

ORDINANCE NO. 2

SERIES 2011

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 6 OF THE CRESTED BUTTE MUNICIPAL CODE TO ADD A NEW SECTION 10-7-90 MAKING IT UNLAWFUL FOR ANY PERSON TO KNOWINGLY ALLOW UNDERAGE PERSONS TO POSSESS OR CONSUME ETHYL ALCOHOL ON PRIVATE PROPERTY

WHEREAS, the Town of Crested Butte, Colorado ("**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;

WHEREAS, Section 10-7-30 of the Crested Butte Municipal Code ("**Code**") makes it unlawful for any underage person to consume or possess ethyl alcohol;

WHEREAS, the Town Council finds, however, that despite such requirements in the Code, the consumption of ethyl alcohol by underage persons is an ongoing problem in the community;

WHEREAS, the Town Council finds further that despite such requirements, current efforts to regulate underage consumption of ethyl alcohol are directed at the point of sale;

WHEREAS, the Town Council finds that the Town's requirements do not place the responsibility on the persons in possession and control of private property to prevent the unlawful use of ethyl alcohol by underage individuals legally on said property;

WHEREAS, the Town Council finds that law enforcement agencies are generally unable to detect and prevent the possession and consumption of ethyl alcohol by underage persons on private property before such consumption leads to behavior that poses a threat to the public health, safety and welfare, including, without limitation, excessive noise, physical altercations, vandalism and disturbing the peace; and

WHEREAS, for the foregoing reasons, the Town Council finds that the below amendments to the Code are in the best interest of the general health, safety and welfare of the residents and visitors of Crested Butte.

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

Section 1. Adding a New Section 10-7-90 to the Code. A new Section 10-7-90 is added to the Code and shall read as follows:

"Section 10-7-90. Knowingly allowing underage persons to possess or consume ethyl alcohol on private property.

(a) No person who is in possession and control of private property shall knowingly allow any person under twenty-one (21) years of age to possess or consume ethyl alcohol anywhere on the private property in their possession and control.

(b) No person in possession and control of private property shall knowingly host, permit or allow persons under 21 years of age to gather at said property where ethyl alcohol is available without making reasonable efforts to ensure that all persons under 21 years of age do not possess ethyl alcohol or consume ethyl alcohol. "Reasonable efforts" shall include, but are not limited to, limiting the amount of ethyl alcohol available, limiting the size of the gathering, restricting access to ethyl alcohol by persons under 21 years of age and obtaining a valid government issued identification confirming each person's age.

(c) It shall be an affirmative defense to this Section if ethyl alcohol is possessed or consumed in accordance with Section 10-7-30(b).

(d) Knowingly allowing underage persons to possess or consume ethyl alcohol on private property shall be a misdemeanor, and upon conviction, shall be punishable by a fine of not more than one thousand dollars (\$1,000.00).

(e) A surcharge in the sum of ten dollars (\$10.00) is hereby levied upon each criminal action resulting in a conviction or in a deferred judgment and sentence."

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. Except as amended hereby, the Code, as amended, 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 effective date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 18th
DAY OF JANUARY, 2011.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN
PUBLIC HEARING THIS 7th DAY OF February, 2011.

TOWN OF CRESTED BUTTE, COLORADO

By: *Leah B. Williams*
Leah B. Williams, Mayor

ATTEST:
Eileen Hughes
Eileen Hughes, Town Clerk

