market units, which is consistent with the documentation in Appendix C-5 of the LUPAH. The LUPAH compares what target incomes can afford to free market sales prices in Crested Butte. This comparison is used to determine the gap between what people can

## Administrative Procedures

afford and costs. The difference is known as the "Final Affordability Gap." The Median cost per sq. ft. is calculated after obtaining all residential sales in Crested Butte for the previous year from the Gunnison County Assessor. The Assessor can also provide date of sale, legal description, the number of square feet, and whether the square footage includes a finished basement.

The sales are reviewed to ensure:

1. no covenant-restricted sales are included
2. all sales are for complete units and not for a share of a unit that sold, e.g. occasionally a share of a business entity sells, which would be less than the total unit sales price
3. no non-residential space is included in the sales price (When non-residential space is included, the residential portion is usually not listed separately from the non-residential portion of the building because one price is paid for the entire property. Therefore, such sales are eliminated from the list.)
4. the residential listing is actually a residential listing and not a hotel, or a non-residential use
5. there was no donation involved in the sale price
6. the sale does not show up more than once in the list from the Assessor
7. the square footages are reviewed for accuracy to ensure they are the size we would expect in the zone district
8. the list of sales from the Assessor's Office is complete (The Finance and Planning Departments have been keeping track of all real estate sales for about 20 years. The sales provided by the Assessor's office should also be checked against all real estate sales maintained by the Planning Department to make sure both lists are complete and have the same numbers in them for each sale. Hilary Mayes confirmed all sales numbers in Crested Butte at the beginning of 2013 so she should be able to help with this.)

Once the list is generated for sales, ask the Finance Department to check it for unusual circumstances (e.g. a unit sale price included a donation in 2011 and in 2012 two units sold that the Finance Department was aware of but the Assessor had not included. The first unit was not included because the sale was actually in the previous year but not recorded until 2012. Interestingly, the sale was not in the 2011 list from the Assessor either. The second unit had some paper work issues so it had not been included in the 2012 list so far, but would have been included later. The Finance Department found both of these sales and they were added to the 2012 list.)

Because the Assessor can also provide the square footage of each sale, the cost per sq. ft. can be calculated for each sale and the Median cost per sq. ft. can be calculated for each year. When the sale of a unit is not included in the Assessor's list, the square feet of the unit can be found in the Assessor's data base for the unit. The Assessor's square footage should be used because this will keep the method for measuring square footage of units consistent. Use of the Town's Floor Area Ratio would be inconsistent with all other numbers from the Assessor's Office because Floor

Area Ratio uses a different method to calculate square footage.

In 2011 the Median cost per sq. ft. for free market units that sold in 2010 was \$363.20. In 2012 the Median cost per sq. ft. for free market units that sold in 2011 was \$380.12. In 2013 the Median cost per sq. ft. for free market units that sold in 2012 was \$286.53. After the Final Affordability Gap is determined in Table 2 C i and in Table 2 C ii, the new Final Affordability Gap is applied in Table 2 D. Because the median sale price varied significantly in the last three years, the Town decided to average the annual payment-in-lieu to have a more consistent payment-in-lieu.

**Second Step**

The second step is to determine the Final Affordability Gap. Table 2 C i presents the calculations necessary to determine the Final Affordability Gap between what targeted incomes can afford and the sale price per square foot of free market housing in Crested Butte. The “Explanations” column explains how to work through the table and some sources of data. Step 1 explains how to update the Median cost per sq. ft.

**Table 2 C i  
Calculation of the Gap Between  
What Target Incomes Can Afford and Sale Prices – 2013**

	<b>100% AMI (Category 2)</b>	<b>40% AMI (Category 1)</b>	<b>Explanations</b>
Target Income Point (2 person households)	\$52,313.00	\$20,925.00	
Gross monthly income	\$4,359.42	\$1,743.75	Target Income Point / 12 mos.
Affordable Monthly Housing payment (30% )	\$1,307.83	\$523.13	Gross monthly income x 30%
Property taxes/insurance/HOA dues (20% of Afford. Monthly Housing Payment)	\$261.57	\$104.63	Affordable Monthly Housing payment x 20%
Mortgage payment	\$1,046.26	\$418.50	Affordable monthly housing payment minus property taxes, etc.
Max. Mortgage amount *	\$194,899.00	\$77,958.86	Calculated by Excel given Mortgage payment
5% down payment	\$10,258	\$4,103	
Affordable purchase price (assume 5% down)	\$205,156.85	\$82,061.95	Max. mortgage amount + 5% down
Average sq. ft. of ROAH units	900	800	See ROAH requirements
Median cost per sq. ft. (free market)	\$380.12	\$380.12	from County Assessor
Market cost per unit	\$342,108.00	\$304,096.00	Avg. sq. ft of ROAH units x Median cost per sq. ft.
**			
Final Affordability Gap	\$136,951.15	\$222,034.05	Market Cost per unit minus Affordable Purchase Price

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Notes: \* Based on a fixed-rate thirty (30) year mortgage at five (5.0) percent interest with eighty percent (80%) of monthly affordable housing payment covering principal and interest and twenty percent (20%) of monthly affordable housing payment covering property taxes, insurance, HOA fees and PMI (mortgage insurance).

\*\* Please note this table differs from the Payment-in-Lieu Calculation table in the LUPAH because there is no 15% Administration Fee in this table.

Because the payment-in-lieu of providing ROAH units will be a three year average of the annual payment-in-lieu per square foot of residential and non-residential spaces or per lodging unit, Table 2 C ii shows the Final Affordability Gap for Category 2 (100% AMI) and Category 1 (40% AMI) for 2011, 2012 and 2013.

**Table 2 C ii**  
**Final Affordability Gaps**

Final Affordability Gap	100% AMI (Category 2)	40% AMI (Category 1)
2011	\$124,418.69	\$246,164.84
2012	\$136,950.70	\$222,033.61
2013	\$42,428.34	\$143,046.60

Determining the Maximum Mortgage Amount is done using the fx function in a Microsoft Excel spreadsheet. The steps are:

1. Select fx
2. Choose the category: the category is "financial"
3. Select a function, select PV
4. Rate: insert the mortgage rate divided by 12 (eg. (.05/12)
5. Nper insert 360 (30 years x 12)
6. Pmt insert the Mortgage payment -- from Table 2 C i (1098.76 would be inserted for Category 2) (Inset the mortgage payment as a negative number to get a positive mortgage amount eg. -1046.26)

### Third Step

The Final Affordability Gap is used to determine the "Annual PIL per Sq. Ft." and the "3 Year Average PIL per Sq. Ft." Table 2 D presents the calculations necessary to determine the Annual PIL per Sq. Ft. and the 3 Year Average PIL per Sq. Ft. PIL is an abbreviation for payment-in-lieu.

When Payment-in-lieu of providing ROAH units is calculated each year, the amount assessed by the Town for additional non-residential space will be the average of the current year Annual PIL per Sq. Ft. and the Annual PIL per Sq. Ft. for the two previous years. The 3 Year Average PIL per Sq. Ft. from the prior year will not be used in the calculation.

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For example, in 2013, the amount assessed by the Town for the payment-in-lieu of providing ROAH units per square foot of additional non-residential space, as allowed for in Section 16-21-50(6) of the Town Code, is the 3 Year Average PIL per Sq. Ft. found in Table 2 D (\$18.51). In 2014 the update will be done by using the 2013 Annual PIL per Sq. Ft. of \$7.75, the 2012 Annual PIL per Sq. Ft. of \$25.03 and the 2014 Annual PIL per Sq. Ft. These three numbers will be averaged to determine the 3 Year Average PIL per Sq. Ft. for 2014.

The Explanations column explains how to utilize the table.

**Table 2 D  
Non-residential Linkage Fee Calculation**

	<b>2013</b>	<b>2012</b>	<b>2011</b>	<b>Average</b>	<b>Explanations</b>
Sq. ft. of non- residential Bldg	6000-500	6000-500	6000-500		
Jobs per 1,000 sq ft	4	4	4		median for all non-residential uses
Jobs generated	22	22	22		size x # jobs per 1,000 sq. ft.
Housing demand	10.1	10.1	10.1		Jobs gen ÷ by jobs/emp ÷ by emp/hshld
<b>Mitigation rate</b>	<b>10.00%</b>	<b>10.00%</b>	<b>10.00%</b>		
ROAH units required	1.0051	1.0051	1.0051		Mitigation rate x Housing demand
Payment-in-lieu (Category 2)	\$42,645	\$137,651	\$125,055		ROAH units req'd x Final Affordability Gap
Annual PIL per Sq. Ft.	\$7.75	\$25.03	\$22.74		Pay-in-lieu ÷ by sq. ft. of non-res bldg.
<b>3 Year Average PIL per Sq. Ft.</b>				<b>\$18.51</b>	Average of PIL per Sq. Ft. for all 3 years

**Lodging units**

Calculating the payment-in-lieu for lodging units uses the same information found in the first and second steps for non-residential uses. Changes occur at the third step and Table 2 E differs from Table 2 D. Table 2 E presents the data and information used to determine the “Annual PIL per Lodging Unit” and the “3 Year Average PIL per Lodging Unit”. Table 2 E uses the same Final Affordability Gaps that are used for each year in Table 2 D.

**Table 2 E**  
**Lodging Unit Linkage Payment-In-Lieu Calculation**

	<b>2013 Payment Per Unit</b>	<b>2012 Payment Per Unit</b>	<b>2011 Payment Per Unit</b>	<b>Average</b>
<b>Number of lodging units</b>	<b>48</b>	<b>48</b>	<b>48</b>	
Median Jobs / lodging unit	0.475	0.475	0.475	
Jobs generated	22.8	22.8	22.8	
Jobs per employee	1.28	1.28	1.28	
Employees generated	17.81	17.81	17.81	
Employees per household	1.71	1.71	1.71	
Housing demand generated	10.4	10.4	10.4	
<b>Mitigation rate</b>	<b>10%</b>	<b>10%</b>	<b>10%</b>	
<b>ROAH units required</b>	<b>1.042</b>	<b>1.042</b>	<b>1.042</b>	
Payment-in-lieu for all lodging units proposed	\$44,196	\$142,657	\$129,603	
Annual PIL per unit lodging unit	\$920.75	\$2,972.02	\$2,700.06	
<b>3 Year Average PIL per lodging unit</b>				<b>\$2,197.61</b>

**Residential**

Table 2 F i shows the “Mitigation rate” for each residential “Unit Range” and the resulting units required or “Payment-in-lieu” required. Table 2 F i also shows the “Payment-in-lieu per Sq. Ft.” for each Unit Range.

**Table 2 F i**  
**Residential Linkage Fee Calculation – 2013**

<b>Unit Range (sq. ft.)</b>	<b>1 - 499</b>	<b>500- 999</b>	<b>1,000 - 1,499</b>	<b>1,500 - 1,999</b>	<b>2,000 - 2,499</b>	<b>2,500 - 2,999</b>	<b>3,000 - 3,499</b>	<b>3,500 - 3,999</b>	<b>4,000 - 4,499</b>	<b>4,500 - 4,999</b>
Mid-range size	250	750	1,250	1,750	2,250	2,750	3,250	3,750	4,250	4,750
Jobs per unit	0.096	0.112	0.130	0.151	0.175	0.204	0.237	0.275	0.320	0.375
Jobs generated	0.096	0.112	0.130	0.151	0.175	0.204	0.237	0.275	0.320	0.375
Housing demand	0.056	0.065	0.076	0.088	0.103	0.119	0.139	0.161	0.187	0.215
<b>Mitigation rate</b>	<b>3%</b>	<b>11%</b>	<b>17%</b>	<b>23%</b>	<b>29%</b>	<b>35%</b>	<b>41%</b>	<b>47%</b>	<b>53%</b>	<b>58%</b>
Units required	0.0017	0.0072	0.0129	0.0203	0.0297	0.0418	0.0568	0.0756	0.0991	0.1255
Payment-in-lieu	\$242	\$1,029	\$1,848	\$2,905	\$4,255	\$5,973	\$8,129	\$10,812	\$14,169	\$18,015
Payment - in-lieu per Sq. Ft.	\$0.97	\$1.37	\$1.48	\$1.66	\$1.89	\$2.17	\$2.50	\$2.88	\$3.33	\$3.75

The requirements and fees are based on the middle of each range so the mid-range size is shown in the “Mid-range size” row. “Jobs per unit” change because the data in Appendix C-5 of the LUPAH documents that as residential unit size rises, the number of jobs generated also rises. Appendix C-5 also states that jobs for residential units are counted as jobs so the “Jobs generated” is the same as Jobs per unit. Because Appendix C-5 showed that 1.71 employees live in each household, the Jobs generated are divided by 1.71 to get “Housing demand.” The “Mitigation rate” is then applied and “Units required” is the Mitigation rate times the Housing demand. The Payment-in-lieu is calculated by multiplying the number of Units required times the Final Affordability Gap, which in 2013 was \$143,046.60 for Category 1 and is found in Tables 2 C i and Table 2 C ii. Category 1 is used for residential. The Payment-in-lieu per Sq. Ft. is determined by dividing Payment-in-lieu by the Mid-range size.

Table 2 F ii shows the Annual PIL per Sq. Ft. for each unit size range for 2011, 2012 and 2013 and the 3 Year Average PIL per Sq. Ft. of those three years. The 3 Year Average PIL per Sq. Ft. is the payment-in-lieu that will be applied when residential space is increased in size or new residential space is built in 2013.

**Table 2 F ii  
Annual PIL for Each Unit Range for 2011, 2012 and 2013 and  
3 Year Average PIL per Sq. Ft.**

Unit size range	Annual PIL per Sq. Ft.			3 Year Average PIL per Sq. Ft.	
	Sq. Ft.	2013	2012		2011
1-499		\$0.97	\$1.50	\$1.66	\$1.38
500-999		\$1.37	\$2.13	\$2.36	\$1.95
1,000-1,499		\$1.48	\$2.29	\$2.54	\$2.11
1,500-1,999		\$1.66	\$2.58	\$2.86	\$2.36
2,000-2,499		\$1.89	\$2.94	\$3.25	\$2.69
2,500-2,999		\$2.17	\$3.37	\$3.73	\$3.09
3,000-3,499		\$2.50	\$3.88	\$4.30	\$3.56
3,500-3,999		\$2.88	\$4.48	\$4.96	\$4.11
4,000-4,499		\$3.33	\$5.17	\$5.74	\$4.75
4,500 +		\$3.79	\$5.89	\$6.53	\$5.40

### **C. Code Explanations**

This section of the Administrative Procedures is intended to give more information and examples about specific parts of Chapter 16, Article 21.

#### **16-21-40 (1) Residential**

Question: 16-21-40(1) Why are the number of ROAH units required the same for all units in a range?

Appendix C-5 of the LUPAH found that job generation rates, expressed in full-time equivalents (FTE) per unit, vary by square footage for residential development. It also documented that there is a positive correlation between household size and job generation - - the larger the home, the more jobs that are generated by the residence.

The residential requirements in Chapter 16, Article 21 are based on the total size of a home and the average number of jobs expected to be generated by the final size of the home. The key issue being addressed is that if a small house, e.g. a house that is one thousand two hundred (1,200) sq. ft., is enlarged to two thousand four hundred (2,400) sq. ft., the Town expects the number of jobs for the whole finished house to be higher than the number of jobs for just the addition. Therefore, the job generation rate and the mitigation rate are based on the final whole finished size of the house, not just the size of the addition. The job generation rate of the final house size is used to calculate the number of required ROAH units, but when calculating the requirements or the payment-in-lieu, the job generation rate and the mitigation rate are only applied to the size of an addition, not the whole house size.

When calculating the residential job generation rates for Appendix C-5 of the LUPAH, the data was expressed in one thousand (1,000) sq. ft increments for a whole range of housing (e.g. 1,000-1,999 sq. ft. = .14 employees). The Town further reduced the ranges to five hundred (500) sq. ft. ranges and calculated one job generation rate for each five hundred (500) sq. ft. range. Therefore, the average home in each range is expected to create the number of jobs shown in Table 2 G, which is taken from the Chapter 16, Article 21. The number of ROAH units required is the same for all residential units within a unit range, regardless of whether a particular home is at the bottom, middle, or high end of a range.

**Table 2 G**  
**Residential ROAH Formula for Whole Finished Units**  
**with each Job Generation Rate and associated Mitigation Rates**

Unit Range	Size of Unit (Square Feet)		Job Generation Rate	÷ Employees per Household	x Mitigation Rate	= ROAH Units Required
	Minimum	Maximum				
a	1	499	0.096	1.71	3%	0.0017
b	500	999	0.112	1.71	11%	0.0072
c	1,000	1,499	0.130	1.71	17%	0.0129
d	1,500	1,999	0.151	1.71	23%	0.0203
e	2,000	2,499	0.175	1.71	29%	0.0297
f	2,500	2,999	0.204	1.71	35%	0.0418
g	3,000	3,499	0.237	1.71	41%	0.0568
h	3,500	3,999	0.275	1.71	47%	0.0756
i	4,000	4,499	0.320	1.71	53%	0.0992
j	4,500	or more	0.371	1.71	58%	0.1258

**16-21-40 (2) Converting Residential to Non-residential**

Question: 16-21-40(2)(c) When residential units are converted to non-residential uses, do they get credit for previous compliance with the requirements of 16-21-40(2)(c) when they were residential?

Yes. If a payment-in-lieu of providing ROAH units was paid or if a ROAH unit was provided, the fee, or the ROAH unit, whichever is applicable, will be applied toward the new fee or ROAH unit requirement when a residential building, or space, is converted into a non-residential or lodging use. If a restrictive covenant was applied to an accessory dwelling on the same property prior to the conversion to non-residential or lodging uses, limiting its use to a long-term rental, the accessory dwelling will not count as one (1) required ROAH unit because it already has a restrictive covenant limiting it to a form of affordable housing - a long-term rental.

Question: 16-21-40(2)(d) If less than all of the required ROAH units are provided on site, how much smaller can the ROAH units be?

If some of the required ROAH units are provided on site, the average size of the ROAH units shall be reduced proportionately to the percentage of ROAH units required. The average size of ROAH units may be reduced up to one hundred (100) sq. ft. if all ROAH units are provided on site. So, if two (2) ROAH units are required and one (1) is provided on site, then the reduction in the average size of all required ROAH units shall be one-half (½) of the one hundred (100) sq. ft. total potential reduction, or fifty (50) sq. ft.

Question: 16-21-40(2)(e) What is an example of a use that may have unique circumstances, as allowed for in Section 16-21-40(2)(e)?

The Town envisions this section of the Code applying to ice rinks, theaters, or other uses which are unusual in Town and which may not have been included in the Table presenting Commercial Job Generation Rates in Appendix C-5 of the LUPAH.

Question: 16-21-50(2) Can developers build on Town-owned land or must the land be sold, and for how much?

1. Developers can only build on Town-owned land or purchase Town-owned land if the Town Council agrees to allow the Town-owned land to be used.
2. If construction of new ROAH units is proposed on Town-owned land, the ROAH units will become the property of the Town upon issuance of a certificate of occupancy. The conveyance of the ROAH units to the Town will be more thoroughly described in the agreement between the developer and the Town that is discussed in Section 16-21-50(2). The Town may sell the ROAH units or rent them as long-term rentals unless the sale or rental of the units is controlled by other documents of the Town.
3. Town-owned land may be purchased from the Town. If it is purchased at less than fair market value, as determined by a third party appraiser, the percentage of units that will become the property of the Town will be inversely proportional to the percentage of fair market value paid for Town-owned land, as determined by the Town. So, if the developer pays the Town 70% of the fair market value of the land, the Town will own 30% of the units built on the land, but never less than one (1) ROAH unit.

The Town ROAH units will become the property of the Town upon issuance of a certificate of occupancy. The Town may sell the units or rent them as long-term rentals, subject to Town restrictions and the requirements of Chapter 16, Article 21 and the Guidelines. The AMI requirements for ROAH units will depend upon whether the ROAH units are built to comply with Section 16-21-60(3)(a) or (b).

The remainder of the units must be deed restricted as ROAH units, and will be owned by the owner/developer of the development subject to the requirements of Chapter 16, Article 21 and the Guidelines. The ROAH units may be sold to Approved Entities that agree to rent the units in compliance with Chapter 16, Article 21 and the Guidelines. The AMI requirements for ROAH units will depend upon whether the ROAH units are built to comply with Section 16-21-60(3)(a) or (b).

4. Construction of new ROAH units may be proposed on Town-owned land that is purchased from the Town at Fair Market Value, as determined by a third party appraiser. If the Town Council decides to sell Town-owned land, the units must be deed restricted as ROAH units and will be owner occupied units or will be owned by the owner/developer of the development subject to the requirements of Chapter 16, Article 21 and the Guidelines. The AMI requirements for ROAH units will depend upon whether the ROAH units are built to comply with Section 16-21-60(3)(a) or (b). Such

ROAH units that are rental units may be sold to Approved Entities that agree to rent the units in compliance with Chapter 16, Article 21 and the Guidelines.

Question: 16-21-50(4) If a primary or accessory building is built on a residential site and the building is not restricted as a ROAH unit, what happens when the second dwelling is built on site?

1. When the first building is built, a payment-in-lieu of providing a ROAH unit is paid. (An accessory dwelling could also be built, but the question assumes there is only one (1) unit on the site.)
2. When the second unit is built, one of the units must have a restrictive covenant limiting its uses to the uses and other restrictions in Section 16-21-60(1) or to a long-term rental.
3. If the building permit is issued for the second unit prior to three (3) years elapsing since the building permit was issued for the first building, and if a restrictive covenant is applied to one (1) of the units, there is now an affordable housing unit on-site so the payment-in-lieu paid for the first unit will be returned to the land owner, without interest.

Question: 16-21-50(5) This section of the code allows a restrictive covenant to be placed on an existing dwelling unit that meets current building codes to comply with the requirements of Section 16-21-40. What if the existing dwelling unit does not meet current building codes?

An existing dwelling unit used to comply with this section of the Code shall, at a minimum, be:

1. five hundred (500) square feet in size
2. equipped with a functional bathroom, including a bathing area, and kitchen
3. comply with life/safety code requirements

Because the building codes change frequently, it is possible that an older existing dwelling unit may not meet other current building codes. The Town Council has a number of options in this situation including, but not limited to, the following:

1. waive meeting other building codes for the existing unit
2. require the proposed unit be improved to meet all other building codes
3. decide that since the unit proposed to comply with the requirements does not meet the other building codes, it should not be counted as a whole ROAH unit (e.g. if a unit proposed for the restrictive covenant is substandard, it may be counted as less than one (1) whole ROAH unit)

16-21-50(5) (d) The long-term affordability of the proposed ROAH unit must be adequately protected. What does this mean?

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This means that all housing costs including homeowners association dues, and other costs associated with the owning a ROAH unit should not exceed 30% of the monthly household income.

Question: 16-21-50(6) Can any developer pay a payment-in-lieu for required units regardless of how many ROAH units are required?

A developer may provide a ROAH unit or may make a payment in lieu for fractions of a required ROAH unit. Prior to making a payment-in-lieu for whole required ROAH units making a payment-in-lieu of providing the whole ROAH units must be approved by the Town Council after the Town Council finds that the developer has complied with Section 16-21-50(6).

Question: 16-21-50(6) How will payments-in-lieu of providing required ROAH units be used?

Payments-in-lieu of providing ROAH units will be placed in the Town's affordable housing fund for uses that help create and maintain affordable housing including, but not limited to:

1. planning for affordable housing
2. construction of new affordable housing units
3. land acquisition for affordable housing units
4. infrastructure to serve new affordable housing units
5. contracts related to affordable housing services
6. subsidizing affordable housing
7. legal fees, costs and expenses in administering affordable housing
8. staff time used to create affordable housing
9. acquisition, repair and restoration, and the covenant-restriction of existing units

Question: How frequently are the ROAH requirements updated and how are they updated?

Major changes in the requirements will only occur after the housing needs assessment for Gunnison County is updated and after a support study, such as the study found in Appendix C-5 of the LUPAH, is updated. These documents should be updated, on average, every five (5) years.

The Town will endeavor to update the Final Affordability Gap, incomes, Payment-in-lieu and Payment-in-lieu per sq. ft. in the tables above annually to reflect current AMI numbers for Gunnison County and previous year median free market residential sales prices per square foot for Crested Butte, as used in the LUPAH and above. After the updates are made to this document, the payments-in-lieu in Appendix A of the Crested Butte Municipal Code should also be updated.

16-21-50(6)(c) Subparagraph v. states that a payment in-lieu for whole ROAH units can only be made if ROAH units on the same property as the development subject to this Article would be

incompatible with the character of the project that is being developed. Does this mean if the development subject to this Article is designed for wealthy people then ROAH units designed for lower income people are incompatible?

No. Targeted users are not the point of this criterion. The point of this criterion is to avoid having uses on the same property which are contradictory (eg. having ROAH units (dwelling units) on the same property where hazardous materials are used or stored).

16-21-50(9) If an existing tri-plex residential building is demolished and replaced with three new residential units, can those residential units be used in the ROAH Credit program?

No. Residential units used in the ROAH Credit program can only be used if they add additional units to the housing inventory of the Town. So, if a tri-plex is demolished and replaced with three (3) new residential units, there are no additional housing units created and no housing units that can be used in the ROAH Credit program. If a four-plex replaces the triplex, then the one (1) additional unit may be used in the ROAH Credit program.

16-21-60(2) Measuring Square Footage.

When measuring new square footage of non-residential space, the Town does not count ROAH units, other residential space or any lodging units in the building as square feet of the non-residential space - see Section 16-21-60(2).

**D. Formulas for Requirements and Examples**

1. Residential.

The residential payment-in-lieu fees set forth in Appendix A of the Town Code are derived from the formula below as further described in the tables above:

**Formula**

$$\begin{matrix} \text{Job Generation} & \div & \text{Employees per} & \times & \text{Mitigation} & = & \text{Units Required} & \times & \text{Affordability} & \div & \text{Mid-size Unit} & = & \text{Fee per} \\ \text{Rate for} & & \text{Household} & & \text{Rate} & & \text{for Unit Range} & & \text{Gap} & & \text{in the Range} & & \text{sq. ft.} \\ \text{Unit Range} & & & & & & & & & & & & \end{matrix}$$

**Example** (1,300 sq. ft. - finished unit size – the job generation rate for residential units between 1,000 and 1,499 sq. ft. is .130)

Annual PIL per Sq. Ft.  
Unit Range C

$$.13 \div 1.71 \times 17\% = .0129 \times \$143046.64 \div 1,250 \text{ sq. ft.} = \$1.48 \text{ per sq. ft.}$$

3 Year Average PIL per Sq. Ft. is shown in Table 2 F ii

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2. Non-residential

**Formula (1st half of formula)**

$$\frac{\text{Annual PIL per Sq. Ft. Size of New Non-residential Development or Addition Minus 500 sq. ft.}}{1,000 \text{ sq. ft.}} \times \text{Job Generation Rate} \div \frac{\text{Jobs per Employee}}{1.28} \div \frac{\text{Employees per Household}}{1.71} \times \text{Mitigation Rate} = \text{\# ROAH units Required}$$

**(2<sup>nd</sup> half of formula)**

$$\text{\# ROAH Units Required} \times \text{Affordability Gap} = \text{Fee Required} \div \frac{\text{Size of New Non-residential Development or Addition Minus 500 sq. ft.}}{5000-500} = \text{Payment-in-lieu per sq. ft.}$$

**Example (5,000 sq. ft. building)**

$$\begin{aligned} & \frac{5,000 - 500}{1,000} \times 4 \div 1.28 \div 1.71 \times 10\% = .8223684 \text{ ROAH Units Required} \\ & .8223684 \text{ ROAH Units} \times \$42,428.34 = \$34,891.45 \div 5000-500 = \$7.75 \text{ per sq. ft.} \end{aligned}$$

3 Year Average PIL per Sq. Ft. is shown in Table 2 D  
 \*\*\*\*\*

3. Lodging

**Formula (1st half of formula)**

$$\frac{\text{Annual PIL per Sq. Ft. \# Lodging Units Minus 2}}{1} \times \text{Job Generation Rate} \div \frac{\text{Jobs per Employee}}{1.28} \div \frac{\text{Employees per Household}}{1.71} \times \text{Mitigation Rate} = \text{\# ROAH Units Required}$$

**(2<sup>nd</sup> half of formula)**

$$\text{\# ROAH Units Required} \times \text{Affordability Gap} = \text{Payment in Lieu} \div \frac{\text{Number of Lodging Units Minus 2}}{50-2} = \text{Payment-in-lieu per Lodging Unit}$$

**Example**

$$\begin{aligned} & \frac{50-2 \text{ lodging units}}{1} \times .475 \text{ per unit} \div 1.28 \div 1.71 \times 10\% = 1.041666 \text{ ROAH Units Required} \\ & 1.041666 \times \$42,428.34 = \$44,196.18 \div 50-2 \text{ Lodging} = \$920.75 \text{ per Lodging Unit} \end{aligned}$$

3 Year Average PIL per Sq. Ft. is shown in Table 2 E  
 Units  
 \*\*\*\*\*

### **PART 3 ALTERNATE METHODS FOR COMPLIANCE WITH THE REQUIREMENTS OF SECTION 16-21-40 OF THE CODE**

#### **A. Certificates of Resident Occupied Affordable Housing Credits**

ROAH Credits to be applied against the ROAH requirements contained in Chapter 16, Article 21 are established by the issuance of a ROAH Certificate. A ROAH Certificate is approved by the Town Council and is issued by the Town Manager to an owner/developer of affordable housing who builds new housing that it is not required for any affordable housing mitigation. An owner/developer may purchase such ROAH Credits and use them to satisfy ROAH mitigation requirements. This section describes the process for establishing, transferring and terminating ROAH Credits.

##### **1. Applications and Fees.**

All applications for ROAH Credits must include the following information:

- a. the square footage for each dwelling unit
- b. the proposed Category for each unit (See Categories identified in Section 16-21-60(1))
- c. the application fee

##### **2. Procedures for Issuing a ROAH Certificate.**

- a. Once the Town Council has approved a ROAH Certificate establishing a ROAH Credit for a new dwelling unit through adoption of a resolution, and after a restrictive covenant has been recorded for the dwelling unit requiring its use and occupancy to comply with Chapter 16, Article 21 and the Guidelines, the Town Manager shall issue a ROAH Certificate to the owner/developer of the dwelling unit who had the dwelling unit built. The Certificate will be in a form prescribed by the Town Manager.

##### **b. Content of the Certificate.**

The content of the ROAH Certificate shall include, at a minimum, the following information:

- i. the number of the certificate, in chronological order of issuance
- ii. the legal description and the street address of the dwelling units
- iii. the number of ROAH Credits established by the Certificate (One new dwelling unit that is deed restricted to comply with and meets the minimum standards set forth in Section 16-21 60(1) of the Crested Butte Municipal Code and the Guidelines equals one ROAH Credit.)
- iv. the Category of the ROAH unit as described in Section 16-21-60(1)
- v. whether the ROAH unit is an owner occupied ROAH unit or a rental ROAH unit
- vi. space to note the use and termination of ROAH Credits for projects subject to the requirements of Chapter 16, Article 21

- c. The Town Manager shall maintain a log of all ROAH Certificates and ROAH Credits utilized.

##### **3. Use and termination of ROAH Credits within the certificate.**

- a. The Town Manager shall terminate all or part of the ROAH Credits associated with a ROAH Certificate when a building permit is issued for development subject to the

requirements of Chapter 16, Article 21 and when the Town Manager makes the following findings:

- i. the application of the requirements of Chapter 16, Article 21 applied to a particular development require the provision of at least a fraction of a ROAH unit
  - ii. a building permit is ready to be issued after the development has been processed through all applicable review processes of the Town
  - iii. other required ROAH mitigation has taken legal effect
  - iv. the portion of the ROAH Credits in the ROAH Certificate to be terminated, together with any other mitigation accomplished, is equal to the mitigation required for the development in terms of ROAH units as calculated under Chapter 16, Article 21 including that the Category of the ROAH Credit is the same as the required Category
  - iv. the ROAH Certificate has been submitted to the Town
- b. The use of all or part of the ROAH Credits enumerated in the ROAH Certificate, as applicable, shall be acknowledged on the building permit. Upon acknowledgement of credits utilized in the building permit, the Town Manager shall terminate all or part of the subject ROAH Credits and a new ROAH Certificate for any remaining ROAH Credits shall be issued to the owner thereof. The termination of any ROAH Credits shall also be noted on the ROAH Certificate log that is maintained by the Town Manager.
- c. The Building Permit for the development may be issued after the Town Manager makes the findings in 3.a. above.
- d. When all of the ROAH Certificate is extinguished, the Town shall void said ROAH Certificate.