

**ORDINANCE NO. 20  
SERIES 2021**

**AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL AMENDING CHAPTER 4 OF THE TOWN OF CRESTED BUTTE MUNICIPAL CODE TO ADD ARTICLE 11, COMMUNITY HOUSING TAX, AMENDING ARTICLE 2, TO INCREASE SALES TAX, AMENDING ARTICLE 3, TO INCREASE USE TAX, AND AMENDING SECTION 4-9-40 TO INCREASE THE VACATION RENTAL EXCISE TAX.**

**WHEREAS**, the Town of Crested Butte Colorado is a home rule municipality and body corporate and public duly organized and existing by virtue of the Colorado Constitution and the laws of the State of Colorado; and

**WHEREAS**, the amendments to the Town Code contained in this Ordinance are contingent upon voter approval in the election on November 2, 2021; and

**WHEREAS**, there will be an election held on November 2, 2021, for the residents of the Town to vote upon the following ballot question approving the imposition of a tax of twenty-five hundred dollars (\$2,500) on non-primary residences and undeveloped land zoned for residential use for the purpose of funding affordable housing programs, and approving the increase of the Town's sales tax and use tax, for the same purposes:

**QUESTION 2-C: AUTHORIZATION TO IMPOSE A COMMUNITY HOUSING TAX AND INCREASE THE SALES AND USE TAX AND TO INCUR DEBT TO FUND AFFORDABLE HOUSING PROGRAMS.**

SHALL TOWN OF CRESTED BUTTE DEBT BE INCREASED \$24,040,000 WITH A TOTAL REPAYMENT COST OF \$46,353,000 AND A MAXIMUM ANNUAL REPAYMENT COST OF \$1,545,000 AND SHALL TOWN OF CRESTED BUTTE TAXES BE INCREASED \$521,553 IN 2022, \$1,634,053 IN 2023, AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY THE IMPOSITION OF A NEW COMMUNITY HOUSING TAX AND A SALES AND USE TAX INCREASE, SUBJECT TO THE FOLLOWING:

BEGINNING JANUARY 1, 2022, THE TOWN COUNCIL MAY IMPOSE BY ORDINANCE A COMMUNITY HOUSING TAX ANNUALLY ON (1) RESIDENTIAL UNITS IN TOWN THAT ARE NOT A PRIMARY RESIDENCE UNLESS THE RESIDENCE IS RENTED FOR RESIDENTIAL PURPOSES FOR AT LEAST 6 MONTHS PER YEAR IN PERIODS OF 6 CONSECUTIVE MONTHS OR MORE AND (2) UPON UNDEVELOPED PROPERTY THAT IS ZONED FOR RESIDENTIAL USE;

THE COMMUNITY HOUSING TAX MAY NOT EXCEED \$2,500 PER RESIDENCE OR UNDEVELOPED PARCEL OF PROPERTY IN 2022 WHICH AMOUNT MAY BE INCREASED BY COUNCIL IN SUBSEQUENT YEARS BY NOT MORE THAN THE CUMULATIVE PERCENTAGE INCREASE IN THE UNITED STATES BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX (CPI) FOR DENVER-AURORA-LAKEWOOD;

THE TOWN WILL IMPOSE AND COLLECT THE COMMUNITY HOUSING TAX PURSUANT TO AN ORDINANCE TO BE ADOPTED BY COUNCIL, FOLLOWING NOTICE AND PUBLIC HEARING, SETTING FORTH THE TAX, PROVIDING THE METHOD OF COLLECTION AND ENFORCEMENT, DESCRIBING ANY EXEMPTIONS FROM THE TAX, AND PROVIDING OTHER DETAILS;

BEGINNING JANUARY 1, 2022, THE TOWN COUNCIL MAY IMPOSE BY ORDINANCE AN INCREASED SALES AND USE TAX FOR AFFORDABLE HOUSING AT A RATE OF 0.5% WHICH MAY NOT BE COLLECTED ON THE SALE OF FOOD FOR HOME CONSUMPTION;

THE PROCEEDS OF THE DEBT SHALL BE USED FOR AFFORDABLE HOUSING INCLUDING ACQUIRING LAND OR OTHER INTERESTS IN REAL PROPERTY OR ACQUIRING, DESIGNING, FINANCING, CONSTRUCTING OR EQUIPPING AFFORDABLE HOUSING PROJECTS;

THE PROCEEDS OF THE TAXES SHALL BE DEPOSITED TO THE AFFORDABLE HOUSING FUND AND USED FOR AFFORDABLE HOUSING PURPOSES INCLUDING PAYING THE PRINCIPAL AND INTEREST ON SUCH DEBT;

THE RATE OF EACH TAX MAY BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE DOES NOT EXCEED THE MAXIMUM AUTHORIZED BY THE VOTERS IN THIS QUESTION;

THE DEBT MAY BE EVIDENCED BY THE ISSUANCE OF BONDS OR OTHER FINANCIAL OBLIGATIONS PAYABLE FROM ANY LEGALLY AVAILABLE TOWN REVENUES AS DETERMINED BY THE TOWN COUNCIL TO BE IN THE BEST FINANCIAL INTEREST OF THE TOWN AND MAY BE SOLD IN ONE SERIES OR MORE ON SUCH TERMS AND CONDITIONS AS THE TOWN COUNCIL MAY DETERMINE, INCLUDING PROVISIONS FOR REDEMPTION OF THE DEBT PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF A PREMIUM;

AND SHALL THE TOWN BE AUTHORIZED TO COLLECT, KEEP AND SPEND THE REVENUES FROM SUCH TAXES, THE PROCEEDS OF SUCH DEBT, AND ANY INVESTMENT INCOME THEREFROM NOTWITHSTANDING THE LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

**WHEREAS**, there will be an election held on November 2, 2021, for the residents of the Town to vote upon the following ballot question approving the increase of the vacation rental excise tax also for the purpose of funding affordable housing programs:

**QUESTION 2-D:** AUTHORIZATION TO INCREASE THE VACATION RENTAL TAX AND TO INCUR DEBT TO FUND AFFORDABLE HOUSING PROGRAMS.

SHALL TOWN OF CRESTED BUTTE DEBT BE INCREASED \$8,985,000 WITH A TOTAL REPAYMENT COST OF \$17,328,000 AND A MAXIMUM ANNUAL REPAYMENT COST OF \$580,000 AND SHALL TOWN OF CRESTED BUTTE TAXES BE INCREASED \$300,000 IN 2022 AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY INCREASING THE EXCISE TAX

ON VACATION RENTALS BEGINNING JANUARY 1, 2022, FROM 5.0% TO 7.5% ON THE AMOUNT CHARGED TO ANY PERSON FOR A VACATION RENTAL SUBJECT TO THE FOLLOWING:

THE PROCEEDS OF THE DEBT SHALL BE USED FOR AFFORDABLE HOUSING INCLUDING ACQUIRING LAND OR OTHER INTERESTS IN REAL PROPERTY OR ACQUIRING, DESIGNING, FINANCING, CONSTRUCTING OR EQUIPPING AFFORDABLE HOUSING PROJECTS;

THE PROCEEDS OF THE EXCISE TAX SHALL BE DEPOSITED TO THE AFFORDABLE HOUSING FUND AND USED FOR AFFORDABLE HOUSING PURPOSES INCLUDING PAYING THE PRINCIPAL AND INTEREST ON SUCH DEBT;

THE RATE OF THE EXCISE TAX MAY BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED 7.5%;

THE DEBT MAY BE EVIDENCED BY THE ISSUANCE OF BONDS OR OTHER FINANCIAL OBLIGATIONS PAYABLE FROM ANY LEGALLY AVAILABLE TOWN REVENUES AS DETERMINED BY THE TOWN COUNCIL TO BE IN THE BEST FINANCIAL INTEREST OF THE TOWN AND MAY BE SOLD IN ONE SERIES OR MORE ON SUCH TERMS AND CONDITIONS AS THE TOWN COUNCIL MAY DETERMINE, INCLUDING PROVISIONS FOR REDEMPTION OF THE DEBT PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF A PREMIUM;

AND SHALL THE TOWN BE AUTHORIZED TO COLLECT, KEEP AND SPEND THE REVENUES FROM SUCH TAX, THE PROCEEDS OF SUCH DEBT, AND ANY INVESTMENT INCOME THEREFROM NOTWITHSTANDING THE LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

**WHEREAS**, the Town Council finds that it is in the best interests of the health, safety and general welfare of the Town and the Town's residents and visitors to adopt the following amendments to the Municipal Code, subject to voter approval at the election to be held on November 2, 2021.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT THE MUNICIPAL CODE SHALL BE AMENDED AS SET FORTH HEREIN.**

**Section 1. Adding a new Article 11 to Chapter 4 of the Municipal Code to read as follows if Question 2C is approved by the voters at the election on November 2, 2021:**

**Sec. 4-11-10 Purpose and effective date.**

(a) The purpose of this Article is to implement a community housing tax for the purposes of supporting affordable or workforce housing as set forth in Sec. 4-1-70, *Affordable Housing Fund*.

- (b) This Article shall be effective January 1, 2022.

**Sec. 4-11-20 Imposition of community preservation tax.**

- (a) There is hereby imposed an annual community preservation tax of up to twenty-five hundred dollars (\$2,500) on residential property that is not a primary residence and which is not leased for 180 consecutive days during the tax reference period, and on undeveloped parcels of land in the Town that are zoned residential.
- (b) As stated in the ballot question, the amount of the community housing tax may be increased by the Resolution of the Town Council in subsequent years by not more than the cumulative percentage increase in the United States Bureau of Labor Statistics Consumer Price Index (CPI) for Denver-Aurora-Lakewood area in Colorado.
- (c) The proceeds of the community housing tax will be deposited to the *Affordable Housing Fund* and may be expended solely for the purposes set forth in Sec. 4-1-70 of the Municipal Code.

**Sec. 4-11-30 Definitions.**

*Lease* means a signed, written agreement between the property owner as landlord and a natural person who resides in Gunnison County as the tenant where the tenant occupies the property as that tenant's primary residence for a period of at least 180 consecutive days.

*Primary residence* means a residence which is the usual place of return for housing as documented by the vested title property owner of record signing an affidavit to that effect and providing at least two of the following: motor vehicle registration, driver's license, Colorado state identification card, voter registration, proof of employment in Gunnison County during six months of the taxing period, or tax documents. A person can have only one primary residence. In cases where the property is rented under a written lease, the tenant must be a natural person who resides in Gunnison County and can demonstrate the property is their primary residence during the term of the lease.

*Residential property* means a lot or parcel of land that contains one or more dwelling units.

*Taxable property* means residential property that is not a primary residence and which is not leased as a primary residence for at least 180 consecutive days during the tax reference period, and undeveloped parcels of land in the Town that are zoned residential.

*Tax reference period* means the twelve-month period immediately prior to the month in which the tax will be imposed on the property.

#### **Sec. 4-11-40 Exemptions.**

The property owner does not have to pay the community housing tax if any of the following conditions applied during the tax reference period:

- (a) The property was not leased for 180 consecutive days during the tax reference period because of the death of the tenant or the property owner, who is a natural person, during the tax reference period.
- (b) The property was not leased for 180 consecutive days during the tax reference period due to the hospitalization or long-term care needs of the property owner, who is a natural person. This exemption is limited to no more than 2 consecutive tax reference periods.
- (c) The property was not leased for 180 consecutive days during the tax reference period because it was undergoing redevelopment or major renovations that required a building permit or temporary certificate of occupancy which prevented it from being leased.
- (d) The property contains Accessory Dwelling Unit(s) as defined in the Town Code or other deed restricted residential unit(s).
- (e) The title to the property is transferred in a RETT qualifying transaction during the tax reference period and this transfer prevents the new owner from renting the property for at least 180 consecutive days.
- (f) There is a court order that prevents the taxable property from being rented for at least 180 consecutive days.
- (g) The undeveloped residential parcel of land is owned by a governmental entity or by a non-profit organization created for the purpose of providing affordable or workforce housing to the Gunnison Valley.
- (h) During the tax reference period, the property owner donates at least the current tax amount for the tax reference period plus an administrative fee of 1.5% to a charitable organization qualified under Section 501(c)(3) of the Internal Revenue Code. Such donated funds must be contributed to the Town's affordable housing fund.
- (i) The property owner provides evidence showing that the taxable property was leased for at least two 180 consecutive day periods during the preceding two tax reference periods.

The burden of proving that a property is exempt from the community housing tax shall be on the property owner under such reasonable requirements of proof as the Finance Director may prescribe.

**Sec. 4-11-50. - Community Housing tax schedule.**

The Community Housing tax imposed under this Article shall be computed and collected in accordance with applicable schedules, systems and regulations approved by the Finance Director.

**Sec. 4-11-60. - Property owner responsible for payment of tax.**

The property owner shall be liable and responsible for paying to the Town an amount equivalent to the amount prescribed in Sec 4-11-20.

**Sec. 4-11-70. - Filing returns; due date.**

(a) Every residential property / vacant residential lot owner shall file a return, whether or not a tax is due, and remit any tax due to the Town on or before the thirtieth (30th) day of January each year. Failure to receive a related tax bill does not relieve an owner of his or her legal responsibility for filing a return on or before the due date. Exception for deed restricted properties on record with the Town.

(b) An owner with two (2) or more residential properties subject to the community housing tax may file one (1) return for all such properties.

(c) For good cause shown in a written request of the property owner, the Finance Director may extend the time for making returns and paying the tax due. Such good cause shall not include the owner's inability to pay taxes due the Town due to other debts incurred by the owner.

(d) No person shall make any false statement in connection with a return.

**Sec. 4-11-80. - Reporting periods.**

Unless otherwise approved by the Town, property owners must file returns and pay taxes as follows:

- (1) On or before January 30 of each year, owner is responsible for filing and remitting applicable Community Housing Tax in full.
- (2) Community Housing tax is paid based on prior year ownership and use.

The reporting period for a final return shall end on the date of the sale or transfer of non-primary residence / vacant residential lot properties.

**Sec. 4-11-90. - Authority of finance director.**

The administration of this Article is hereby vested in the Finance Director, except where otherwise noted.

- (1) The Finance Director shall prescribe forms and administrative procedures for the ascertainment, assessment and collection of the community housing tax.
- (2) The Finance Director may formulate and promulgate, after hearing, appropriate and additional regulations to effectuate the purpose of this Article.
- (3) The Finance Director may require any person to make additional returns, render statements, furnish records or make informational reports to determine whether or not such person is liable for payment or collection of the tax.
- (4) The Finance Director may designate agents to assist in the performance of the duties and responsibilities set forth in this Article.
- (5) The Finance Director may accept any partial payment made and apply such payment toward the tax due. Deposit of such payment shall not in any way imply that the remaining balance is or has been abated.
- (6) Notices required by this Article shall be in writing and delivered in person by the Finance Director or an agent, sent postage paid by certified mail to the last known address of the owner, or served in person by an officer of the Town Marshal's office.

**Sec. 4-11-100. - Audit of record.**

- (a) For the purpose of ascertaining the correct amount of tax due from any residential property/vacant residential lot owner in the Town, the Finance Director may authorize an agent to conduct an audit by examining any relevant books, records and accounts of such person.
- (b) All books, accounts and records shall be made available at any time during regular business hours for examination by an authorized agent of the Finance Director.
- (c) Any tax deficiency or overpayment ascertained through audit shall be computed by one (1) or more of the following methods as the Finance Director deems appropriate:
  - (1) By comparing the tax reported and paid on returns to the actual tax due.
  - (2) By identifying properties on which the tax was not properly or accurately collected or paid.

**Sec. 4-11-110. - Tax information confidential.**

(a) All specific information gained under the provisions of this Article which is used to determine the tax due from an owner, whether furnished by the owner or obtained through an audit, shall be treated by the Town and its officers, employees or legal representatives as confidential.

(b) Except as directed by judicial order or as provided in this Section, no Town officer, employee or legal representative shall divulge any confidential information. Nothing contained in this Section shall be construed to prohibit the delivery to an owner or his or her duly authorized representative of a copy of such confidential information relating to such owner, or the inspection of such confidential information by an officer, employee or legal representative of the Town.

(c) If directed by judicial order, the officials charged with the custody of such confidential information shall be required to provide only such information that is directly involved in the action or proceeding.

**Sec. 4-11-120. - Tax overpayment determined through audit.**

If the Town ascertains through an audit of a property owner's records that the tax due is less than the full amount paid, a notice of overpayment shall be issued. Such notice will serve as documentation for a claim of refund if such claim is signed and submitted by the owner within thirty (30) days of the date of the notice of overpayment.

**Sec. 4-11-130. - Underpayments from returns.**

If the amount remitted with a return is less than the tax computed from information in such return, the owner shall be notified.

**Sec. 4-11-140. - Tax deficiencies from failure to file.**

(a) If any owner neglects or refuses to file its community housing tax return, the amount of tax due shall be estimated based upon such information as may be available, and a notice of assessment shall be issued.

(b) If any owner neglects or refuses to file a return by the date due, the tax due shall be estimated based on such information as may be available, and a notice of assessment shall be issued.

(c) Estimated tax due shall be adjusted if a return reporting actual tax due is filed on or before the payment date of the notice of assessment.

**Sec. 4-11-150. - Tax deficiencies determined through audit.**



If the Town determines through an audit of the owner's records that the tax due has not been fully reported or paid by the applicable due date, a notice of assessment shall be issued.

**Sec. 4-11-160. - Penalties.**

A penalty shall be levied for any tax deficiency as follows:

(1) For transactions consummated after the effective date of the initial ordinance codified herein, the penalty for late payment shall be ten (10) percent of the tax deficiency. Additionally, one-half percent (0.5%) of the tax deficiency per month from the date when due, not exceeding eighteen percent (18%) in the aggregate, shall be assessed.

(2) If any tax deficiency is due to fraud or intent to evade the tax, the penalty shall be one hundred percent (100%) of the total tax deficiency.

(3) Any penalty assessed under this Section may be abated by the Finance Director, with the approval of the Town Manager, if the owner submits a written request for such abatement on or before the payment date of the applicable notice of assessment, and if the Finance Director and the Town Manager find good cause therefor.

**Sec. 4-11-170. - Notice of assessment.**

(a) The Finance Director or specifically authorized agent shall issue a notice of assessment for any tax deficiency, penalties or interest due.

(b) Notices of assessment shall be in writing and delivered in person or sent postage paid by first class mail, to the last known address of the property owner.

(c) The payment due date for the tax due pursuant to a notice of assessment shall be twenty-one (21) days after the date of the notice of assessment.

(d) The Finance Director, with the consent of the Town Manager, may abate a portion of any tax deficiency if good cause therefor exists.

**Sec. 4-11-180. - Protest of notice of assessment or denial of refund.**

(a) Any notice of assessment may be protested by the owner to whom it is issued.

(1) A protest of a notice of assessment issued to an owner for failure to file a return, underpayment of tax owed or as a result of an audit shall be submitted in writing to the Finance Director within twenty (20) calendar days from the date of the notice of assessment. Any such protest shall identify the amount of tax disputed and the basis for the protest.

(2) When a timely protest is made, no further enforcement action will be instituted by the Town for the portion of the assessment being protested unless the owner fails to pursue the protest in a timely manner.

(b) Any denial of a claim for a refund may be protested by the owner who submitted the claim. A protest of a denial of a refund shall be submitted in writing to the Finance Director within twenty (20) calendar days from the date of the denial of the refund, and shall identify the amount of the refund requested and the basis for the protest.

(c) Any timely protest entitles an owner to a hearing under the provision of this Article.

(1) If, in the opinion of the Finance Director, the issues involved in such protest are not a matter of interpretation or may be resolved administratively, the Finance Director may recommend an informal meeting with the owner to resolve the issues.

(2) Participation in such an informal meeting does not prevent either the owner or the Town from holding a formal hearing if the dispute cannot be resolved by such meeting.

#### **Sec. 4-11-190. - Hearings.**

(a) The Town shall commence a hearing within ninety (90) days after the Town's receipt of the owner's written protest; except that the Town may extend such period if the delay is requested by the owner. The Finance Director shall notify the owner in writing of the time and place of such hearing.

(b) Every hearing shall be held within the Town and before the Finance Director.

(c) The owner may assert any facts, make any arguments and file any briefs and affidavits which, in the opinion of the owner, are pertinent to the protest. The filing of briefs shall not be required.

(d) Based on the evidence presented at the hearing, the Finance Director shall issue a finding of fact, conclusions and decision which may modify or abate in full the tax, penalties and/or interest protested at the hearing, approve a refund or uphold the assessment. After such hearing, the owner shall not be entitled to a second hearing on the same notice of assessment or denial of refund.

(e) Unless the decision of the Finance Director is appealed as provided in this Article, the remaining tax due, if any, shall be paid on or before thirty (30) days after the date of the finding of fact, conclusions and decision.

**Sec. 4-11-200. - Lien for tax due.**

(a) If any tax due is not paid by the payment date of a notice of assessment, the Finance Director may issue a notice of lien on the real property of the property owner. Such lien shall specify the name of the owner, the tax due, the date of accrual thereof and the location of the property, and shall be certified by the Finance Director.

(b) The notice of lien shall be filed in the office of the clerk and recorder of Gunnison County and any other county in the State in which real property of the owner is located. Such filing shall create a lien on such property in that county and constitute a notice thereof.

(c) The attachment and priority of such lien shall be as follows:

(1) Such lien shall be a first and prior lien upon the owner's property, and shall take precedence on all such property over all other liens or claims of whatsoever kind or nature.

(2) Such lien on the real property of the owner shall be a first and prior lien except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights have attached and been perfected prior to the filing of the notice of lien.

(d) If a notice of lien is filed against any real property, the Finance Director may work with the Town Attorney to file a civil action to enforce such lien.

**Sec. 4-11-210. - Performance of lien.**

(a) Any lien for tax due shall continue until a release of lien is filed by the Finance Director.

(b) Any person who purchases or repossesses real property upon which a lien has been filed by the Town for tax due shall be liable for the payment of such tax due up to the value of the property taken or acquired.

**Sec. 4-11-220. - Release of lien.**

Upon payment of the tax due or enforcement of the lien, the Finance Director shall file a release of the lien with the clerk and recorder of the county in which the lien was filed.

**Sec. 4-11-230 Appeal of Finance Director's final determination to Court.**

(a) The taxpayer may appeal the decision of the Finance Director's decision in District Court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(b) Upon appeal to the District Court, the taxpayer shall either file with the Town a bond for twice the unpaid amount or deposit the unpaid amount with the Town.

(c) An appeal of a final decision of the Town in a hearing held pursuant to Section 4-11-190 above shall be commenced within thirty (30) days of such decision.

**Sec. 4-11-240. Other Violation enforcement and penalties.**

(a) Any person who violates any of the provisions of this Article shall also be subject to the violation and penalty provisions set forth in Chapter 1, Article 4 of this Code.

(b) In addition to the other remedies provided here in or in Chapter 1, Article 4, the Town may certify to the County any amount of tax due, which shall become a lien on the real property upon which said payment is due as set forth above and shall be collected in the manner set forth for general property taxes.

(c) All remedies contemplated in this Section shall be deemed cumulative and concurrent.

**Section 2. Vacation Rental Tax. Section 4-9-40 (a) of the Municipal Code is hereby amended to read as follows if Question 2D is approved by the voters at the election on November 2, 2021:**

**Sec. 4-9-40 Rate, imposition, collection and distribution of vacation rental tax.**

(a) There is hereby levied by the Town an excise tax of up to 7.5% on the amount charged to any person for a vacation rental.

**Section 3. Sales Tax. Sections 4-2-30, 4-2-40(a), 4-2-40(b), 4-2-40(c)(3) and 4-2-70 are hereby amended to read as follows, if Question 2C is approved by the voters at the election on November 2, 2021:**

**Sec. 4-2-40 Definitions**

The existing definition of "Food for home consumption" is repealed and replaced in its entirety with the following:

*Food for home consumption* means food, meals, beverage and packaging as defined in C.R.S. Section 39-26-707 as may be amended.

**Sec. 4-2-40 Rate, imposition, collection and distribution of sales tax.**

(a) Sales tax. There is hereby levied in, and shall be paid to and collected by, the Town a tax or excise upon all sales of tangible personal property and services specified in Section 4-2-60(a) in the amount of five percent (5.0%) effective on January 1, 2022.

(b) Imposition and collection. The tax specified herein is imposed upon the purchaser. Any seller engaged in business within the Town shall collect the tax and remit it to the Town pursuant to this Article. The additional one-half percent (.5%) of the sales tax increase effective on January 1, 2022, will not be imposed and collected upon sales of food for home consumption that are purchased in the Town.

(c) Distribution.

(1) Except as specified in this Subsection, the Town shall distribute the proceeds generated from four percent (4%) of the four and one-half percent (4.5%) sales tax on a formula allocating twenty-five percent (25%) thereof to local transportation services and allocating the remaining seventy-five percent (75%) thereof to the Town's General Fund and Capital Fund at the discretion of the Town Council, based on the projected operational and capital needs of the Town for the ensuing year. Such allocation shall occur as a part of the Town's annual budget process, subject to public hearing, and adopted by resolution on or before the final day for the certification of the ensuing year's property tax levy to the County. Sales tax revenues may also be reallocated during the budget year at the discretion of the Town Council in accordance with the Town's budget policy addressing recessionary circumstances or other unanticipated revenue shortfalls.

(2) Except as specified in this Subsection, the Town shall distribute proceeds from the one-half percent (0.5%) parks and recreation sales tax on a formula allocating one hundred percent (100%) thereof to parks and recreation facility maintenance and parks and recreation capital programs and trails. Allocation within such areas shall occur as a part of the Town's annual budget process, subject to public hearing, and adopted by resolution on or before the final day for the certification of the ensuing year's property tax levy to the County. Sales tax revenues may also be reallocated in such areas during the budget year at the discretion of the Town Council in accordance with the Town's budget policy addressing recessionary circumstances or other unanticipated revenue shortfalls.

(3) The additional proceeds collected from the one-half percent (0.5%) sales tax increase effective on January 1, 2022, will be allocated to the Town's Affordable Housing Fund created by Section 4-1-70 of the Town Code and distributed for the purposes specified in Section 4-1-70.

#### **Sec. 4-2-70 Exemptions from sales tax.**

(25) The additional one-half percent (.5%) of the sales tax increase effective on January 1, 2022, will not be imposed and collected upon sales of food for home consumption, as defined in 4-2-30. For purposes of clarity, the first 4.5% of the 5.0% shall be applied to Food for Home Consumption.

**Section 4. Use Tax.** Sections 4-3-30, 4-3-40(a), and Section 4-3-50(a) are hereby amended to read as follows, if Question 2C is approved by the voters at the election on November 2, 2021:

**Sec. 4-3-30. Application of funds from use tax.**

Funds received pursuant to this Article shall be deposited sixty percent (60%) into the Capital Reserve Fund and forty percent (40%) into the General Fund, except that the additional proceeds collected from the one-half percent (0.5%) use tax increase effective on January 1, 2022, will be allocated to the Town's Affordable Housing Fund created by Section 4-1-70 of the Town Code and distributed for the purposes specified in Section 4-1-70.

**Sec. 4-3-40. Construction or building materials use tax.**

- (a) Imposition and amount. There is hereby imposed on the privilege of use, storage or consumption of construction or building materials in the Town which were purchased at retail outside the Town a use tax of five percent (5.0%) effective on January 1, 2022, of the retail purchase price of such construction or building materials.

**Sec. 4-3-50. Motor vehicle use tax.**

- (a) Imposition and amount. There is hereby imposed on the privilege of use, storage or consumption of every motor vehicle in the Town which was purchased outside the Town, for which registration is required by the laws of the State, a use tax of four and one half percent (4.5%) of the retail purchase price of the motor vehicle effective on January 1, 2022.

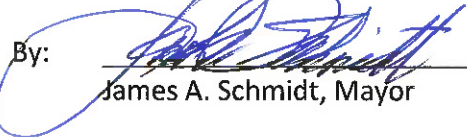
**Section 5. Severability.** If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions 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 6. Savings clause.** Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision of the Code that is in conflict with this ordinance is hereby repealed as of the effective date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS \_\_\_\_ DAY OF OCTOBER 2021.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS \_\_\_\_ DAY OF OCTOBER 2021.

TOWN OF CRESTED BUTTE, COLORADO

By:   
James A. Schmidt, Mayor

ATTEST:  
  
Lynelle Stanford, Town Clerk

[SEAL]

