

ORDINANCE NO. 10

SERIES 2005

**AN ORDINANCE AMENDING THE TOWN'S ZONING AND
LAND USE ORDINANCE REGARDING THE
SATISFACTION OF TOWN PARKING REQUIREMENTS.**

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; and

WHEREAS, Section 15-2-20. of the Town's Zoning and Land Use Ordinance (the "Ordinance") currently contains rules and regulations regarding parking within the Town; and

WHEREAS, to clarify that it is the intent of the Council to better promote the economy of the Town and thus to provide flexibility with respect to the provision of off-street parking for restaurants located in the Town (because restaurants have the highest provision of parking requirements of business uses), the Town Council has determined that it is appropriate that restaurants shall not be required to provide parking in addition to that for which the restaurant was required to provide as of May 14, 1994; and

WHEREAS, it is thus the intention of the Town Council that in the event a restaurant has been deemed to have satisfied its parking requirements, and a subsequent change in use has decreased the parking requirements and the use subsequently reverts to the original restaurant use, then no additional parking shall be required for the subsequent restaurant use. If a subsequent restaurant use requires more parking than the use for which parking requirements were originally established under Ordinance # 3, 1994, then the restaurant use shall be required to satisfy any additional parking requirements applicable to that use;

WHEREAS, the Town Council finds that the below amendment is in the best interests of the health, safety and general welfare of the residents of the Town.

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

Section 1. Amending the Ordinance to Clarify Parking Requirements For Restaurants Existing Prior to May 15, 1994. Section 15-2-20. G of the Ordinance is hereby amended by deleting it in its entirety and replacing it with the following:

"G. Restaurant Uses. Restaurant uses existing on May 14, 1994, shall be deemed to have satisfied all provision of parking requirements for such uses and then-existing square footage.

1. In the event a conditional use permit is sought for a restaurant use in the same location and of the same footprint and general configuration and of the same square footage amount as a restaurant use existed on May 14, 1994, no additional parking shall be required for such restaurant use.
2. In the event that a conditional use permit is sought for a restaurant use that is in the same location but not of the same footprint and general configuration as previously used on May 14, 1994, the provision of parking for such different space shall be required, and the parking requirement for such different space shall be calculated as an increment to the square footage of the original restaurant use.
3. In the event a conditional use permit sought is for a restaurant use with a square footage amount greater than the restaurant use as it existed on May 14, 1994, the provision of additional parking shall be required for any such additional square footage, which shall be calculated as an increment to the square footage of the original restaurant use.
4. No parking payment will be refunded in the event a lesser square footage use is sought.
5. A list of restaurant uses and the square footage thereof, as they existed on May 14, 1994, is attached hereto as Appendix A. This list shall be referenced by the Building Official or his or her designee in the event a conditional use permit is sought for a restaurant use.
6. Any conditional use permit applicant may submit such documentation as he or she may have to establish a different use or square footage than that set forth in Appendix A, however, the final decision as to the use and square footage shall be finally determined by the Building Official or his or her designee.
7. Restaurants (and all buildings) for which their owners have made payment(s) in lieu of providing off-street parking shall be permanently credited with those payments.”

Section 2. Savings Clause. Except as hereby amended, the 1987 Crested Butte Municipal Code shall remain valid, and in full force and effect. Any provision of any ordinance previously adopted by the Town of Crested Butte which is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

Section 3. 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. If any section, provision or part of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance and the application thereof to other persons or circumstances shall not be affected thereby.

**INTRODUCED, AND FIRST READ BEFORE THE TOWN COUNCIL THIS
_____ DAY OF _____, 2005.**

**ADOPTED BY THE TOWN COUNCIL UPON SECOND READING AND PUBLIC
HEARING THIS _____ DAY OF _____, 2005.**

TOWN OF CRESTED BUTTE, COLORADO

By: _____
James A. Schmidt, Mayor

ATTEST:

Eileen Hughes, Town Clerk
(SEAL)