

ORDINANCE NO. 34

SERIES 2019

**AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL
PROVIDING REQUIREMENTS FOR DEMOLITION, RELOCATION AND REPLACEMENT
OF BUILDINGS OR STRUCTURES AMENDING ARTICLES 1, 2 AND 14 OF
CHAPTER 16 OF THE TOWN CODE**

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

WHEREAS, the Town believes that changes to regulations for demolition, relocation and replacement of structures and buildings in the Town furthers the Town's historic preservation efforts, protect the integrity and character of the community, and minimize the loss of housing; and

WHEREAS, the Town's Board of Zoning and Architectural Review considered the proposed amendments to the Town Code on August 27, 2019, and moved to recommend the amendments to the Town Council; and

WHEREAS, the Town Council has determined that the below amendments to the Town Code sections regarding will protect the public health, safety, and welfare and further efforts to preserve the character of the community.

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

Section 1. **Sec. 16-1-20 of Chapter 16** of the Town Code is amended to add the following Definitions:

Demolition means the dismantling, tearing down or destruction of twenty-five percent (25%) or more of any building or structure.

Demolition by neglect means the destruction of a building or structure through abandonment or lack of maintenance, or the gradual deterioration of a building or structure when routine or major maintenance is not performed.

Historic building means any building or structure that was constructed during the Town's Period of Significance (POS), 1880-1952.

Receiving site means the target real property within the Town upon which a relocated building or structure is proposed for relocation.

Redevelopment parcel means any real property within the Town which is the subject of a demolition or relocation application and a Redevelopment plan.

Redevelopment plan means a set of drawings, plans and specifications for the construction of a building or structure on the same lot or parcel following demolition or relocation; a redevelopment plan shall meet all of the zoning requirements, design standards, recorded easements and covenants for the property upon which the development is to be situated.

Relocation means the removal of a building or structure from its foundation or current location and then moving or transporting it to a receiving site; the relocated building or structure shall meet all of the zoning requirements, recorded easements and/or covenants of the property upon which it is to be situated.

Replacement housing means deed-restricted long-term rental or resident-occupied affordable housing that is required due to demolition or relocation of existing residential buildings or structures.

Section 2. **Article 2 of Chapter 16** of the Town Code is amended by repealing the following sections in their entirety:

Sec. 16-2-40 Ordinary maintenance and repair.

Sec. 16-2-50 Dangerous conditions.

Sec. 16-2-60 Demolition of historic structures.

Section 3. **Article 14 of Chapter 16** of the Town Code is amended by repealing Sec. 16-14-190 Demolition requirements in its entirety and replacing it with the following:

Chapter 16, Sec. 16-14-190 Demolition or relocation of historic and non-historic buildings or structures.

(1) Applicability.

a. No person shall demolish or relocate any Historic building or structure built within the Period of Significance (POS), 1880-1952, unless the Town deems it unsafe and/or dangerous in accordance with Subsection (3), Dangerous conditions.

b. No person shall demolish or relocate any building or structure built outside the Period of Significance (“POS”) unless:

(i) the Board has approved such demolition or relocation following proper notice and public hearing in accordance with this Section;

(ii) the Board has approved a redevelopment plan as defined in Sec. 16-1-20; and

(iii) the Building Inspector has issued building permits pursuant to Sec. 18-13-40 for such demolition or relocation and construction of the replacement building or structure.

c. No person shall demolish or relocate any building or structure for the purpose of selling or conveying vacant lots for future development.

(2) Ordinary maintenance and repair. Nothing in this Section shall be construed to prevent ordinary maintenance or repair of any historic building or structure. The Building Official may order any person in charge of or having control of the historic building or structure to perform maintenance when the Building Official in their reasonable judgment deems that such maintenance is necessary to prevent significant deterioration of the building or structure.

(3) **Dangerous conditions.** A building or structure that is deemed by the Building Official to be unsafe or dangerous creating a substantial risk of injury or damage to property is a public nuisance and is subject to Chapter 7 Article 1, Administration and Abatement of Nuisances. Approval by the Board prior to compliance with an order issued by the Building Official to abate any nuisance is not required. As soon as practicable, the officer shall notify the Board of the proposed or actual issuance of any order.

(4) **Demolition by neglect.** The Building Official may, at any time, order any person in charge of or having control and supervision of the property where a historic building or structure is located, to maintain and keep up a historic building or structure where it appears in the Building Official's reasonable judgement that without maintenance the building or structure will deteriorate to the point where demolition becomes the only option.

(5) **Exemptions.** The following activities are exempt from the requirements of this Section, except that a building permit issued pursuant to Sec. 18-13-40 is required prior to commencing any of these activities:

- a. Demolition of less than twenty-five percent (25%) of floor area of a non-historic building or structure.
- b. Minor demolition and/or relocation activities that include but are not limited to chimneys, decks, porches, steps, small accessory buildings or other similar design features.
- c. Removal of partial roof components to allow for vertical expansion such as dormers or skylights on structures.
- d. Demolition or relocation of mobile homes and mobile home accessory buildings in the M-Mobile Home district.

(6) **Application requirements.** An applicant seeking approval for demolition or relocation of a non-historic building or structure must submit a complete demolition or relocation permit application to the Community Development Department that includes the following contents:

- a. Payment of applicable fees and delivery of the following information: 1) a legal description of the property involved; 2) proof of ownership or a deed for the property establishing title; 3) signature of the owner of the property or some other authorized person with the written legal authority of the owner to make such application; and 4) a plot plan of the lot or parcel, drawn preferably at a one-eighth inch to one-foot scale, showing the dimensions of the lot or parcel and the size and location of the existing buildings or structures and other site improvements.
- b. A written narrative that describes: 1) the reason(s) for requesting demolition or relocation of the existing building or structure; 2) the architectural style/era and any distinguishing characteristics or features of the existing building or structure; and 3) whether there is an existing deed-restricted housing unit contained on the property.
- c. Existing floor plans, elevations, photographs and/or other materials that enable a thorough understanding of the existing building or structure and the character of the neighborhood context.
- d. A condition assessment report for the existing building or structure prepared by a

licensed architect, building systems engineer, building contractor, building inspector or other qualified person that addresses the following:

1. **Site and grounds:** the condition of the existing site and grounds including site drainage, pavement, walkways, patios, decks, walls, fencing/railings, landscaping and exterior amenities.
 2. **Structural systems:** the type and condition of the existing foundations and structural framing of walls, columns, intermediate floors and roofs; a summary of any cracks in the foundation and/or walls; and evidence of leakage or water damage. If relocation is proposed, a determination should be made as to whether the building or structure can withstand the physical impacts of being removed from its current location, transported and relocated upon a new foundation at a receiving site.
 3. **Building envelope:** the type and condition of existing roofing systems, exterior finishes, insulation, stairs and steps, exterior doors and windows; and whether they need to be replaced.
 4. **Mechanical systems:** the type of electrical, heating, ventilation, plumbing and conveyance systems, including the condition of each system, its estimated efficiency, and its estimated remaining lifespan.
 5. **Interior building components:** the type of interior finishes, fireplaces/heating stoves, appliances and fixtures; their estimated efficiency, and their estimated remaining lifespan.
 6. **Environmental issues:** any evidence of disease-causing organisms, mold, lead, asbestos, chemicals, biological substances and/or radioactive material, including the existence of any hazardous or dangerous conditions or materials.
 7. **Regulatory compliance:** any issues or concerns regarding zoning (setbacks, height, floor area, parking, etc.), life safety, fire or other building code matters.
 8. **Final summary:** a summary that recommends whether the structure should be demolished or relocated; or whether the estimated lifespan of the building's systems and elements can be reasonably upgraded, remodeled, renovated and/or expanded to be more functional, energy-efficient, livable and code compliant.
- e. If demolition is proposed, a written response that details how the applicant intends to comply with the requirements of Chapter 18, Article 15 Deconstruction and recycle plan, and an estimate of cubic yards of demolition material that will be permanently disposed.
- f. If relocation is proposed, a relocation plan that describes and/or shows the transport route, identifies any structural and/or physical constraints, identifies methods of resolving those constraints, and includes a proposed site plan with the subject building or structure located on the receiving site in conformance with the specific zoning requirements, easements and covenants or neighborhood context.
- g. A written response that describes how the applicant intends to satisfy the Replacement Housing requirements in Sec. 16-14-200.

(7) Review standards for demolition of non-historic buildings or structures. The Board may approve an application for demolition of any non-historic building or structure if the Board determines that all of the following standards have been met:

- a. The existing building or structure is not compatible with the POS; do not conform to the Town's Design Guidelines; and the massing, scale, form and materials do not substantially or materially contribute the character and quality of the neighborhood context.
- b. The existing building or structure cannot meet current zoning, building and energy code requirements, and/or health and safety standards by utilizing reasonable and economically viable construction methods in order to achieve a beneficial use of the property.
- c. If demolition is proposed, the deconstruction and recycle plan meets the requirements of Chapter 18, Article 15 of this Code.
- d. If relocation is proposed, the relocation plan meets the requirements set forth in Subsection 16-14-190(6)f.
- e. The redevelopment plan satisfies the Replacement Housing requirements in Sec. 16-14-200.

(8) Review standards for relocation of non-historic buildings or structures. The Board may approve an application for relocation of any non-historic building or structure if the Board determines that all of the following standards have been met:

- a. The building or structure can withstand the physical impacts of being removed from the current location, transported, and relocated upon a new foundation at a receiving site.
- b. The building or structure can be located on a receiving site in conformance with the zone district standards, easements and covenants, or neighborhood context.
- c. The relocated building or structure may or may not be in compliance with the Town Design Guidelines.

(9) Staff review and report. Prior to the Board public hearing, staff shall review the application and prepare a report summarizing the application, identifying whether the application appears to satisfy the standards in Sec. 16-14-190 (5), and recommending conditions of approval that may be required to satisfy the standards.

(10) Board review and decision. The Board shall review the demolition or relocation application at the duly noticed public hearing pursuant to Sec. 16-22-110.

- a. If the Board approves the demolition or relocation application, the applicant shall, within two (2) years of date of approval, prepare and submit a Redevelopment Plan as defined in Sec. 16-1-20, otherwise the approval will expire.
- b. For relocation within the Town, if it is demonstrated that the existing building or structure conforms to the zone district standards, covenants, and site conditions of the receiving site, and the receiving site is currently available for development, the existing

building or structure may be relocated to the receiving site prior to submittal and approval of the Redevelopment Plan.

c. If the Board denies the demolition or relocation application, the applicant may prepare plans for the maintenance, renovation, modification or expansion of the existing building or structure in accordance with the zone district standards and Town Design Guidelines; or

d. If the Board denies the demolition or relocation application, the applicant may appeal the decision to Town Council pursuant to Sec. 16-22-150 Appeal.

e. Approval of the demolition or relocation application does not constitute a site specific development plan under Chapter 16 Article 20.

(11) Expiration of approval. The Board's approval of the demolition or relocation application shall expire within two (2) years of the Board's decision if a building permit has not been issued for the associated redevelopment plan.

(12) Compliance or general penalty for violation. Any person in violation of this Section shall be subject to the provisions of Chapter 1, Article 4 and the following provisions:

a. Where a violation of this Section has occurred, the Building Official shall be authorized to impose up to a ten (10) year moratorium on the issuance of any permit and/or certificate of occupancy in connection with the subject property, except as otherwise described in Subsection b. below. The Building Official shall consider the following factors in deciding whether to impose such a moratorium:

1. The impact of the demolition or relocation of the building or structure upon the historical integrity and architectural character of the Town;

2. The factual circumstances concerning the cause of the demolition or relocation of the building or structure, as may be identified after reasonable investigation by the Building Official; and

3. Whether the demolition or relocation of the building or structure may have been approved by the Board had an application for the same been submitted.

b. During the pendency of prosecution described in Subsection a. above, the Building Official may impose a temporary moratorium on the issuance of any permit and/or certificate of occupancy in connection with the subject property. In electing to impose such a temporary moratorium, the Building Official shall consider the same factors as described in the Subsection above. Such temporary moratorium shall remain in effect for the duration of the prosecution and any appeal therefrom.

c. Notice of the imposition and duration of any moratorium imposed pursuant to this Section shall be recorded in the official real property records of the office of the County Clerk and Recorder.

d. A moratorium on the property under this Section does not prevent the Building Official from issuing a building permit for rehabilitation or repair of any building or structure on the property that is the subject of the moratorium or any improvement,

bracing or other construction activity intended to protect, keep up, save and/or maintain any such building or structure on the subject property.

Section 4. **Article 14 of Chapter 16** of the Town Code is amended by recodifying Sec. 16-14-200 Bathing facilities as Sec. 16-14-210 Bathing facilities, and amending Sec. 16-14-200 to read as follows:

Sec. 16-14-200. Replacement housing due to demolition.

(1) **Applicability.** These replacement housing standards, in addition to Sec. 16-14-190, shall apply to the demolition or relocation of existing residential buildings and the proposed redevelopment of a redevelopment parcel.

(2) **Submittal requirements.** A replacement housing application shall be submitted with the proposed redevelopment plan and shall include the following information:

a. A brief narrative that describes the existing conditions; the proposed redevelopment plan; and details how the replacement housing standards are being met. If there is an existing deed-restricted unit on the redevelopment parcel, the application shall include a copy of the recorded deed-restriction.

b. Existing and proposed: site plans, building floor plans, floor area (FAR) calculations, exterior building elevations and unit summary that includes the unit square footages, number of bedrooms and bathrooms and on-site parking spaces.

(3) **Replacement housing standards.** The replacement housing standards that shall apply to the demolition and redevelopment of the following residential building types are:

a. General standards for replacement housing that apply to the demolition and redevelopment of all residential buildings:

1. For properties with existing deed-restricted housing, there shall be no net loss in the number of deed-restricted units, bedrooms and amount of floor area due to demolition or relocation.

2. All replacement housing units shall be deed-restricted as long-term rental or resident-occupied, affordable replacement housing units. The restrictive covenant for all long-term rental or resident-occupied affordable replacement housing units shall be recorded in the office of the Gunnison County Clerk.

3. Deed-restricted replacement housing units shall be constructed on the redevelopment parcel; or if the relocated residential building or structure is relocated in town, the relocated building or structure shall be deed-restricted to satisfy the replacement housing requirement. Purchasing and deed-restricting existing off-site residential units in order to meet the replacement housing requirements is not permitted.

4. Deed-restricted replacement housing units may be smaller than the minimum floor area requirements as set forth in Sec. 16-21-60 Standards for resident-occupied, affordable housing units.

5. Deed-restricted replacement housing units shall be available for occupancy at the same time as the new free-market residential units constructed on the redevelopment parcel.

b. Replacement housing standards that apply to the demolition and redevelopment of single-family, duplex and tri-plex buildings:

1. Minimum floor area redevelopment standards: New residential buildings or structures shall not exceed the floor area of the existing building to be demolished or the minimum floor area ratio (FAR) allowed in the zoning district, whichever is less, with the following conditions:

(a) The new residential building or structure shall be designed within the general orientation, footprint and mass/scale of the existing buildings or structures that are to be demolished and shall comply with the zone district standards.

(b) The new residential building or structure may incorporate certain distinguishing architectural features, materials and/or details that were characteristic of the style/era of the demolished building or structure and which may or may not fully conform to the Town's Design Guidelines.

(c) The full Resident-Occupied Affordable Housing (ROAH) fee pursuant to Sec. 16-21-50(6) shall be paid with no credit given for the existing floor area (FAR) of the building or structure that was demolished.

2. Maximum floor area redevelopment standards: New residential buildings or structures shall not exceed the maximum floor area allowed in the zone district with the following conditions:

(a) The new residential building or structure may have a different orientation, footprint and mass/scale from the demolished structure; and shall comply with the zone district standards.

(b) The new residential building or structure may incorporate certain distinguishing architectural features, materials and/or details that were characteristic of the style/era of the demolished building or structure and which may or may not fully conform to the Town's Design Guidelines.

(c) The new single-family development shall be required to construct an on-site detached, accessory dwelling unit, as defined in Sec. 16-1-20 and pursuant to Sec. 16-9-70.

(d) The new duplex development shall be required to maintain or construct one (1) of the residential units as a replacement housing unit that is deed-restricted as a long-term rental or resident-occupied affordable housing unit.

(e) The new tri-plex development shall be required to maintain or construct one (1) of the residential units as a replacement housing unit that is deed-restricted as a long-term rental or resident-occupied affordable housing unit.

c. Replacement housing standards that apply to the demolition and redevelopment of multi-family buildings with four (4) or more residential units:

1. The new multi-family building or structure may have generally the same or different orientation, footprint and mass/scale, and they shall meet the zone district standards and Town Design Guidelines.

2. A minimum of fifty percent (50%) of the total existing number of units demolished shall be maintained or construct replacement housing that is deed-restricted as long-term rental or resident-occupied affordable housing units; when applying this standard results in a fraction of a required unit, a payment-in-lieu for only that fractional unit may be made to the Town or a full deed-restricted unit may be provided.

3. A minimum of twenty-five percent (25%) of the total existing number of bedrooms demolished shall be provided as replacement housing that is deed-restricted as long-term rental or resident-occupied, affordable housing; for purposes of this section, a studio shall equate to three-quarters (3/4) of a bedroom.

d. For residential buildings or structures that are relocated in town:

1. The relocated building or structure shall comply with the zone district standards of the "receiving site" and the relocated building or structure may or may not fully conform to the Town Design Guidelines due to their architectural style and/or era of construction.

2. The relocated building or structure shall contain the same number, type and size of residential units as existed on the redevelopment parcel.

3. The owner/applicant shall be responsible for all relocation costs of the relocated building or structure, including the new foundation at the receiving site, if the building or structure is to be deed-restricted as long-term rental or resident-occupied affordable housing.

(a) If there is a recorded restrictive covenant for the relocated building or structure, no other replacement housing and/or ROAH fee shall be required for the new buildings or structures to be constructed on the redevelopment parcel. Town reserves the right to accept or refuse the relocated building or structure as deed-restricted long-term rental or resident-occupied housing.

(b) If the relocated building or structure is not deed-restricted as long-term rental or resident-occupied affordable housing or it is relocated outside of town, the applicable replacement housing requirements and/or ROAH fees shall be required.

4. No replacement housing credits shall be given to buildings or structures relocated outside of Town.

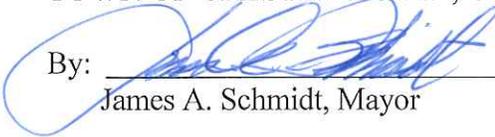
Section 5. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions 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 3RD DAY OF SEPTEMBER, 2019.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 16th DAY OF September, 2019.

TOWN OF CRESTED BUTTE, COLORADO

By: 
James A. Schmidt, Mayor

ATTEST:


Lynelle Stanford, Town Clerk

[SEAL]

