

ORDINANCE NO. 8

SERIES 2013

**AN ORDINANCE AMENDING CHAPTER 16, ARTICLE 16
OF THE CRESTED BUTTE MUNICIPAL CODE TO
AMEND THE REQUIREMENTS FOR MAKING
PAYMENTS IN LIEU OF PARKING**

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, Chapter 16, Article 16 of the Crested Butte Municipal Code (the "**Code**") contains requirement that when property is developed, the development contribute parking to mitigate the parking demands created thereby;

WHEREAS, the Code also permits a property owner, where certain conditions are satisfied, to make payment to the Town in lieu of providing such parking;

WHEREAS, one of the allowances for payments in lieu of parking is that such payments may be made to the Town at the election of the property owner over a five-year period;

WHEREAS, the Town staff has recommended that the requirements for the allowance for payments in lieu of parking be amended to require that the obligation regarding such payments be a first position lien on the subject property;

WHEREAS, the Town Council has found that allowing payments in lieu of parking to be made to the Town over a five-year period will help to foster development in Town without risking the Town's ability to collect such payments in lieu of parking from the property owner, provided that the lien in connection with the obligation is a first position lien on the subject property; and

WHEREAS, the Town Council finds that amending the parking regulations contained in Chapter 16, Article 16 of the Code to require that the lien respecting the obligation to make payments in lieu of parking over a five-year period is a first position lien on the subject property is in the best interest of the health, safety and general 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 Section 16-16-80.** Section 16-16-80 is hereby deleted in its entirety and replaced the following new Section that shall read as follows:

“Sec. 16-16-80. Alternate payments.

An owner may satisfy his or her payment in lieu of parking requirements by making installment payments under the following terms and conditions:

(1) The owner shall execute an instrument prepared by the Town Attorney that imposes a lien in favor of the Town upon the real property for the amount outstanding. The lien shall be recorded in the real property records of the County of Gunnison and shall be executed at the time the first installment is due.

(2) The lien shall be prior to all other liens except general taxes and prior special assessments.

(3) The lien document shall provide for the imposition of late fees in an amount established by resolution of the Town Council in the event payment is not made within ten (10) days of the due date.

(4) The lien document shall provide that interest in the amount of ten percent (10%) per annum shall be imposed upon each late payment.

(5) The lien document shall provide that, in the event that payment is not made within thirty (30) days of the due date, the Town may immediately thereafter collect and recover on the entire lien amount in the same manner as real property taxes against the property, including, without limitation, as provided for in Chapter 4, Article 8 of the Code.

(6) In the event the Town undertakes an action to recover the unpaid amount, the lien shall be amended to include all costs and expenses associated with such action, including attorneys’ fees, charges, late charges, costs and interest.

(7) The installment payments shall be made in equal payments over a five-year period, after the payment of the first installment, except that an owner may prepay any part of the obligation at any time without penalty.

(8) The first payment shall be due at the time an owner obtains a building permit.

(9) Subsequent payments shall be due on each anniversary of the date upon which the initial payment was made.

(10) Payments shall be deemed not timely if they are made more than ten (10) days past the due date.

(11) In the event the use reverts to a different use within the installment payment period elected by the owner of the property, the obligation to pay the original parking requirement shall remain in place.

(12) Payments shall bear interest at the rate of five percent (5%) or the Prime Rate as listed in the Wall Street Journal plus three percent (3%), per annum, whichever is greater.

(13) Upon the transfer of the property where all payments in lieu of parking in connection with the property have not been fully satisfied, the obligation respecting such outstanding payments in lieu of parking shall become accelerated and automatically due on transfer. For purposes hereof, "transfer" shall mean any grant or conveyance of the ownership of the property, or any part thereof, that is evidenced by any deed, instrument, writing or other form of conveyance wherein or whereby title to the property or any part thereof is granted or conveyed, or where other indicia of the passage of ownership to the property exists; except that where the transferor continues, after the conveyance of ownership of the property or any part thereof, to retain control over the transferee. For purposes here, "control" shall mean the ability of the transferor to substantially direct the policies of the transferee with respect to the property, whether directly or indirectly, and whether such influence exists by right, economic compulsion or otherwise."

Section 2. 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 shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

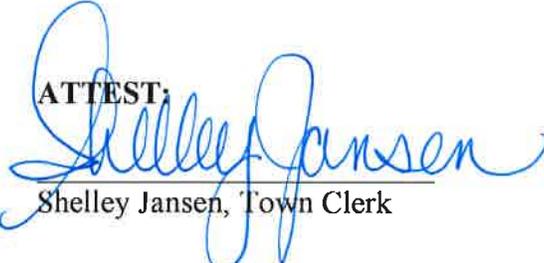
Section 3. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town Council which is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 18th DAY OF MARCH, 2013.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 1st DAY OF APRIL, 2013.

TOWN OF CRESTED BUTTE, COLORADO

By: 
Aaron J. Huckstep, Mayor

ATTEST:

Shelley Jansen, Town Clerk

[SEAL]

