

ORDINANCE NO. 13

SERIES 2009

AN ORDINANCE AMENDING THE MODEL TRAFFIC CODE TO PERMIT THE USE OF SNOW CATS ON PUBLIC STREETS AND HIGHWAYS WHERE CERTAIN CONDITIONS ARE MET

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, the Model Traffic Code contained in the Crested Butte Municipal Code, as amended (the "**Town Code**"), currently does not allow for the use of snow cats on public streets and highways under the jurisdiction of the Town;

WHEREAS, the Town staff has recommended to the Town Council that in certain circumstances, and where certain requirements are met, the use of snow cats on certain public streets and highways under the jurisdiction of the Town should be permissible; and

WHEREAS, the Town Council finds that allowing the use of snow cats on certain public streets and highways under the jurisdiction of the Town should be permissible where certain requirements are met, as set forth in the provisions of this ordinance, is in the best interest of the health, safety and general welfare of the residents and visitors of the Town.

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

Section 1. Amending Section 8-1-30(4). Section 8-1-30(4) is hereby amended by adding the following new subsection (16) which shall read as follows:

"(16) (a) A limited access snow cat route shall be designated within Town for the use of rubber-tracked snow cat machines on Town public streets and highways. Said route shall be designated by the Town Manager by October 15 of each calendar year. Permission for the use of any snow cat shall be given by permit only, and once obtained from the Town as described herein below, shall be for a period beginning on November 1 and expiring on April 30 of the following calendar year. Any such snow cat shall be operated only on such route and the use thereof shall at all times conform to applicable state laws and regulations regarding its operation on public streets and highways, including, without limitation, applicable licensing, registration and insurance requirements, shall conform to all ordinances and laws pertaining to the movement and operation of other vehicles, and shall not be operated by anyone under the age of sixteen or between the hours of 9:00 p.m. and 6:00 a.m.

(b) A permit shall be first obtained from the Town before any snow cat may be used on public streets and highways. It is unlawful for any person to operate any snow cat on public streets and highways without a permit from the Town or to otherwise operate a snow cat

in noncompliance with the provisions of this Section. The Town may issue no more than five (5) permits for the operation of snow cats on public streets and highways during each permitting period. Each snow cat shall, at a minimum; (i) be street lawful under applicable law; (ii) not exceed 20,000 pounds gross vehicle weight; (iii) without limiting the requirements of Chapter 8, Article 9 of the Crested Municipal Code, not exceed the decibel levels prescribed for motor vehicles in Section 10-9-60; and (iv) be able to maintain posted speed limits within Town so as not to impede traffic flow.

(c) Application for a permit for the use of a snow cat on public streets and highways shall be submitted to the Town Manager on forms contained in the Office of the Town Clerk. The Town Manager may reject any application for being incomplete. As a condition to granting such a permit, the Town shall receive, without limitation, from the applicant therefor, financial security (e.g., irrevocable standby letter of credit, payment bond) acceptable to the Town sufficient to pay for any damage to or destruction caused to public property by such snow cat.

(d) Permits for snow cats shall be publicly displayed on the snow cat when in use. A permit may be used for more than one (1) specific snow cat, provided that (i) the application for such permit lists each snow cat that the permit applies to if more than one, (ii) where more than one snow cat is used under a given permit, the permittee must be the same person, entity or business operation for all of snow cats, and (iii) at all times when a snow cat is in use, the permit must be placed in a conspicuous place.

(e) The holder of a permit for a snow cat shall assume the risk and indemnify, defend and hold harmless the Town, its elected officials, officers, employees and agents against any and all claims arising from any occurrence occasioned by the permitted use, and shall maintain, during the period of the permit, comprehensive general public liability and property damage insurance, naming the Town, its officers, elected officials, employees and agents as additional insureds providing that the insurance is primary insurance, that no other insurance maintained by the Town shall be called upon to contribute a loss covered by the Town and providing for thirty (30) days' notice of cancellation or material change to the Town.

(f) A permit issued under the provisions of this Section may not be transferred or assigned for any reason. Any such transfer or assignment shall make the subject permit void *ab initio*.

(g) Subject to subsection (k) of this Section, a snow cat permit is automatically renewable unless the permit is revoked in the same manner as other Town-issued licenses; provided that a permittee who desires to continue operating a snow cat under the permit after the expiration of the permit shall follow the application procedures required of a new applicant. All permits for snow cats issued under the provisions of this Section shall be for snow cats that are being operated in Town no less frequently than once per two (2) calendar weeks.

(h) All snow cat permits shall be issued on a first-come, first-served basis. If two (2) or more applications are received simultaneously, the Town Manager shall determine priority by lot.

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(i) A permitted snow cat shall make no more than four (4) trips within Town per calendar day. For purposes hereof, a "trip" shall be an act of operating a snow cat on a public street or highway within Town.

(j) No more than one (1) permit for operation of a snow cat under the provisions of this Section may be held by any person, entity or business operation.

(k) The provisions of this Section shall be in full force and effect for a period of one (1) year from the effective date hereof, November 11, 2009. Following the conclusion of said one-year period, this Section, the provisions contained herein shall, unless otherwise extended or amended by the Town Council by duly adopted ordinance, expire and be of no further force and effect without further action of the Town Council. Further, upon such expiration, if at all, any rights to operate a snow cat by permit as contemplated under this Section shall become void *ab initio*."

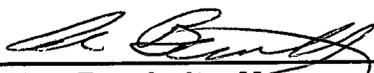
Section 2. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions 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.

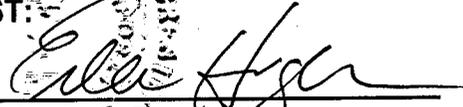
Section 3. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code, as previously amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town which is in conflict with this ordinance is hereby repealed as of the enforcement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

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 19th DAY OF OCTOBER 2009.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 2nd DAY OF NOVEMBER, 2009.

TOWN OF CRESTED BUTTE, COLORADO

By: 
Alan Bernholtz, Mayor

ATTEST: 
Eileen Hughes, Town Clerk

