

**RESOLUTION NO.**  
**13**  
**(Series of 2019)**

**A RESOLUTION OF THE CRESTED BUTTE TOWN COUNCIL REPEALING RESOLUTION NO. 11 AND SUBMITTING TO THE ELECTORATE OF THE TOWN OF CRESTED BUTTE A QUESTION SEEKING AUTHORITY TO INCREASE TAXES ON THE SALE OF CIGARETTES AND OTHER TOBACCO AND NICOTINE PRODUCTS.**

**WHEREAS**, the Town of Crested Butte, Colorado (the "Town"), is a duly organized and existing home-rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Constitution of the State of Colorado and its Home Rule Charter of the Town of Crested Butte, Colorado (the "Charter");

**WHEREAS**, the members of the Town Council of the Town of Crested Butte (the "Council") have been duly elected and qualified;

**WHEREAS**, the Council hereby finds that tobacco and nicotine addiction is a leading cause of preventable death, that people should be deterred from starting the use of tobacco and nicotine products and encouraged to quit the use of tobacco and nicotine products, and that taxes on the sale of tobacco and nicotine products are effective at preventing and reducing tobacco and nicotine use;

**WHEREAS**, the Council hereby designates revenues collected through the imposition of this tax would be placed in the General Fund for the purpose of helping fund community health initiatives, public safety and other items as deemed necessary by the Council;

**WHEREAS**, Section 12.2 of the Town Charter authorizes the Town to levy and collect taxes for municipal purposes, provided, however, that no income tax, sales tax or excise tax may be levied until such tax shall have been approved by majority of the electors voting at a regular or special election;

**WHEREAS**, Article X, Section 20 of the Colorado Constitution ("TABOR") requires voter approval for any increase in taxes;

**WHEREAS**, TABOR requires the Town to submit ballot issues (as defined in TABOR) to the Town's electorate on limited election days before action can be taken on such ballot issues;

**WHEREAS**, November 5, 2019, is one of the election dates at which ballot issues may be submitted to the electorate of the Town pursuant to TABOR;

**WHEREAS**, the Council hereby determines that it is in the interests of the Town

and its residents to call an election to be held on November 5, 2019, and to submit to the electorate of the Town, at the election, the question of authorizing a tax increase on the sale of tobacco and nicotine products;

**WHEREAS**, the Gunnison County Clerk and Recorder (the "County Clerk") is conducting a coordinated election pursuant to the Uniform Election Code of 1992, Articles 1 to 13 of Title 1, C.R.S. (the "Uniform Election Code") on November 5, 2019;

**WHEREAS**, pursuant to C.R.S. §1-1-102 and C.R.S. §31-10-102.7, the Council may elect to utilize the provisions of the Uniform Election Code in order to participate in the coordinated election on November 5, 2019;

**WHEREAS**, on July 15, 2019, the Council will pass Resolution #14, Series of 2019 calling for and establishing a special municipal election on November 5, 2019 and authorizing the Town Clerk to execute an Intergovernmental Agreement with the Gunnison County Clerk and Recorder concerning the November 5, 2019 election.

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

**Section 1.** All action heretofore taken (not inconsistent with the provisions of this resolution) by the Town and the officers thereof, directed towards the election and the objects and purposes herein stated is hereby ratified, approved and confirmed.

**Section 2.** Unless otherwise defined herein, all terms used herein shall have the meanings defined in the Uniform Election Code.

**Section 3.** The following ballot issue, certified in substantially the form set forth below, is hereby referred to the electorate of the Town and shall appear on the ballot of the Town at the November 5, 2019 election with the following ballot title which is set pursuant to C.R.S. §31-1-111:

**Tax Increase on the Sale of Tobacco and Nicotine Products.**

BALLOT TITLE AND TEXT:

SHALL TOWN TAXES BE INCREASED BY UP TO \$200,000 IN 2020 AND BY SUCH AMOUNTS AS MAY BE GENERATED ANNUALLY THEREAFTER BY THE IMPOSITION OF NEW TAXES AS FOLLOWS:

BEGINNING JANUARY 1, 2020, THERE SHALL BE A NEW TAX OF FIFTEEN CENTS PER CIGARETTE OR THREE DOLLARS PER PACK OF TWENTY CIGARETTES SOLD;

BEGINNING JANUARY 1, 2020, THERE SHALL BE A NEW SALES TAX OF 40% ON THE SALES PRICE OF ALL OTHER TOBACCO PRODUCTS; THE TERMS "CIGARETTES" AND "TOBACCO PRODUCTS" SHALL MEAN "A PRODUCT THAT CONTAINS NICOTINE OR TOBACCO OR IS DERIVED FROM TOBACCO AND IS INTENDED TO BE INGESTED OR INHALED BY OR APPLIED TO THE SKIN OF AN INDIVIDUAL."

THE TAX REVENUES SHALL BE USED FOR THE PURPOSES OF FINANCING HEALTH SERVICES, PUBLIC SAFETY AND OTHER NEEDS AS DEEMED NECESSARY;

AND SHALL THE TOWN BE AUTHORIZED TO COLLECT, RETAIN AND EXPEND ALL OF THE REVENUES OF SUCH TAXES AND THE EARNINGS THEREON, NOTWITHSTANDING THE LIMITATIONS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

**Section 4.** The Town Clerk is hereby appointed as the designated election official of the Town for purposes of performing acts required or permitted by law in connection with the election.

**Section 5.** Pursuant to C.R.S. §1-11-203.5, any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set.

**Section 6.** The officers of the Town are hereby authorized and directed to take all action necessary and appropriate to effectuate the provisions of this resolution.

**Section 7.** If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall in no manner affect any remaining provisions of this resolution.

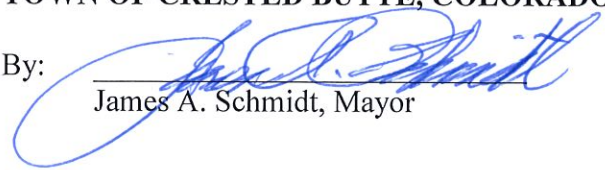
**Section 8.** All resolutions or parts of resolutions inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any resolution or part of any resolution heretofore repealed.

**Section 9.** The effective date of this resolution shall be immediately upon adoption.

**INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO THIS [15<sup>th</sup>] DAY OF [July], 2019.**

**TOWN OF CRESTED BUTTE, COLORADO**

By:



James A. Schmidt, Mayor

**ATTEST:**



Lynelle Stanford, Town Clerk