

ORDINANCE NO. 16

SERIES 2008

**AN ORDINANCE AMENDING THE TOWN CODE
RELATIVE TO FINES IMPOSED FOR UNDERAGE
CONSUMPTION OR POSSESSION OF ETHYL
ALCOHOL SO THAT SUCH FINES COMPORT
WITH THE FINES ESTABLISHED FOR SUCH
OFFENSES UNDER COLORADO STATE STATUTE**

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 Crested Butte Town Code of 1986, as amended (the "**Town Code**"), contains a provision for the assessment of a fine of \$100.00 (the "**Town Fine**") from any person under the age of twenty one (21) who is found to be consuming or possessing ethyl alcohol;

WHEREAS, the Colorado General Assembly adopted legislation effective July 1, 2006 that, among other things, amended § 18-13-122(2)(b)(I), C.R.S. (2006) (the "**State Law**"), changing the fine required for first-time offenders of said State Law for illegal possession or consumption of ethyl alcohol by an underage person from one hundred dollars (\$100.00) to two hundred fifty dollars (\$250.00) (the "**State Fine**");

WHEREAS, the Town staff has determined that, under Colorado law, the Town Fine may not be less strict than the State Fine for such offenses and, accordingly, the Town Fine for any person under the age of twenty one (21) who is found to be consuming or possessing ethyl alcohol should be increased to \$250.00 for first-time offenders in order that the Town Fine be consistent with the State Fine henceforth;

WHEREAS, the Town staff has also recommended that, in connection with amending the Town Fine so that it is consistent with the State Fine as described above, the Town Code should also be amended to include the provisions of the State Law relative to second-time and third-time offenders; and

WHEREAS, the Town Council has determined that the below amendments to the Town Code accomplish the desired goals of the Town staff as described above and are 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 9-5-3.D. Section 9-5-3.D. is hereby deleted in its entirety and replaced with the foregoing new subsection D. which shall read as follows:

"D. Illegal possession or consumption of ethyl alcohol by an underage person is a petty offense punishable as follows:

1. Upon conviction of a first offense, illegal possession or consumption of ethyl alcohol by an underage person shall be punishable by a fine of not more than two hundred fifty dollars (\$250.00).
2. Upon conviction of a second offense, illegal possession or consumption of ethyl alcohol by an underage person shall be punishable by a fine of not more than five hundred dollars (\$500.00).

Upon conviction of a third or subsequent offense, which shall be a class 2 misdemeanor, illegal possession or consumption of ethyl alcohol by an underage person shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) and/or one (1) year of incarceration.

The requirements set forth in this subsection D. are not intended to, and shall not, substitute for or otherwise abridge or modify the requirements and conditions set forth in § 18-13-122(2)(b)(I)-(IV), C.R.S., the same Sections to continue in full force and effect and to apply to an underage person convicted of possessing or consuming ethyl alcohol as indicated therein."

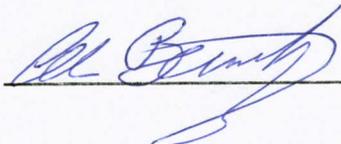
Section 2. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions 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. The Crested Butte Town Code of 1986, as previously amended and amended hereby, 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 date of adoption hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 18th DAY OF August, 2008.

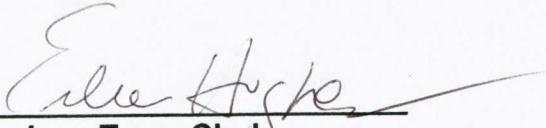
ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 2nd DAY OF September, 2008.

TOWN OF CRESTED BUTTE, COLORADO

By: 

Alan Bernholtz, Mayor

ATTEST:



Eileen Hughes, Town Clerk

(SEAL)

