

ORDINANCE NO. 11

SERIES 2006

AN ORDINANCE AMENDING THE ZONING AND LAND USE ORDINANCE TO ADD SUBORDINATE AND INCIDENTAL USE SNACK BARS AS A CONDITIONAL USE IN THE "C" COMMERCIAL DISTRICT AND TO ADD A DEFINITION OF "SUBORDINATE AND INCIDENTAL USE" AND "SNACK BARS."

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 the laws of the State of Colorado; and

WHEREAS, the Town's Zoning and Land Use Ordinance (hereafter "Ordinance") currently does not allow food service in any form in the "C" Commercial District; and

WHEREAS, after deliberation, the Town Council has determined that under some circumstances, it may be appropriate to allow as a conditional use, a snack bar use in the "C" Commercial District under some circumstances and subject to certain limitations; and

WHEREAS, the circumstances under which such snack bars could be approved would be that such snack bars would be limited in size to a maximum of five hundred (500) square feet or twenty-five percent (25%) of the square footage of the primary use approved for the site, whichever is less. Moreover, the snack bar use would be subordinate and incidental to an otherwise approved amusement and recreation use; and

WHEREAS, if the primary amusement and recreation use to which the snack bar use is subordinate and incidental ceases operation, then the approval for the limited-size snack bar would also cease; and

WHEREAS, under such circumstances, it is appropriate to allow the Board of Zoning and Architectural Review (BOZAR) the discretion, in the conditional use process, to allow as a conditional use in the "C" Commercial District, snack bars no larger than five hundred (500) square feet or twenty-five percent (25%) of the square footage of the primary use approved for the site, whichever is less, as a subordinate and incidental use to an otherwise approved amusement and recreation use in that district; and

WHEREAS, to clarify that such use is subordinate and incidental to the approved primary use, and that the subordinate and incidental use approval is contingent upon the continued primary use, the Town Council finds that it is appropriate to amend the Ordinance to provide a definition of "Subordinate and Incidental Use" to reflect this intent;

and

WHEREAS, to provide the public and Town staff with guidance regarding the parameters of a snack bar use, it is appropriate to amend the ordinance to provide a definition for the term “snack bar;” and

WHEREAS, the Town Council finds that the below amendments are in the best interests of the health, safety and general welfare of the inhabitants 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 Add Subordinate and Incidental Use Snack Bars of Limited Size as a Conditional Use in the “C” Commercial District. Section 15-2-13.C of the Ordinance is hereby amended to add the following as a conditional use:

“14. Snack bars as a Subordinate and Incidental Use to an Otherwise Approved Amusement and Recreation Use. The snack bar use, which is subordinate and incidental to an otherwise approved amusement and recreation use, is limited to a maximum of five hundred (500) square feet or twenty-five percent (25%) of the square footage of the amusement and recreation use approved for the site, whichever is less. Such size limitation applies to that area of the snack bar use which includes food and beverage preparation, storage, serving and seating area directly associated with the snack bar use. Seating reasonably associated with the amusement and recreation use will not be counted in the snack bar use size limitation. The Building Official shall make the determinations as to the allocation of the square footage with respect to the amusement and recreation use and the snack bar use.”

Section 2. Amending the Ordinance to Provide a Definition for Subordinate and Incidental Use.” Section 15-2-3. of the Ordinance is hereby amended to add the following definition:

“Subordinate and Incidental Use. A use, which must be separately approved by the Board of Zoning and Architectural Review, and which is subordinate and incidental to another approved use at the same premises and location. The approval for such subordinate and incidental use is contingent upon the continued primary use with which the subordinate and incidental use is associated and approved. In the event the primary use for the location and premises ceases to operate, then the approval for the subordinate and incidental use shall also be withdrawn, and such subordinate and incidental use shall no longer operate.”

Section 3. Amending the Ordinance to Provide a Definition for “Snack Bars.” Section 15-2-3. of the Ordinance is hereby amended to add the following definition

“Snack Bar. A food service establishment serving beverages and food

prepared off premises (which may include ice cream and popcorn). Such previously-prepared food may be warmed or heated on premises. No grill or oven may be used. No food or beverages may be delivered off premises or purchased for consumption off premises. Liquor may be served pursuant to a valid liquor license.”

Section 4. 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 5. 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.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 18 DAY OF May, 2006.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING AND PUBLIC HEARING THIS 19 DAY OF June, 2006.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
Alan Bernholtz, Mayor

ATTEST:

Eileen Hughes, Town Clerk

SEAL