

ORDINANCE NO. 3

SERIES 2008

AN ORDINANCE AMENDING THE  
ANNEXATION PROVISIONS OF THE TOWN  
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 laws of the State of Colorado;

**WHEREAS**, Article 15-4 of the Crested Butte Town Code of 1986, as amended (the "Town Code"), contains certain requirements relative to the annexation of lands into the Town;

**WHEREAS**, the Town staff has found that these requirements require certain revisions so that they are consistent with the Municipal Annexation Act of 1965, Section 31-12-101 *et seq.*, C.R.S., and so that the Town staff and the Town Council may more efficiently and thoroughly review and process applications for annexation;

**WHEREAS**, the Town staff has found the foregoing revisions also necessitate certain conforming changes to the Town's Subdivision Regulations; and

**WHEREAS**, the Town Council has determined that such revisions, as reflected in this ordinance, accomplish the Town staff's goals described above and are in the best interest of the general health, safety and 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 Article 15-4, Annexation.** Article 15-4 is hereby deleted in its entirety and replaced with the foregoing new Article 15-4:

**"ARTICLE 15-4**

**ANNEXATION**

**Section 15-4-1. Title.** This Article shall be known and may be cited as the Town Annexation Ordinance.

**Section 15-4-2. Definitions.** As used in this Article, unless the context otherwise requires, the terms as defined by the Colorado General Assembly pursuant to the Municipal Annexation Act of 1965 codified at C.R.S. 31-12-101 *et seq.*, as amended, also referred to herein as the "Act", shall apply.

**Section 15-4-3. Legal Requirements.** The Town may exercise all statutory powers, all powers express and inherent in its Home Rule Charter, all powers as a home rule municipal corporation and all other powers it may lawfully assume. This Article shall be interpreted so as to extend such exercise of powers as is reasonable and necessary for the public welfare. To the extent this Article conflicts with the Act, the provisions hereof shall control.

**Section 15-4-4. Summary of Procedures for Annexation.** Annexation to the Town of Crested Butte requires a three (3)-step process:

- A. Concept Annexation Request to Town Staff and Review by Town Council.
- B. Formal Annexation Petition or Annexation Election Petition to Town Council.
- C. Annexation Hearing by Town Council.

**Section 15-4-5. Concept Annexation Request.** The concept annexation stage is designed to allow the applicant to obtain an informal response from the Town to the general elements of a proposed annexation.

A. Submission Requirements. The applicant shall submit ten (10) copies of the following to the Planning Director. Such submissions shall form the concept annexation request. The concept annexation request shall not be deemed to be part of the formal annexation petition.

- 1. Concept map showing the lands proposed to be annexed and the method for achieving the 1/6th contiguity required by the Act.
- 2. General description of proposed land uses and densities for the lands proposed to be annexed.
- 3. Description of proposed water, sewer and transportation service to the lands proposed to be annexed.
- 4. Description of proposed roads, sidewalks and pedestrian access and circulation as they relate to the lands proposed to be annexed.

B. Processing Fee. The applicant shall pay a nonrefundable processing fee of \$500.00 to defray the initial costs and expenses incurred by the Town in connection with the Town's review of the concept annexation request. Said processing fee shall be paid to the Town by the applicant at the time of the applicant's submission of the concept annexation request. The Town Council may, in its sole discretion, waive the requirement to pay said processing fee.

C. Procedure.

1. The concept annexation request will first be reviewed by Town staff in cooperation with the applicant.

2. Following Town staff review, the concept annexation request will be scheduled for review and comment by the Town Council. Only in the event the Town Council approves the concept annexation request may the applicant proceed to file a formal annexation petition and other necessary submittals required under Section 15-4-6 hereof. The formal annexation petition and other required submittals described in Section 15-4-6 shall be consistent with any Town Council approved concept annexation request.

D. Application to Petitions in Process. Any petition for annexation which has been previously filed with the Town and which has been approved by the Town Council under Sections 15-4-5 and 15-4-6 as the same existed prior to the effective date of this Annexation Ordinance, shall be considered as having complied with the requirements of this Section 15-4-5.

**Section 15-4-6. Submission Requirements for Formal Annexation Petition; Petition for Annexation Election.**

A. Submission Requirements. The applicant shall submit ten (10) copies of the formal annexation petition or petition for annexation election to the Planning Director complete with the following, as applicable:

1. A petition for annexation or petition for annexation election, as applicable, containing the allegations and meeting the requirements provided under the Act.

2. An annexation map appropriate for recording in the official land records of the County of Gunnison, State of Colorado that shall contain the information required by Section 31-12-107(1) (d) of the Act and the following information:

- a. date of preparation, north arrow, graph scale and name of the proposed annexation; and
- b. acreage of the lands proposed to be annexed and acreage of each of the parcels or lots comprising said lands proposed to be annexed.

3. A vicinity map showing the relationship of the lands proposed to be annexed to the existing Town municipal limits and surrounding properties. The vicinity map may be combined with the required annexation map.

4. A preliminary master plan for proposed land use and requested zoning of the lands to be annexed, including street layouts, the locations of affordable housing, open lands and public lands required for each housing unit and the general dimensions and with contour intervals of not more than two (2) feet.

5. Name, mailing address and phone number of the applicant, the applicant's legal counsel, land planner and engineer.

6. The scale of all maps shall not be less than one inch (1") equals two hundred feet (200'). All maps shall include true north point, the name of the annexation, township, range, principal meridian, section and quarter section, block and lot numbers. The dimensions of all maps shall be twenty-four inches (24") by thirty-six inches (36").

7. A complete subdivision sketch plan which complies with the Town's Subdivision Regulations.

8. The foregoing annexation submittals may need to be modified to reflect changes made during the subdivision review and approval process.

9. At the time of submission of the formal annexation petition and the submittals required hereunder, applicant shall deliver to the Town an executed annexation cost and expense reimbursement agreement obligating applicant to reimburse the Town for all costs and expenses whatsoever incurred by the Town in connection with the annexation.

10. The Town Council, in its sole discretion, may waive any submission requirement contained in this Section 15-4-6, other than those at subsections A.1., 2. and 6.

B. Pre-conditions to Setting of Annexation Hearing. After subdivision sketch plan approval, the following materials shall also be submitted prior to the Town Council setting an annexation hearing pursuant to Section 31-12-108 of the Act and Section 15-4-7.B.1. hereof.

1. Preliminary Subdivision Plan. A preliminary subdivision plan shall be submitted which complies with the Town's Subdivision Regulations.

2. Preliminary Subdivision Plan Report. Concurrently with applicant's preliminary subdivision plan submittal, applicant shall submit a written report containing the following information:

- a. A statement indicating how this particular annexation fits within the general development plan of the Town, including appropriateness under the Crested Butte Water Management Plan.
- b. Estimates of current and proposed population within the lands proposed to be annexed.
- c. The name or names of the special districts providing services that would be affected by the proposed annexation. If the lands to be annexed are part of a special district or county service area whose responsibilities are to be assumed by the Town, a statement shall be required indicating what steps have been taken to insure a smooth transition in the delivery of services and that the costs to the Town of doing so shall be funded by the applicant.

- d. At the option of the Town, a statement and plan showing that sufficient water, free of encumbrances, will be given to the Town to offset the potential population and uses of the annexed lands.
- e. A statement and timetable of how the applicant will develop and finance the extension of roads, utilities and other similar services.
- f. A statement and description of those lands that will be set aside for public use, what equivalent in money will be paid and what other types of public benefit are to be provided such as, and not by way of limitation, employee housing, affordable housing, parking and transportation structures, utility zones, and/or water rights within a contracted period of time.
- g. Impact Analysis containing the following:
  - i. General Information:
    - Gross acreage of annexation.
    - Approximate number and type of units.
    - Acreage of parks, streets and parking.
    - Acreage and percentage of open space to be created and analyzed as to the amount to be deeded or dedicated to the Town, and the amount to be retained in private ownership. Potential maintenance costs to the Town are to be estimated.
    - Density ratio: Number of units compared to net acreage (gross acreage less streets, parking, and open space).
  - ii. Population Impact:
    - Projected addition to the Town's population both permanent and seasonal.
    - Age group composition of the population.
    - Projected population by dwelling unit type.
    - Impact on school, police, and fire districts to be reviewed by the School Board, Police and Fire Departments.
  - iii. Traffic Impacts:
    - Projected vehicle trips to enter or depart the site daily and peak hour average.
    - Projected community wide impact.
    - Impact related to existing street segment capacities within the zone district.
    - Projected maintenance costs on new and existing streets.
    - Public transportation ties.
  - iv. Utilities Impact:

- Projected demand for water: year-round average and seasonal peaks.
  - Impact on existing water and sewer capacity and the potential need for additional facilities.
  - Potential electric power demand.
  - Projected garbage and solid waste generation.
- v. Environmental Analysis:
- Soil Capabilities types and bearing capabilities.
  - Geologic Hazard areas.
  - High ground water tables.
  - Steep slopes and potential erosion problems.
  - Flood prone areas.
  - Effects on existing fish, wildlife and vegetation.
  - Aesthetic consideration.
  - Wetlands designations.
- vi. Economic Impact Analysis:
- Expected revenues to be generated by the development (property taxes, sales and use taxes, real estate transfer tax, water and sewer fees and charges, and other revenues).
  - Estimated expenditures, including fire, police, emergency medical services (EMS), water and sewer services, general government services, parks and recreation, public works maintenance and capital improvements.
  - All data to be estimated on an annual basis for a term of not less than twenty (20) years or full project build out, whichever is greater.

3. Final Subdivision Plan. Following preliminary subdivision plan approval, the applicant shall submit the final subdivision plan as required by Section 15-3-6.G. Prior to setting an annexation hearing pursuant to Section 31-12-108 of the Act and Section 15-4-7.B.1. hereof, the Planning Director must first find that the same is in compliance with Section 15-3-6.F.3. and is complete and ready for Town Council and Planning Commission action pursuant to Section 15-3-6.F.4.

4. Annexation Agreement. A copy of the proposed annexation agreement with the Town shall be submitted. Said agreement shall include, without limitation, those agreements guaranteeing public benefit to the Town, the applicant's plans for phasing development of the annexation property, agreements concerning streets and trails, water and sewer, drainage, environmental testing, utilities, public lands dedications, zoning, affordable housing, capital expansion recovery fees, and any and all other agreements between the Town and the applicant, including any agreements reached to allow the project to proceed as required in Section 15-4-7.A.3.

### **Section 15-4-7. Procedure.**

A. Review of Formal Annexation Petition by Planning Director. Upon receipt of the complete formal annexation petition and submittals required in Section 15-4-6.A. as provided above, the Planning Director shall review the same and determine if they are complete and comply with the requirements of this Article, the proposed underlying zone district(s) as set forth in the Zoning and Land Use Ordinance, the Subdivision Regulations and the Town's Land Use Plan.

1. If the Planning Director finds the formal annexation petition and required submittals as required in Section 15-4-6.A. are complete and comply with the foregoing requirements, the petition shall be referred to the Town Clerk.

2. If the Planning Director finds the formal annexation petition and required submittals in Section 15-4-6.A. are incomplete or do not comply with the foregoing requirements, they shall be returned to the applicant and no further action shall be taken upon the same until any defects are corrected and the submittals required under Section 15-4-6.A. hereof are resubmitted.

3. Notwithstanding the failure of any submitted subdivision sketch plan, preliminary subdivision plan or preliminary master plan to comply with the Subdivision Regulations (excepting the requirements of Section 15-3-7 A. 3, 4, and 7; B.; G.; H.; I.; K.; L.; M.; S. and U.), the proposed underlying zone district(s) as set forth in the Zoning and Land Use Ordinance and/or the Town's Land Use Plan, the Town Manager may permit the same to be reviewed and processed and allow the formal annexation petition and the other required submittals to proceed through the annexation process by submission of the same to Town Clerk; provided that: (1) the applicant demonstrates the degree to which said subdivision sketch plan, preliminary subdivision plan or preliminary master plan does not comply with the aforesaid requirements; (2) the applicant proposes specific alternatives to mitigate or offset such lack of compliance by providing amenities or other items in lieu of those required by the Subdivision Regulations, the proposed underlying zone district(s) as set forth in the Zoning and Land Use Ordinance or the Town's Land Use Plan that are of such a benefit to the Town that the requirements may be varied or waived in exchange for the receipt of such amenities or other items; and (3) such alternatives are incorporated into the annexation agreement required under this Article.

B. Action by Town Council on Formal Annexation Petition. Upon receipt of a complete formal annexation petition and other submittal requirements which have been found to be in compliance with the requirements of Section 15-4-6.A. by the Planning Director as provided above, or allowed to proceed by the Town Manager as described above, and upon a finding by the Planning Director that the applicant has complied with Section 15-4-6.B. to the extent found to be required by the Town Council at this time, the Clerk shall forward the complete Formal Annexation petition to the Town Council. The Town Council shall thereupon take one of the following actions:

1. adopt a resolution finding the formal annexation petition to be in substantial compliance with Section 31-12-107(1) or 31-12-107(2) of the Act, as appropriate, and that the applicant has complied with Section 15-4-6.A. or such portions thereof as have not been waived by the Town Council, and has satisfied Section 15-4-6.B. to the extent found to be required by the Town Council at this time, and setting a public hearing thereon pursuant to Section 31-12-108 of the Act;

2. table the formal annexation petition and adoption of said resolution until the requirements of Section 15-4-6.A. and B., as appropriate, have been met or waived by the Town Council; or

3. adopt a resolution finding the petition to not be in substantial compliance with the requirements of Section 31-12-107(1) or 31-12-107(2) of the Act, as appropriate, and terminating annexation proceedings.

C. Annexation Election Procedure. The requirements for review of any annexation election petition and annexation election shall be the same as those specified in the Act and in this Article 15-4.

#### **Section 15-4-8. Annexation Hearing.**

A. Resolution Setting Hearing. At such time as, in the judgment of the Town staff, the annexation agreement and final subdivision plat are in final form and in the event the requirements of Sections 15-4-6 and 15-4-7 hereof have been satisfied, the Town Council may consider adoption of a resolution of intent to annex, finding substantial compliance and setting an annexation hearing as described in Section 15-4-7.B. Upon adoption of said resolution, the Town shall cause the following to occur:

1. A copy of the resolution, notice and petition shall be sent to the Board of County Commissioners, County Attorney and any and all special districts and school districts serving the lands proposed to be annexed at least twenty five (25) days prior to the hearing.

2. An annexation impact report as required by Section 31-12-108 of the Act shall be filed with the Board of County Commissioners at least twenty five (25) days prior to the hearing.

3. At any regular or special meeting, the proposed annexation and zoning ordinances shall be introduced according to the Town Charter and the Town's Zoning Land Use Ordinance.

B. Criteria for Annexation Decision. The following criteria shall be considered before the Town Council may act favorably on any annexation request:

1. The final master plan for the use of the lands to be annexed is acceptable.

2. The final subdivision plan for the use of the lands to be annexed complies with the Subdivision Regulations,

3. The proposed open spaces have a workable program established for maintenance and up-keep and are coordinated with the Town's open space program where possible.

4. The proposed annexation is necessary or desirable and will contribute to the general well-being of the community.

5. The proposed annexation will in no way be detrimental to the health, safety, or general welfare of the persons residing within the corporate boundaries of the Town or injurious to property or improvements in the vicinity of the lands proposed to be annexed.

6. The proposal is in harmony with the intent of Town zoning ordinances and policies adopted by the Town.

7. Unless otherwise agreed to by the Town, the extension of services will be financed totally by the applicant.

8. Revenue and/or public benefit to be gained from the Town's portion of increased tax base and other revenue on account of the proposed annexation is equal to or greater than the cost to the Town of the services required.

9. The advantages to the Town materially outweigh the disadvantages.

10. The annexed lands have a logical extension of road systems and of public transportation systems, consistent with the Town's Land Use Plan.

11. The extension of water and sewer lines are feasible in the area.

12. The applicant has agreed to update any geological hazard, flood plain and other applicable mapping for the lands to be annexed. The update work shall be performed by a qualified person of the Town's choosing and shall be paid for by the applicant.

13. The proposal is consistent with the Town's Land Use Plan.

14. To the extent the proposal is not consistent with the Town's Zoning and Land Use Ordinance, Subdivision Regulations and Land Use Plan, such inconsistency is addressed and/or adequately mitigated, to the Town Council's satisfaction, in the final annexation agreement.

C. Procedure for Annexation Hearing.

1. Town Council opens combined public hearing and takes testimony on:

- a. proposed annexation;
- b. proposed zoning; and
- c. proposed subdivision (also in its capacity as Planning Commission).

2. Town Council adopts a resolution pursuant to Section 31-12-110 of the Act making findings of fact and approving the final annexation agreement.

3. Town Council adopts ordinance annexing the property.

4. Town Council adopts ordinance zoning the property.

5. Town Council approves subdivision improvements agreement.

6. Convening as the Planning Commission, Town Council approves final subdivision plan.

**Section 15-4-9. Cost Reimbursement.** Applicant shall pay all costs and expenses, whatsoever, incurred by the Town, including, without limitation, all costs and expenses in connection with any legal publications, notices, filings, reproduction of materials, public hearings, recording of documents, engineering services, attorney services, consultant services, time of Town staff, permits and easements, in connection with any annexation.”

**Section 2. Amending Section 15-3-6.E., Preliminary Subdivision Plan Submittals.** Section 15-3-6.E. is hereby amended by adding a new subsection 17, which shall read as follows, and renumbering the existing subsection 17 to subsection 18:

“17. Annexation Impact Analysis. In addition to the foregoing, if the property to be subdivided is also proposed for annexation, the submittals shall include the requirements of Section 15-4-6.B.2.g.”

**Section 3. Amending Section 15-3-6.B.5(c), Public Action by Planning Commission.** Section 15-3-6.B.5(c) is hereby deleted in its entirety and replaced with the following:

“(c) Prior to any comments by the Planning Commission, or as a result of discussions with the subdivider, the Planning Commission may, at its discretion, request that the sketch plan be reviewed by the Board for specific recommendations and may also refer the sketch plan to any or all of the following referral agencies for their review, comments and recommendations concerning said sketch plan:

- i. Gunnison County Board of County Commissioners;
- ii. Gunnison County Planning Commission;
- iii. Mountain Express;
- iv. Town of Mt. Crested Butte;

- v. Colorado Division of Wildlife;
- vi. Gunnison Trails Commission;
- vii. RE1J School District;
- viii. Crested Butte Fire Protection District;
- ix. Gunnison County Planning Department;
- x. Colorado Geologic Survey; and/or
- xi. U.S. Army Corps of Engineers."

**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 hereby amended, the Town Code 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.

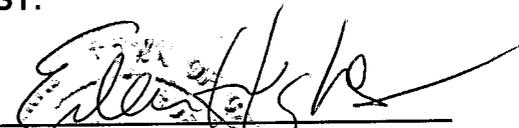
INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 4th DAY OF FEBRUARY, 2008.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 1<sup>st</sup> DAY OF February, 2008.

TOWN OF CRESTED BUTTE, COLORADO

By:   
Alan Bernholtz, Mayor

ATTEST:

  
Eileen Hughes, Town Clerk

(SEAL)

