

ORDINANCE NO. 13

SERIES 2019

AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL DELETING AND RE-CODIFYING CHAPTER 16, ARTICLE 12 CONDOMINIUMS AND TOWNHOUSES, AND AMENDING CHAPTER 17, ARTICLES 1-GENERAL PROVISIONS AND ARTICLE 3-MAJOR AND MINOR SUBDIVISIONS GENERALLY.

WHEREAS, the Town of Crested Butte, Colorado (“Town”) is a home rule municipality duly and regularly organized and existing as a body corporate and public under the Colorado Constitution and laws of the State of Colorado; and

WHEREAS, the Town has the authority to enact and enforce land use regulations pursuant to Article XX of the Colorado Constitution, as implemented through the Town of Crested Butte Charter and Code; and Title 31, Article 23, and Title 20, Article 29, C.R.S.; and

WHEREAS, the Town Municipal Code (the “Code”) in Chapter 16, Article 12 currently has provisions for condominium and townhouses; and

WHEREAS, Chapter 17, Article 3 of the Code currently has provisions for major and minor subdivisions; and

WHEREAS, the Town wishes to create more efficient and thorough review and approval procedures for condominium and townhouse plats and subdivision exemptions; and

WHEREAS, the Town Council referred the staff’s request for proposed text amendments regarding condominiums, townhouse plats and subdivision exemptions to the Board of Zoning and Architectural Review (“BOZAR”); and

WHEREAS, BOZAR reviewed the proposed amendments to Chapter 16, Article 12 and Chapter 17, Article 3 pertaining to condominium and townhouses and subdivision exemptions on February 26, 2019 and voted 4-0 to recommend the text amendments to Town Council; and

WHEREAS, the Town Council has taken BOZAR’s recommendation into consideration and reviewed the proposed regulations pertaining to condominiums, townhouses and subdivision exemptions; and

WHEREAS, the Town Council hereby finds that it is in the best interests of the Town to make the proposed text amendments to the Code.

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

Section 1: Chapter 16, Article 12 Condominiums and Townhouses. Chapter 16, Article 12 Condominiums and Townhouses is hereby deleted in its entirety. Condominiumization and Townhouse subdivisions are re-codified and amended under Chapter 17, Article 3, Sec. 17-3-40.

Section 2: Sec. 17-1-100 Definitions. The following definitions will be added to Sec. 17-1-100 in alphabetical order:

Condominium or condominium project means a building or buildings consisting of separate fee simple estates to an individual air space unit of a multi-unit property, together with an undivided fee simple interest in common elements, as further defined in the Colorado Common Interest Ownership Act (CCIOA).

Townhouse or townhouse project means a building or buildings consisting of fee simple estates to individual units having common vertical walls, together with fee simple title to the land on which each unit is built and any yard and parking space appurtenant to said unit; and any easements for ingress and egress and for installation, replacement, repair and maintenance of utilities appurtenant to a unit. No townhouse or townhouse project shall have common horizontal walls.

Section 3: Sec. 17-3-10 Descriptions. Sec. 17-3-10 is deleted in its entirety and rewritten to read as follows:

Sec. 17-3-10. Types of subdivisions.

Subdivision types are characterized as minor subdivisions under Sec. 17-3-20 or major subdivisions under Sec. 17-3-30. Condominiumization and Townhouse subdivisions are subject to Sec. 17-3-40; and activities that are exempt from these subdivision regulations are subject to Sec. 17-3-50.

Section 4: Sec. 17-3-20 Characteristics of minor subdivisions. Sec. 17-3-20 is deleted in its entirety and rewritten to read as follows:

Sec. 17-3-20. Minor subdivisions.

- (a) A minor subdivision is any one (1) or more of the following activities:
- (1) A re-subdivision creating eight (8) or less parcels from lots that include a building and/or structure, if the following conditions are met:
 - a. The property is zoned;
 - b. Each new re-platted parcel (lot) meets all requirements for the zoning district in which the land is located;
 - c. Each new re-platted parcel (lot) has access to an existing dedicated public street; and

- d. Any utility, drainage, snow storage, parking or other necessary easements are shown on the plat.
- (2) A re-subdivision creating four (4) or less parcels from tracts that include a building and/or structure, if the following conditions are met:
- a. The property is zoned;
 - b. Each new re-platted parcel (lot) meets all requirements for the zoning district in which the land is located;
 - c. Each new re-platted parcel (lot) has access to an existing dedicated public street; and
 - d. Any utility, drainage, snow storage, parking or other necessary easements are shown on the plat.

Section 5: Sec. 17-3-40 Exemptions. Sec. 17-3-40 is deleted in its entirety and rewritten to read as follows:

Sec. 17-3-40 Condominiumization and Townhouse subdivisions.

(a) Applicability. These regulations set forth requirements for the creation of condominiums and townhouses including the new condominiums or townhouses, changes to existing condominiums or townhouses, and requirements for consolidation of residential condominiums and townhouses.

(b) Plat requirements. Any condominium or townhouse plat shall conform to the following requirements:

(1) Mylars. There shall be at least one (1) mylar and two (2) full sets of blue line prints, the size to be twenty-four (24) inches by thirty-six (36) inches, with a one-half inch border on the top, bottom and right-hand side, and a one-and one-half inch border on the left-hand side. As many sheets as may be necessary may be submitted for a single plat or filing.

(2) Cover sheet. The cover sheet shall contain the full name of the condominium or townhouse project.

(3) Legal opinion. The cover sheet shall contain a legal opinion, executed by an attorney licensed to practice in the State, evidencing title of the property being dedicated to be in the owner, and showing all exceptions to the title, if any. Such opinion shall be substantially in the following form:

ATTORNEY'S OPINION

I, (printed name of the attorney), being an attorney duly licensed to practice before courts of record in the State of Colorado, do hereby certify that I have examined the title to all lands herein dedicated and shown upon this plat and that title to such lands is in the dedicator free and clear of all liens, taxes and encumbrances, except as follows:

(Herein list all exceptions)

Dated this ___ day of _____, 20__.

/s/ _____
Attorney-at-Law
Supreme Court Reg. No. _____

(4) Dedication. The cover sheet shall contain a notarized dedication of the full legal description of the parcel being dedicated, executed by the owner, as such owner is identified in the legal opinion. Such dedication shall be substantially in the following form:

**FULL NAME OF CONDOMINIUM PROJECT OR TOWNHOUSE SUBDIVISION
(IN CAPITAL LETTERS)**

KNOW ALL PEOPLE BY THESE PRESENTS: That (Full name of Owner), being the owner of the following described real property, hereby declares and executes this Condominium or Townhouse Plat of (FULL NAME OF CONDOMINIUM PROJECT OR TOWNHOUSE SUBDIVISION IN CAPITAL LETTERS), Town of Crested BUTTE, County of Gunnison, State of Colorado, as follows:

- a. DESCRIPTION. The property description of the real property laid out and platted as (FULL NAME OF CONDOMINIUM PROJECT OR TOWNHOUSE SUBDIVISION IN CAPITAL LETTERS) shown on this Plat is:

**PROPERTY DESCRIPTION
(Full Legal Description)**

- b. CONDOMINIUM DECLARATION OR PARTY WALL AGREEMENT. The real property aid out as (FULL NAME OF CONDOMINIUM PROJECT OR TOWNHOUSE SUBDIVISION IN CAPITAL LETTERS), Town of Crested Butte, Gunnison County, Colorado, is platted and dedicated pursuant to the terms and conditions of the Condominium Declaration or Party Wall Agreement for (FULL NAME OF CONDOMINIUM PROJECT OR TOWNHOUSE SUBDIVISION IN CAPITAL LETTERS) dated _____, 20__ and recorded _____, 20__ in Book ___ at Page ___ of the official records of Gunnison County, Colorado.

IN WITNESS WHEREOF, (Full name of Owner), executed this dedication this ___ day of _____, 20__.

(Full name of Owner)

By: _____

ATTEST
s/s _____
(Notary Public)

(5) Survey certificate. The cover sheet shall contain a certificate prepared by a person licensed in the State as a land surveyor, to the effect that he project is completed as shown on the Plat. Such certificate shall be in substantially the following form:

LAND SURVEYOR'S CERTIFICATE

I, (Full name of the Land Surveyor), being a registered land surveyor in the State of Colorado, do hereby certify that this Condominium or Townhouse Plat of (FULL NAME OF CONDOMINIUM PROJECT OR TOWNHOUSE SUBDIVISION IN CAPITAL LETTERS) was made by me and under my supervision and is accurate to the best of my knowledge, that the improvements as constructed conform substantially to this plat, and that this plat fully and accurately depicts the layout, measurements and location of all of the improvements on the real property, the Condominium or Townhouse unit designations, the dimensions of such units and the elevations of the unfinished floors and ceilings (if a Condominium Project).

Dated this ____ day of _____, 20__.

/s/ _____
(Full Name and Address of Land Surveyor with
Colorado Registration No. _____) (Seal)

(6) Government approval form. The cover sheet shall contain printed provisions for the acceptance and approval of the plat by the Town Manager or designee and by the County Clerk and Recorder, in substantially the following form:

TOWN OF CRESTED BUTTE APPROVAL

The within Plat of (FULL NAME OF CONDOMINIUM PROJECT OR TOWNHOUSE SUBDIVISION IN CAPITAL LETTERS), is approved for filing this ____ day of _____, 20__.

/s/ _____
By: Town Manager or designee

ATTEST:

s/s _____
Town Clerk (Seal)

GUNNISON COUNTY CLERK AND RECORDER'S ACCEPTANCE

(To be placed in the lower right-hand corner of the cover sheet)

This Plat was accepted for filing in the office of the Clerk and Recorder of Gunnison County, Colorado on this ____ day of _____, 20__.

Reception No. _____ Time: _____ Book No. ____ Page No. ____
Date: _____
/s/ _____
County Clerk

(7) Lienholder consent. Lienholder consent to the plat as reflected in a title commitment for the property shall be included thereon.

(8) Scale. All buildings and improvements shall be drawn to scale, and the scale, both written and graphic, is to be identified on each sheet.

(9) Location map. The plat shall contain a location map, identifying a sufficient part of the surrounding land and streets so as to easily determine the location of the subject parcel within the Town.

(10) Site plan. The site plan, at a minimum, shall depict with accurate dimensions the following:

- a. Exterior boundaries of the entire site, with all courses and distances noted thereon, which must conform to the requirements of the zone district or approved general P.U.D. plan within which the project is located;
- b. Boundaries between townhouse units, the unit designation for each unit and all courses and distances;

- c. Outline or building footprint for all buildings, structures and improvements located on the property, with the linear measurements of all exterior walls of each building;
- d. Shortest distances between all buildings and between the buildings and the nearest project perimeter property line, which must conform to the setback requirements for the zone district or approved P.U.D. plan within which the project is located;
- e. All parking spaces, including properly sized required handicapped accessible spaces, if any, as determined by the Town;
- f. Ingress and egress to the property and to the buildings located thereon, and from each townhouse unit to the off-street parking spaces appurtenant to that unit, with easements to the same townhouses, where applicable;
- g. Location and linear measurements of any overhanging features, exterior stairs, and decks on any buildings;
- h. If a centralized trash storage or dumpster area will serve the project, the location of an on-site, open and unoccupied area at least twelve (12) feet by twelve (12) feet in size, which is accessible at all times;
- i. If common off-street parking areas are to be utilized for the project, the location of an adjacent area equal in size to at least thirty-three percent (33%) of the off-street parking area, including the driving area within the parking lot and driveways, for snow storage;
- j. Location of all utility easements; and
- k. Location and extent of possible future development on the site.

(11) Designation of direction. Both the location map and site plan shall have north arrows indicated thereon (designating true and magnetic north).

(12) Improvements. In addition to the other required on the plat, additional sheets shall be provided portraying the floor plans of all buildings, structures or other improvements located upon the property, depicting at a minimum the following:

- a. All exterior walls, bearing walls and/or party walls, long with the thickness of such walls;
- b. All exterior doors, windows and sliding or French doors;
- c. Identification of each individual condominium unit and general and limited common elements appurtenant to each condominium unit; or the appropriate identification of each individual townhouse lot and unit;
- d. Location of all walls enclosing any condominium or townhouse unit, and any other enclosure, such as a manager's unit, employee unit or amenities;
- e. Cross-sections of all condominium units, showing the elevation above sea level of each floor as finished; cross-sections and the elevation of each floor for townhouses shall not be required;

f. Minimum exterior wall height, minimum vertical distance from the eave line of the roof to the finished grade level and the maximum building height as finished, all of which must conform to the requirements of the zone district or approved general P.U.D. plan within which the project is located;

g. The linear measurements of all of the above;

h. Location of water and sewer tap-ins to the Town's main lines and of water shut-off valves, all of which shall be readily accessible by the Town; townhouse units must each have separate water shut-offs, sewer cleanouts and electrical meters, which shut-offs and cleanouts shall be readily accessible by the Town, and the location of which shall be approved by the Town; and

i. Landscaped areas and the location of any retaining walls.

(c) Condominiumization within "M" Mobile Home District. The plats of properties being condominiumized within the "M" District, because of the unique character of mobile homes, are exempt from all requirements contained within this Article that otherwise require the depiction of all buildings and improvements located on the property being condominiumized.

(d) Declaration requirements. The owner of the property being dedicated shall execute and cause to be properly acknowledged a declaration (or party wall agreement for townhouses), prepared in compliance with the purpose, intent and requirements of the Colorado Common Interest Ownership Act (CCIOA), which declaration or party wall agreement shall also contain the following:

(1) A provision for the ultimate obligation by the condominium association to pay all water and sewer charges for all individual units within the project, and any common element charges in accordance with the rules and regulations of the Town.

(2) A clear definition and description of the rights, duties and liabilities of unit owners with respect to the general common elements and the limited common elements, and easements.

(3) In the event the condominium or townhouse units are expandable, appropriate provisions relating to the phasing of the project, along with the identification, by legal description, of the property onto which the units and/or project will be expanded, identification of the total maximum number of units and/or maximum floor area which could be constructed within the entire expanded project, and identification of the interest each unit owner will have, by percentages, after the expansion.

(4) A provision that, in the event, any unit is owned by more than one (1) person or by a partnership, joint venture, corporation or other such entity, the owners thereof shall designate in writing to the homeowner's association, the name and address of the agent of the owner to whom all legal or official assessments, liens, levies or other such notices may be properly and lawfully mailed, and that, upon failure to so designate an agent, the association shall be deemed to be the agent for receipt of notices to such owners.

(5) Where there is additional square footage permitted on the project or units according to the applicable zone district provisions, a provision for the allocation of such square footage between and among the units.

(e) Submittal review and approval of plats, declarations and party wall agreements for townhouses or condominiums.

(1) All plats, declarations and party wall agreements shall be filed with the Community Development Department for initial review by the Building Department and Town Attorney as to compliance of the document with the Town Code and other applicable law.

(2) All fees as established by resolution of the Town Council must be paid before the Town will review the submittals.

(3) The Town Manager or designee shall forward the documents to the Town Attorney for review. If the Town Attorney finds that the documents comply with the Town Code and other applicable law, the Town Attorney shall forward to the Town Manager or designee, in writing, a recommendation of approval of such documents. If the documents do not comply with the Town Code and other applicable law, the Town Attorney will notify the applicant with a copy to the Town Manager or designee, of modifications to the documents that are necessary to bring them into compliance. The applicant may then resubmit the amended documents to the Community Development Department after the modifications have been made.

(4) If the Town Attorney determines that the documents should be approved except for minor revisions, the Town Attorney may conditionally approve them and notify the applicant with a copy to the Town Manager or designee of the minor revisions. The applicant may then submit the revised documents to the Community Development Department after the revisions have been made.

(f) Town Manager or designee approval.

(1) Upon receipt of a recommendation by the Town Attorney, the Town Manager or designee will review the subject plat and declaration or party wall agreement and either approve the same and execute the plat, or disapprove the plat if the materials fail to satisfy Code requirements. The Town Manager or designee may waive minor differences, considered to be negligible, under the same criteria in as set forth in Subsection 17-3-40(e) above relating to the Town Attorney's recommendation.

(2) Upon obtaining all necessary signatures on the final plat and declaration or party wall agreement, the owner or his or her agent shall immediately cause the plat and declaration or party wall agreement to be recorded with the County Clerk and Recorder, and shall forthwith thereafter return one (1) full set of mylars, two (2) full sets of blue line prints and one (1) complete copy of the declaration or party wall agreement to the Town, bearing the recording information thereon.

(g) Waivers of setbacks. If there are minor differences in dimensions between the setback distances of buildings or structures from lot lines or distances between buildings and those required by the Town Code, the Town Manager or designee may waive the requirements if in his

or her discretion deems the differences to be negligible and the applicant has otherwise complied with the intent of the Code.

(h) Consolidation of residential units. Properties with condominiums and townhouses approved by the Town may be consolidated by following the same process as creating condominiums and townhouses, subject to the Town Manager's or designee's determination that the following requirements are met:

- (1) Consolidation shall not result in any fewer residential units or reduction in square footages for any existing unit.
- (2) Consolidation is reflected in a vacation plat approved in the same manner as the plat creating the condominium or townhouse on the subject property.
- (3) Consolidation does not reduce the number of parking spaces required by any land use approval or the Code.
- (4) Tap fees previously paid are not reimbursable if the number of taps are reduced.

Section 6: Sec. 17-3-50 Exemptions. A new Sec. 17-3-50, Exemptions shall be added to read as follows:

Sec. 17-3-50 Exemptions from subdivision regulations

(a) The following applications shall be exempt from these subdivision regulations:

(1) Lot-line adjustments. Adjustment of lot lines between previously platted contiguous lots necessary to correct a survey or engineering error, to allow a boundary change between adjacent lots or parcels to relieve a hardship or practical necessity, or to allow transfer of land from a larger conforming lot to a smaller non-conforming lot in order to make both lots conforming. The lot lines between contiguous lots that are under single or separate ownership may be adjusted if the following conditions are met:

- a. The property owners whose lot lines are being adjusted shall provide written consent to the submittal of the subdivision exemption application.
- b. The lot line adjustment shall not create the opportunity for further subdivision of either lot to create another new lot for sale or development.
- c. Each of the adjusted lots shall meet the standards of this Chapter. If either of the lots or structures thereon are non-conforming prior to the proposed adjustment, no lot line adjustment shall be allowed that increases the non-conformity of the lot or structure.

(2) Lot combinations. Combinations or mergers of not more than two (2) conforming, previously platted contiguous lots, or two (2) or more non-conforming, previously platted contiguous lots within the same zone district. The lots may be combined or merged if the following conditions are met:

- a. The lots to be consolidated or merged shall be under single ownership.

b. The resulting combined or merged lot shall meet the standards of this Chapter and other applicable ordinances.

(3) Vacations. A vacation of a building site, lot, parcel or tract line.

(4) Re-plats. A re-platting creating eight (8) or less parcels from vacant lots; and a re-platting creating four (4) or less parcels from vacant tracts, if the following conditions are met:

a. All of the new re-platted parcels (lots) meet all requirements for the zoning district in which the land is located;

b. All of the new re-platted parcels (lots) will have access to an existing dedicated public street;

c. Any utility, drainage, snow storage, parking or other necessary easements are shown on the plat; and

d. No subdivision improvements agreement need be prepared or entered into between the applicant and the Town unless the Town Manager or designee determines such an agreement is necessary.

(b) Subdivision exemption standards. The Town Manager or designee shall approve an application for a subdivision exemption if it complies with these standards:

(1) Compliance with Code. The exemption shall comply with the zone district standards for that specific location and all applicable requirements of the Code.

(2) Exemptions shall not create or increase a non-conforming use, structure or lot.

(3) No increase in total allowable floor area. The exemption shall not increase the total allowable floor area for the lot or lots greater than the total floor area allowed without the exemption. Any change in allowable floor area permitted by the exemption within these floor area totals shall be consistent with the adjacent properties.

(4) No subdivision agreement need be prepared or entered into between the applicant and the Town unless the Town Manager or designee determines such an agreement is necessary.

(5) Limitations. A maximum of one (1) subdivision exemption application may be submitted and approved for a specific lot, parcel or subdivision; multiple subdivision exemption applications or successive individual subdivision exemption applications for a specific lot, parcel or subdivision are not permitted.

(c) Application contents. An application for a subdivision exemption shall contain the following minimum contents:

(1) The required application fee.

(2) A narrative statement explaining how the subdivision exemption complies with the zoning district standards and the subdivision exemption standards.

- (3) A legal description of the property, proof of ownership acceptable to the Town and properly notarized letter signed by the property owner(s) along with the designation, if any, of the owner representative's name, address and telephone number.
 - (4) An improvement location certificate (ILC) survey drawn to scale, dimensioned and wet stamped by a Colorado licensed surveyor.
 - (5) Floor plans of any existing or proposed structures drawn to scale and dimensioned sufficient to allow the Building Official to calculate the Floor Area Ratio.
 - (6) A proposed exemption plat drawn to scale and dimensioned in general accordance with Appendix I Required Wording on Minor Subdivision Final Plat with a certificate showing approval of the plat by the Town Manager or designee.
 - (7) Any other information, documents or certificates reasonably deemed necessary by the Town Manager or designee.
- (d) Application, review and approval procedure. Subdivision exemptions shall be approved in accordance with the following procedures:
- (1) Pre-application conference. A pre-application conference with Community Development staff is recommended, but optional, prior to submission of the application.
 - (2) Submission of application. Applicant shall submit an application that contains those materials specified above in Sec. 17-3-50(c) to the Community Development Department.
 - (3) Review and approval. The Community Development Department and Town Attorney shall review the application and all relevant materials to determine whether the application complies with the review conditions and standards of this Section and the Town Manager or designee shall issue a written approval, approval with conditions or denial of the application based on compliance with the requirements of this Sec. 17-5-50.
 - (4) Recording of exemption plat. Within ninety (90) days from the date of the subdivision exemption approval, applicant shall submit two (2) mylar copies of the exemption plat, suitable for recording, to the Community Development Department. The Town Manager or designee shall review the exemption plat to ensure that it complies with the terms and conditions of the approval and then shall obtain signatures for all of the certificates on the plat. The signed exemption plat shall be recorded, at applicant's expense, in the records of the Gunnison County Clerk and Recorder.

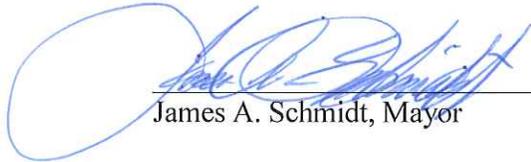
Section 7. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions 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 8. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code shall remain valid and in full force and effect. Any provision of the Code that is in conflict with this ordinance is hereby repealed as of the effective date hereof.

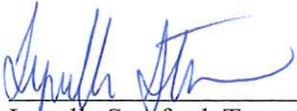
INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 18th DAY OF MARCH, 2019.

ADOPTED AS AMENDED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 1st DAY OF April, 2019.

TOWN OF CRESTED BUTTE


James A. Schmidt, Mayor

ATTEST:


Lynelle Stanford, Town Clerk

