

ORDINANCE NO. 9

SERIES 2008

AN ORDINANCE AMENDING ARTICLES 6-3 AND 6-4 OF THE TOWN CODE RELATIVE TO THE USE AND PLACEMENT OF REFUSE CONTAINERS AND THE PENALTIES FOR FAILURE TO COMPLY WITH SUCH PROVISIONS

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;

WHEREAS, the 1987 Crested Butte Municipal Code, as amended (the "**Code**"), contains certain requirements relative to the use and placement of refuse containers in order to protect Wildlife;

WHEREAS, the Town staff has recommended that certain changes be made to the Code to revise the permitted time for placement for pickup of Wildlife resistant refuse containers and other refuse containers and the penalties associated with the failure to comply with said provisions; and

WHEREAS, the Town Council finds that said changes, as reflected herein, are in the best interest of the general health, safety and 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 6-3-5.B)5), Refuse Containers. Section 6-3-5.B)5) is hereby amended by deleting said Section in its entirety and replacing it with the following:

"5) In place of the above-listed containers, a Wildlife resistant refuse container as defined in Article 6-4."

Section 2. Amending Section 6-3-5.D), Refuse Containers. Section 6-3-5.D) is hereby amended by deleting said Section in its entirety and replacing it with the following:

"D) No refuse container shall be placed for curbside pickup other than between the hours of 6:00 a.m. and 6:00 p.m. of the day for scheduled collection; except that any Wildlife resistant refuse container may be placed for curbside pickup between the hours of 6:00 p.m. on the day preceding the day for scheduled collection and 6:00 p.m. on the day for scheduled collection. After

pickup all refuse containers, except Wildlife resistant refuse containers, must be re-secured inside the home, garage, business, or Wildlife resistant enclosure by 6:00 p.m. on the day for scheduled collection. Wildlife resistant refuse containers must also be removed from the curb after pickup by 6:00 p.m. on the day for scheduled collection. For purposes hereof, the definition of "Wildlife" and "Wildlife resistant refuse container" is set forth in Section 6-4-1."

Section 3. Amending Section 6-4-1., Definitions.

I) Section 6-4-1. is hereby amended by deleting the definition of "Wildlife" in its entirety and replacing it with the following new definition:

"A) "Wildlife" means any non-domestic mammal or avian indigenous to the Crested Butte area including, but not limited to, bear, elk, deer, raccoon, coyote, beaver, skunk, badger, bobcat, mountain lion, porcupine and fox."

II) Section 6-4-1. is hereby amended by adding the new defined term of "Person" which shall read as follows:

"E) "Person" or "person" shall mean, for purposes of this Article 6-4, any lawful person or entity that is the owner, manager, operator, resident, tenant, employee, homeowners association or other responsible party for any subject property, or division thereof, or of any business located on said subject property."

Section 4. Amending Section 6-4-3.B), Maintenance and Operation of Wildlife Resistant Refuse Containers and Dumpsters. Section 6-4-3.B) is hereby amended by deleting said Section in its entirety and replacing it with the following:

"B) It shall be the responsibility of any Person to keep all refuse containers, dumpsters and grease containers in good and operable condition and repair when in use."

Section 5. Amending Section 6-4-4., Residential Refuse Disposal. Section 6-4-4. is hereby amended by deleting said Section in its entirety and replacing it with the following:

"A) All residential containers that receive refuse edible by Wildlife, except Wildlife resistant refuse containers, must be secured inside the home, garage, business or Wildlife resistant trash enclosure. Persons unable to keep their refuse container inside the home, garage, business Wildlife resistant trash enclosure shall store their refuse in a Wildlife resistant refuse container.

B) Persons with curbside pickup shall place their refuse containers at the curb between the hours of 6:00 a.m. and 6:00 p.m. of the day for scheduled collection; except that any Wildlife resistant refuse container may be placed for curbside pickup between the hours of 6:00 p.m. on the day preceding the day for scheduled collection and 6:00 p.m. of the day for scheduled collection. After pickup all refuse containers, except Wildlife resistant refuse containers, must be re-secured inside the home, garage, business or Wildlife resistant enclosure by 6:00 p.m. on the day for scheduled collection. Wildlife resistant refuse containers must also be removed from the curb after pickup by 6:00 p.m. on the day for scheduled collection.”

Section 6. Amending Section 6-4-9., Penalty Assessment. Section 6-4-9. is hereby amended by deleting said Section in its entirety and replacing it with the following:

Section 6-4-9. Penalty Assessment. The violation of any provision of this Article 6-4 by any Person shall be unlawful and subject the offending Person to fines in amounts not to exceed \$100.00 for the first offense; \$200.00 for the second offense; and \$300.00 for the third offense. Any additional offense after the third offense shall subject the offending Person to the issuance of a summons and fines not to exceed \$1,000.00 for each offense. Each day that such violation continues to exist shall be deemed a separate offense.”

Section 7. 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, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance in its 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 8. Savings Clause. Except as hereby amended the 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.

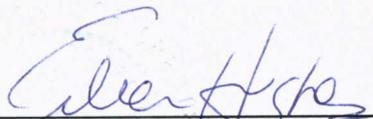
INTRODUCED, AND FIRST READ BEFORE THE TOWN COUNCIL
THIS 2nd DAY OF June, 2008.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING AND
PUBLIC HEARING THIS 23rd DAY OF June, 2008.

TOWN OF CRESTED BUTTE, COLORADO

By: 
Alan Bernholtz, Mayor

ATTEST:


Eileen Hughes, Town Clerk

SEAL