

ORDINANCE NO. 19

SERIES 2008

AN ORDINANCE AMENDING THE BUILDING PERMIT REQUIREMENTS IN THE TOWN CODE RELATIVE TO PERFORMANCE DEPOSITS AND THE AMOUNT AND RETENTION OF THE SAME IN BUILDING PROJECTS

WHEREAS, the Town of Crested Butte, Colorado (the "Town") is a home rule municipality duly and regularly organized and validly existing as a body corporate and politic under and by virtue of the Constitution and laws of the State of Colorado;

WHEREAS, the Zoning and Land Use Ordinance (the "Building Ordinance") contained in the Crested Butte Municipal Code of 1987, as amended, contains provisions that require that the issuance of a building permit be accompanied by a performance deposit delivered to the Building Department to secure the applicant's completion of its improvements in conformance with Town approved plans and specifications for the project;

WHEREAS, the Town staff has determined that applicant's frequently construct said improvements in a manner that is inconsistent with Town approved plans and specifications;

WHEREAS, the Town staff has determined that the construction of said improvements in a manner that is inconsistent with Town approved plans and specifications is costly to the Town on account of, among other things, the Building Inspector's need to address said unapproved construction;

WHEREAS, the Town staff has determined that as a means to encourage applicants of building projects to perform their improvements in a manner consistent with Town approved plans and specifications, to ensure that all modifications to said plans and specifications made during construction are made subject to the appropriate processes as identified in the Building Ordinance and in order to defray the costs and expenses to the Town where an applicant fails to perform its improvement work in accordance with the approved plans and specifications, the Town staff recommends that the Town Council increase said performance deposit and further address the penalties associated with an applicant's failure to comply, including the retention of security deposits; and

WHEREAS, the Town Council finds that the below amendments to the Building Ordinance presented by the Town staff promote the desired goals of having applicants of building projects complete their improvements in a manner that is in conformance with Town approved plans and specifications and, where they do not, recoup the costs and expenses incurred by the Town in connection therewith, and, accordingly, are in the best interest of the environment, health, safety and general welfare of the residents and visitors of the Town.

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

Section 1. Amending Section 15-2-25 D. 2. (a) – Building Inspector and Building Permits. Section 15-2-25 D. 2. (a) is hereby amended to delete reference to the multiplier of “.25” and replace the same with “.50”. The remainder of the Section remains unchanged.

Section 2. Amending Section 15-2-25 D. 2. (c) – Building Inspector and Building Permits. Section 15-2-25 D. 2. (c) is hereby deleted in its entirety and replaced with the following new Section that shall read as follows:

“(c) Two hundred fifty dollars (\$250.00) per violation may be retained by the Town where the applicant has failed to perform any building, construction, structural alteration, movement, demolition or change work to any building or other structure in strict compliance with the approved plans and specifications therefor. Such retained deposit amounts shall represent the estimated costs and expenses of the Building Inspector in processing and handling said failures. Following such failure to perform, the Building Inspector shall notice the applicant of such failure and thereafter may retain the same without further action on the part of the Town. Nothing contained herein shall prohibit the Town from exercising any other remedies provided at law or in equity, including, without limitation, an action for attorneys’ fees, costs and expenses in connection with any such failure to comply.”

Section 3. Adding a New Section 15-2-25 D. 8. – Building Inspector and Building Permits. A new Section 15-2-25 D. 8 is added and shall read as follows:

8. Penalties; Enforcement. No person shall build, construct, structurally alter, move, demolish or change any building or other structure for which a building permit is required without compliance with the requirements of this Section. Any person who violates this Section shall be guilty of a misdemeanor and subject to a maximum fine of \$1,000.00 per offense, or by imprisonment not to ninety (90) days, or by both such fine and imprisonment. Each day any such building or structure is out of compliance with this Section shall be a separate offense hereunder. The Marshal’s Department, the Building Inspector or the Town Manager may enforce the penalties provided hereunder, including, without limitation, by proper summons to appear in a court of competent jurisdiction. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate, or remove any violation of this Section. Remedies provided in this Section are cumulative and concurrent and not intended to be exclusive and the same are in addition to all other rights provided at law and in equity.”

Section 4. 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 5. Savings Clause. Except as amended hereby, the Town of Crested Butte Municipal Code of 1987, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town which is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

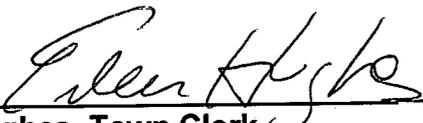
INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 6th DAY OF October, 2008.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 20th DAY OF October, 2008.

TOWN OF CRESTED BUTTE, COLORADO

By: 
Alan Bernholtz, Mayor

ATTEST:


Eileen Hughes, Town Clerk

