

ORDINANCE NO. 2

SERIES 2008

**AN ORDINANCE EXTENDING THE TEMPORARY  
MORATORIUM ON ALL DEVELOPMENT IN THE  
TOWN OF CRESTED BUTTE'S WATERSHED**

**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 Town has in place a Watershed Protection District Ordinance (the "**Watershed Ordinance**"), promulgated in the Crested Butte Municipal Code of 1986, as amended (the "**Town Code**"), at Article 14-5 *et seq.*;

**WHEREAS**, the Watershed Ordinance protects the Town's waterworks from the threat to or actual pollution or injury to said waterworks pursuant to the authority granted municipalities by Colorado Revised Statutes (C.R.S.) § 31-15-707(1)(b);

**WHEREAS**, the County of Gunnison (the "**County**") has designated areas of state interest that fall within the Town's watershed, and according to C.R.S. § 24-65.1-1 *et seq.*, after an area of state interest has been so designated, no person shall engage in development in such area until the designation and regulations for such area are finally determined and a permit has been issued;

**WHEREAS**, the Town Council is currently in the process of revising the Watershed Ordinance to, among other things, more comprehensively address and regulate development that poses a threat to or causes actual pollution or injury to the Town's waterworks and regulate such development in a manner not inconsistent with the County's regulation of said areas of state interest in the Town's watershed;

**WHEREAS**, the Town Council has determined that protecting the Town's waterworks from development that poses a threat to or causes actual pollution or injury to said waterworks and the regulation of such development in a manner not inconsistent with the County's regulation of said areas of state interest in the Town's watershed is of vital importance to the environment, health, safety and general welfare of the residents and visitors of the Town;

**WHEREAS**, on August 7, 2007, the Town Council adopted Ordinance No. 23, Series 2007 placing a temporary moratorium (the "**Moratorium**") on all development in the Town's watershed until the Town Council has completed the aforesaid revisions to the Watershed Ordinance and adopted an amended watershed ordinance incorporating the changes described above;

**WHEREAS**, the Moratorium is due to expire on February 6, 2008;

**WHEREAS**, the Town Council is still in the process of making the aforesaid revisions to the Watershed Ordinance so that it can adopt an amended watershed ordinance incorporating said changes;

**WHEREAS**, the Town staff expects to present a draft of the amended watershed ordinance incorporating the changes described above to the Town Council for its consideration shortly; and

**WHEREAS**, until the Town Council has completed the aforesaid revisions to the Watershed Ordinance and adopted an amended watershed ordinance incorporating the changes described above, the Town Council finds that it is in the best interest of the environment and the health, safety and general welfare of the residents and visitors of the Town that the Town Council extend the Moratorium on all development in the Town's watershed.

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

**Section 1. Extension of Moratorium.** The temporary moratorium imposed under the Moratorium is hereby extended and further declared and imposed on all development located in the Town's watershed.

**Section 2. Moratorium Term.** Upon adoption of this ordinance, the temporary moratorium imposed on all development located in the Town's watershed as delineated in the Moratorium is extended for a period running from the date of adoption hereof until such time as the Town Council has adopted an amended watershed ordinance addressing the matters described herein, or June 1, 2008, whichever occurs first (the "**Moratorium Term**"). This extension of the Moratorium may be terminated at any time by the Town Council for the immediate preservation of health, safety and general welfare of the residents and visitors of the Town.

**Section 3. Applicability.** The Moratorium extended hereby shall apply to all development located in the Town's watershed. For purposes hereof, "development" shall include, without limitation, any activity not being conducted as of the effective date of the Moratorium that disturbs or modifies the condition of the surface or subsurface land or water within the Town's watershed. During the Moratorium Term, no development may be undertaken in the Town's watershed. Development shall not include agricultural activities such as plowing, haying, seeding, cultivating, minor drainage, harvesting for the production of food, livestock or grazing.

**Section 4. Enforcement.** Any person engaging in any activity not in compliance with this ordinance may be enjoined by the Town from engaging in such activity and shall be fined an amount not to exceed \$1,000.00 a day for each offense or by imprisonment not exceeding one year, or both. Nothing contained herein shall limit the Town from seeking any other remedies that may be available at law and in equity, including payment of costs and reasonable attorneys' fees. All remedies shall be cumulative and concurrent.

**Section 5. Effective Upon Adoption.** The Town Council hereby finds that the Watershed Ordinance, until revised to, among other things, more comprehensively address and regulate development that poses a threat to or causes actual pollution or injury to the Town's waterworks and regulate such development in a manner consistent with the County's regulation of said areas of state interest in the Town's watershed, is inadequate in protecting the environment and the public health, safety and general welfare of the residents and visitors of the Town; and, therefore, this ordinance and the Moratorium extended hereby is necessary to the preservation of the environment and public health, safety and general welfare; and, therefore, this ordinance shall take effect upon adoption.

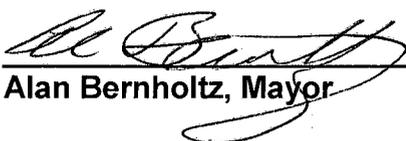
**Section 6. Severability.** If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions 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 7. Savings Clause.** Except as hereby amended, the Town Code shall remain valid and in full force and effect.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 7<sup>th</sup> DAY OF JAN, 2008.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 22<sup>nd</sup> DAY OF JANUARY, 2008.

TOWN OF CRESTED BUTTE, COLORADO

By:   
Alan Bernholtz, Mayor

ATTEST:

  
Eileen Hughes, Town Clerk

(SEAL)

