

ORDINANCE NO. 22

SERIES 2009

AN ORDINANCE AMENDING CHAPTER 15, ARTICLE 1, ANNEXATION PROCEDURE, OF THE CRESTED BUTTE MUNICIPAL CODE, TO AMEND THE ANNEXATION PETITION SUBMITTAL STANDARDS IN ORDER TO ALLOW THE REVIEW AND PROCESSING OF THE FORMAL ANNEXATION PETITION AND REQUIRED SUBMITTALS BY THE TOWN MANAGER AND THE PLANNING COMMISSION IRRESPECTIVE OF THE NONCOMPLIANCE OF ANY SUBDIVISION SKETCH PLAN, PRELIMINARY SUBDIVISION PLAN OR PRELIMINARY MASTER PLAN SUBMITTALS WITH CERTAIN PROVISIONS OF THE TOWN'S SUBDIVISION REGULATIONS

**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**, the Crested Butte Municipal Code (the "Code") contains certain requirements for the annexation of lands into Crested Butte, such requirements being contained within the Town's Annexation Ordinance codified at Chapter 15, Article 1 of the Code (the "Ordinance");

**WHEREAS**, the Ordinance, as presently written, does not allow the Town Manager, where subdivision sketch plan, preliminary subdivision plan or preliminary master plan submittals as part of an annexation petition fail to comply with certain provisions of the Town's subdivision regulations, Chapter 17 (the "Subdivision Regulations"), to permit the same to be reviewed and processed and allow the formal annexation petition and other submittals to proceed through the annexation process, including being reviewed by the Planning Commission;

**WHEREAS**, the Town Council finds that the Town Manager should be allowed, as part of a petition for annexation, to permit noncompliant subdivision sketch plan, preliminary subdivision plan or preliminary master plan submittals to be reviewed and processed, and the formal annexation petition and other submittals to proceed through the annexation process, regardless of noncompliance with certain provisions of the Town's Subdivision Regulations, because it is critical to reviewing the merits of an application for annexation that the Planning Commission be able to review and consider all components of a proposed annexation including, without limitation, all of the specific alternatives to mitigate or offset such lack of compliance by providing amenities or other items in lieu of those required; and

**WHEREAS**, the Town Council finds that the below amendments to the Ordinance accomplish the goals of allowing the Planning Commission to be able to review and consider all components of a proposed annexation including, without limitation, all of the specific alternatives to mitigate or offset such lack of compliance by providing amenities or other items in lieu of those required in determining the merits of an application for annexation, regardless of noncompliance with certain provisions of the Subdivision Regulations, and such amendments to the Ordinance are in the best interest of the health, safety and general welfare of the citizens 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 15-1-70(a).** Section 15-1-70(a) is hereby amended by deleting subsection (3) thereof in its entirety and replacing it with the following new subsection (3) which shall read follows:

“(3) Notwithstanding the failure of any submitted subdivision sketch plan, preliminary subdivision plan or preliminary master plan to comply with Chapter 17 of this Code, the proposed underlying zone district(s) as set forth in Chapter 16 of this Code 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 the Town Clerk, provided that:

a. 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;

b. 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 Chapter 16 of this Code 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

c. Such alternatives are incorporated into the annexation agreement required under this Article.”

**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 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 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 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 16<sup>th</sup> DAY OF NOVEMBER, 2009.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 7<sup>th</sup> DAY OF DECEMBER, 2009.

TOWN OF CRESTED BUTTE, COLORADO

By: *Leah B. Williams*  
Leah B. Williams, Mayor

ATTEST:

*Eileen Hughes*  
Eileen Hughes, Town Clerk