ORDINANCE NO. 9

SERIES 2015

AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL AMENDING THE ENFORCEMENT PROCEDURES SET FORTH IN CHAPTER 16, ARTICLE 24 OF THE CRESTED BUTTE MUNICIPAL CODE APPLICABLE TO AGREEMENTS FOR LAND USE CONDITIONS AND RESTRICTIVE COVENANTS BETWEEN PROPERTY OWNERS AND THE TOWN AND AMENDING THE DEFINITION OF RENTAL, LONG TERM

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

WHEREAS, Chapter 16, Article 24 of the Crested Butte Municipal Code (the "**Code**") contains enforcement procedures where the Town can enforce, without limitation, agreements that property owners have entered into voluntarily with the Town in exchange for certain Town conditional and other allowances respecting real property located in Crested Butte;

WHEREAS, the Town staff has recommended amending the enforcement procedures set forth in Chapter 16, Article 24 of the Code to include an enforcement process administered by the Building and Zoning Director and appealable to the Town Manager relative to enforcing Agreements for Land Use Conditions and Restrictive Covenants between property owners and the Town;

WHEREAS, the Town staff has recommended that in conjunction with such amendment to the Code, the Town Council also amend the definition of "Rental, long-term" in order to clarify the intentions of the Town Council relative to conditional use agreements in Agreements for Land Use Conditions and Restrictive Covenants that property owners enter into voluntarily with the Town in exchange for the Town's conditional approval of accessory dwelling units ("**ADUs**");

WHEREAS, the Town Council has received presentations from the Town staff, and received memoranda from the Town Attorney on the aforementioned land use enforcement procedures and the recommended amendments thereto and has determined that such amendments are necessary and appropriate to enforcing Agreements for Land Use Conditions and Restrictive Covenants that property owners have entered into voluntarily with the Town in exchange for certain Town conditional and other allowances respecting real property located in Crested Butte; and

WHEREAS, based on the foregoing, the Town Council has determined that the amendments and revisions to the Code proposed herein should be adopted for the reasons set

forth above and for the purposes of protecting 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 Chapter 16, Article 8 to Add a New Section 16-8-120**. A new Section 16-8-120 is added to Chapter 16, Article 8 that shall read as follows:

"Sec. 16-8-120. Accessory Dwelling Units – Additional Requirements.

(a) The "Notice of Agreement for Land Use Conditions and Restrictive Covenants" described in Section 16-9-70 relative to conditional accessory dwelling units to be used for Rental, long-term uses shall include such additional terms relative to, without limitation, reporting, investigation and enforcement as shall be approved by the Town Attorney.

(b) Penalties for non-compliance with the Agreement relative to conditional accessory dwelling units to be used for Rental, long-term uses shall be adopted annually by the Town Council pursuant to its fee schedule adoption process.

(c) All amounts due and owing the Town in connection with any violation of the Agreement or this Chapter shall constitute a first priority lien on the subject property and may be collected by any means including by way of those matters addressed in Section 4-8-10 of the Code."

Section 2. **Amending Chapter 16, Article 24 to Add a New Section 16-24-30**. A new Section 16-4-30 is added to Chapter 16, Article 24 that shall read as follows:

"Sec. 16-24-30. Additional Procedures – Agreements for Land Use Conditions and Restrictive Covenants.

(a) Without limiting any other rights that the Town may have under this Chapter, the same to continue in full force and effect, whenever the Building and Zoning Director determines that a property owner is in violation of any term or condition of any Agreement for Land Use Conditions and Restrictive Covenants as described in Section 16-9-70, it shall notify the property owner of the violation in writing and shall order the necessary cure for such violation to be completed within the time period prescribed in the agreement, if any. The issuance of such an order shall in no way or manner be deemed a prerequisite to the institution of enforcement proceedings as described in the agreement or elsewhere in this Chapter. Compliance with such order shall not be deemed to be a defense to any alleged violation of this or other applicable regulations in any court action instituted seeking full compliance therewith.

(b) Any aggrieved person subject to a notice of violation, order or decision issued by the Building and Zoning Director pursuant to the Director's powers and duties as provided for in this Chapter may appeal such notice of violation, order or decision to the Town Manager within 10 days from the date of the action complained of.

1. A notice of appeal shall be filed with the Town Manager and shall describe with reasonable certainty the action of the Building and Zoning Director complained of along with the appellant's name, address and telephone number. The notice of appeal shall be accompanied by any fee required.

2. Upon receipt of a notice of appeal the Town Manager or its designee shall convene a public meeting on the matter within 14 days, or as soon thereafter as can be reasonably be accommodated.

3. The proper and timely filing of a notice of appeal will temporarily stay the subject notice of violation, order or decision of the Building and Zoning Director pending the outcome of the appeal before the Town Manager unless the Director verifies in writing to the Town Manager that a stay will pose an immediate threat to the safety of persons or property or defeat the purpose of the notice of violation, order or decision in the first instance, in which event a stay shall not enter.

4. The Town Manager or its designee shall hear an appeal at a public meeting with prior written notice to the appellant. The burden shall be on the appellant to demonstrate that the action of the Building and Zoning Director was in error, unjustified, or otherwise not in accordance with the terms of the Agreement and this Chapter. An unexcused failure on the part of the appellant to appear at the appeal hearing shall result in the affirmance of the Director's action.

5. The Town Manager shall enter a written decision on all appeals no later than 30 days from the conclusion of the appeal hearing. The Town Manager may reverse, affirm or modify the notice of violation, order or decision of the Building and Zoning Director and shall have all powers as vested in the Director to impose reasonable conditions to be complied with by the appellant as part of its decision. A copy of the Town Manager's decision shall be hand-delivered or sent by certified mail to the appellant.

6. Decisions of the Town Manager shall be final, subject only to judicial review by a court of competent jurisdiction in accordance with the Colorado Rules of Civil Procedure."

Section 3. Amending the Definition of "Rental, long-term" in Section 16-1-20. The defined term for "Rental, Long-term" is hereby deleted in its entirety and replaced with the following new definition that shall read as follows:

"*Rental, long-term* means the rental of any residential property by a person to any natural person who resides in Gunnison County as that person's primary residence for a term of not less than six (6) months, which limitation of term of rental shall be recorded in the real property records of the County pursuant to Section 16-9-70 of this Chapter. Where such property is vacant for a period of three (3) month or more during such six-month period, such property shall not constitute a long-term rental under this definition. Such property may not be rented to any person with greater than ten percent (10%) ownership interest in the property or to any person

with greater than ten percent (10%) ownership interest in any entity with ownership of the property. For purposes of this definition, *natural person* is only any individual and shall not include any association, firm, partnership, corporation or other entity. In order to meet the definition of a long-term rental, such rental must be actively offered for rental, as supported by reasonable evidence of such rental."

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 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 19th DAY OF October, 2015.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 2nd DAY OF November, 2015.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
Aaron J. Huckstep, Mayor

ATTEST:

_____
Lynelle Stanford, Town Clerk

(SEAL)

TOWN OF CRESTED BUTTE CORPORATE SEAL JULY 2, 1880 GUNNISON COUNTY, CO