

ORDINANCE NO. 7

SERIES 2015

AN ORDINANCE OF THE TOWN COUNCIL OF CRESTED BUTTE SUBMITTING TO THE REGISTERED ELECTORS AT AN ELECTION TO BE HELD ON NOVEMBER 3, 2015, THE QUESTION OF WHETHER, WITHOUT INCREASING TAXES BY THE MEASURE, THE TOWN OF CRESTED BUTTE SHALL RE-ESTABLISH ITS LOCAL AUTHORITY THAT HAS BEEN RESTRICTED BY THE COLORADO GENERAL ASSEMBLY SINCE 2005 BY TITLE 29, ARTICLE 27 OF THE COLORADO REVISED STATUTES, TO PROVIDE "ADVANCED SERVICES" (HIGH-SPEED INTERNET), "TELECOMMUNICATIONS SERVICES" AND "CABLE SERVICES", INCLUDING ANY NEW OR IMPROVED HIGH BANDWIDTH SERVICES BASED ON EXISTING OR FUTURE TECHNOLOGIES, TELECOMMUNICATIONS SERVICES AND CABLE TELEVISION SERVICES TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NON-PROFIT ENTITIES, GOVERNMENTAL ENTITIES AND OTHER USERS OF SUCH SERVICES AS EXPRESSLY PERMITTED BY TITLE 29, ARTICLE 27, C.R.S.; SETTING FORTH THE BALLOT TITLE; AND PROVIDING FOR THE CONDUCT OF THE ELECTION

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

WHEREAS, the electors of the Town adopted the Home Rule Charter of the Town of Crested Butte, Colorado (the "**Charter**") on November 5, 1974;

WHEREAS, under Section 5.7 of the Charter, the Town Council shall have the power to submit at a general or special election any ordinance or question to a vote of the registered electors of the Town;

WHEREAS, until 2005, municipalities throughout Colorado enjoyed the right and authority to use municipal fiber optic infrastructure to provide high-speed Internet, advanced telecommunications and cable television services to their residents and businesses;

WHEREAS, in 2005, the Colorado General Assembly enacted Senate Bill 05-152 (codified at Title 29, Article 27, C.R.S.) to revoke and deny all Colorado municipalities the right to use municipal facilities, improvements and fiber optic infrastructure to provide, directly or indirectly, high-speed Internet, advanced telecommunications services and cable television

services to residents and businesses;

WHEREAS, SB 05-152 expressly authorizes local governments to submit a ballot question to the registered electors to reauthorize and reclaim the local right to use the municipal fiber optic infrastructure to provide high-speed Internet, advanced telecommunications services and cable television services to their residents and businesses;

WHEREAS, although the Town does not currently own any municipal fiber optic infrastructure, future construction and use of such infrastructure would likely increase competition and potentially decrease the cost and expense of services to residents and businesses by providing opportunities to private service providers to partner with the Town to use the Town's fiber optic infrastructure to deliver services to residents and businesses;

WHEREAS, pursuant to Section 2.2 of the Charter, the Town Council finds and determines that it is in the best interest and welfare of the Town, its residents and visitors that there shall be submitted to the registered electors of the Town, at an election to be held on November 3, 2015, in conjunction with the coordinated election to be held on such date, as a referred measure, the question of whether the Town shall re-establish its rights to restore local authority that has been denied to local governments by the General Assembly to provide high-speed Internet, including improved high bandwidth services based on new technologies, telecommunications services and cable television services as expressly permitted by Title 29, Article 27, C.R.S.; and

WHEREAS, Section 31-11-111(2), C.R.S., provides that the Town Council or its designee shall fix the ballot title for the referred measure set forth in this ordinance.

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

Section 1. Notice of Election. A general municipal election shall be held on Tuesday, November 3, 2015 in connection with the coordinated election that is to be held on that day. At the election there shall be submitted to the vote of the registered electors of the Town, as a referred measure, the ballot issue hereinafter set forth (the "**Ballot Issue**"). At the election, the official ballot, including early voters' ballots shall state the substance of the Ballot Issue to be voted upon and, as so stated, shall constitute the ballot title, designation and submission clause. At such election each registered elector of the Town voting at the election shall be given the opportunity to indicate his or her choice on the Ballot Issue, which shall include the following form:

Without increasing taxes, shall the Town Council of the Town of Crested Butte, Colorado, re-establish the authority to provide all services, restricted since 2005 by Title 29, Article 27 of the Colorado Revised Statutes, described as "advanced services" (high-speed internet), "telecommunications services" and "cable services", including any new or improved high bandwidth services

based on existing or future technologies, telecommunications services and cable television services to residents, businesses, schools, libraries, non-profit entities, governmental entities, and other users of such services, either directly or indirectly, to any and all service areas, with public or private sector partners?

YES

NO

Section 2. In connection with the fixing of the ballot title for the Ballot Issue, the Town Council finds and determines:

(a) the Town Council has considered the public confusion that might be caused by misleading ballot titles;

(b) the general understanding of the effect of a “yes” of “no” vote on the Ballot Issue will be clear to the electors;

(c) the ballot title for the Ballot Issue will not conflict with those titles selected for any other measure that will appear on the ballot at the November 3, 2015 general election, to be held as a coordinated election; and

(4) the ballot title for the Ballot Issue correctly and fairly expresses the true intent and meaning of the measure.

Section 3. If a majority of the votes cast at the election shall be for the Ballot Issue, the measure shall be deemed approved. If a majority of the votes cast at the election shall be against the Ballot Issue, the measure shall fail.

Section 4. The election on November 3, 2015 to consider the Ballot Issue shall be conducted as a coordinated election with Gunnison County. The Gunnison County Clerk and Recorder shall conduct the election on behalf of the Town. Pursuant to Section 2.1 of the Charter, the election shall be conducted under the Uniform Election Code of 1992. The cost of the election with respect to the Ballot Issue shall be paid for from the Town’s general fund.

Section 5. The Town Clerk shall serve as the designated election official of the Town for purposes of performing acts required or permitted by law in connection with the election on the Ballot Issue and shall take such action as may be required to comply with all applicable laws pertaining to the conduct of the election.

Section 6. The Town Council finds, determines and declares that this ordinance is necessary and proper for the health, safety, welfare, order, comfort and convenience of Crested Butte and its inhabitants.

Section 7. The Town Council finds, determines and declares that it has the power to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Charter.

adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Charter.

Section 8. Any election contest arising out of the Ballot Issue or the election concerning the order of the ballot or the form or content of the ballot title shall be commenced pursuant to Section 1-11-203.5, C.R.S.

Section 9. The Town Clerk, or the coordinated election official if so provided by intergovernmental agreement, shall give or cause to be given the notice of election required by Section 1-5-205, C.R.S.

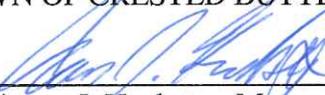
Section 10. The officers of the Town are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance. All actions previously taken by the officers of the Town with respect to the Ballot Issue are hereby ratified, confirmed and approved.

Section 11. This ordinance shall become effective in accordance with the provisions of the Charter.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 4th DAY OF August, 2015.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 18th DAY OF August, 2015.

TOWN OF CRESTED BUTTE, COLORADO

By: 
Aaron J. Huckstep, Mayor

ATTEST:

Lynelle Stanford, Town Clerk

(SEAL)

