

Appendix Special Area Regulations 1:

CRESTED BUTTE SOUTH SPECIAL AREA REGULATIONS

Section 101: SPECIAL AREA DESIGNATION.

The Crested Butte South Special Area (the “Crested Butte South Special Area” or “CB South Special Area”) has been designated by the Board of County Commissioners of Gunnison County (the “BOCC”) pursuant to Section 1-110: PROCESS FOR DESIGNATING SPECIAL AREAS of this *Resolution* (the “LUR”) as a Special Area.

Section 102: GENERAL PURPOSES FOR DESIGNATION OF CRESTED BUTTE SOUTH SPECIAL AREA.

The purposes of designating the Crested Butte South Special Area are:

- A. SIMPLIFY LUR REVIEW AND APPROVAL. To simplify the Gunnison County Land Use Resolution review and approval process for real property wholly contained in the Crested Butte South Special Area;
- B. PROMOTE COMPACT COMMERCIAL AND BUSINESS DEVELOPMENT PATTERN. To promote a compact commercial and business development pattern wholly contained in the Crested Butte South Special Area;
- C. PROTECT ENVIRONMENT, PUBLIC HEALTH, SAFETY AND WELFARE. To protect the environment, public health, safety and welfare in the Crested Butte South Special Area;
- D. PROVIDE OPPORTUNITY FOR NEW AND EXISTING BUSINESSES. To provide opportunity for new and existing businesses in the Crested Butte South Special Area;
- E. ENCOURAGE ECONOMIC DIVERSITY. To encourage economic diversity in the Crested Butte South Special Area;
- F. ACKNOWLEDGE, ENCOURAGE AND EMPOWER CRESTED BUTTE SOUTH BOARD OF DIRECTORS. To acknowledge, encourage and empower the Crested Butte South Board of Directors (the “BOD”) as an effective governance body elected by and responsive to the citizens in the Crested Butte South Special Area.

Section 103: LEGAL DESCRIPTION OF CRESTED BUTTE SOUTH SPECIAL AREA.

The legal description of the Crested Butte South Special Area is, in its entirety, that real property contained in:

- A. Crested Butte South, First Filing, more fully described in Reception #280978, in the records of the Clerk and Recorder of Gunnison County, Colorado; and
- B. Crested Butte South, Second Filing, more fully described in Reception #281588, in the records of the Clerk and Recorder of Gunnison County, Colorado; and
- C. Crested Butte South, Second Filing, Replat of Lots 1 through 3 inclusive, and lots 10 through 15 inclusive, all in Block 9, more fully described in Reception #458318, in the records of the Clerk and Recorder of Gunnison County, Colorado; and
- D. Crested Butte South, Second Filing, Corrected Plat, Lot 15, Block 11, more fully described in Reception #521255, in the records of the Clerk and Recorder of Gunnison County, Colorado; and
- E. Crested Butte South, Third Filing, more fully described in Reception #282791, in the records of the Clerk and Recorder of Gunnison County, Colorado; and
- F. Crested Butte South, Fourth Filing, more fully described in Reception #291415, in the records of the Clerk and Recorder of Gunnison County, Colorado; and
- G. Crested Butte South, Fourth Filing, Replat of Lots 4 through 6, Block 26, more fully described in the records of the Clerk and Recorder of Gunnison County, Colorado; in Reception # 553180, all inclusive.

Section 104: DEFINITIONS.

The following definitions apply to these Crested Butte South Special Area Regulations:

CB SOUTH BUSINESS DISTRICT means the Commercial Area which is comprised of the Commercial Core and the Commercial Perimeter.

COMMERCIAL AREA encompasses all of Block 6, Lots 5, 7, 9, 11, 13, 15, 17, 41 to 48 inclusive in Block 4; Lots 23 to 40 in Block 5, excluding Lots 32, 33, and 34, all within the 2nd Filing. Lots 32-34 in Block 5 may be included in the Commercial Area at the discretion of the P.O.A. Board only after notification of all immediately adjacent property owners, and at least one properly noticed public hearing.

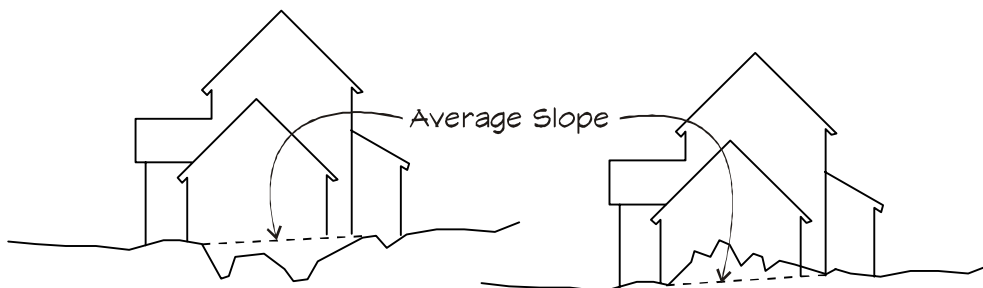
COMMERCIAL CORE refers to all of Block 6 in the 2nd Filing. It is expected that the majority of the Commercial Core will be developed with commercial and mixed-use buildings.

COMMERCIAL LOT refers to all commercially designated (Commercial Core or Commercial Perimeter) lots within the CB South Special Area.

COMMERCIAL PERIMETER refers to those portions of Blocks 4 and 5 that front Block 6 in the 2nd Filing, and are commercially-designated, per the CB South Plats; and possibly may include lots 32-34 in Block 5 of the 2nd Filing.

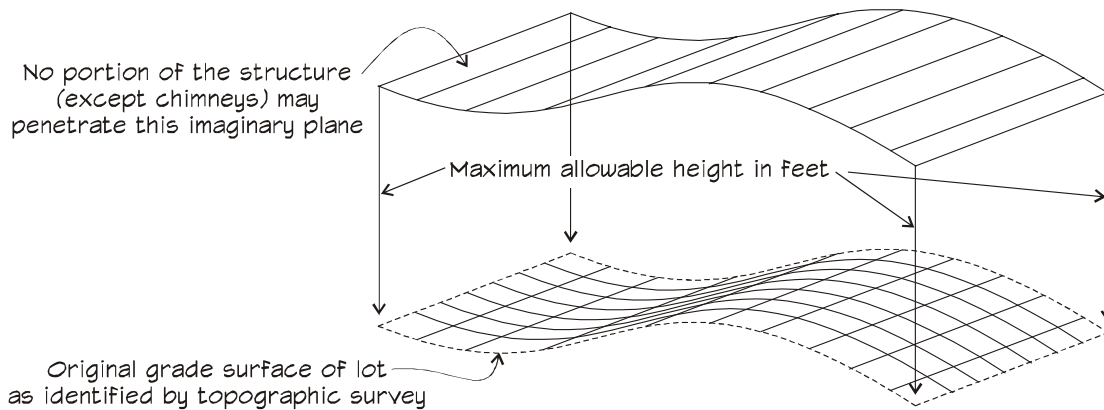
CB SOUTH SPECIAL AREA a.k.a. Crested Butte South Special Area, shall mean all of the real property now or hereafter included in the Crested Butte South Subdivision, Filings 1-4, and subsequent Filings, made subject to these *Regulations*.

EXISTING GRADE means the original or natural topographic grade of a lot/property prior to any disturbance or grading work has been conducted. Existing grade shall be based on the USGS elevation provided on a wet-stamped survey of a property, by an engineer licensed in the State of Colorado, and completed prior to the date of the application. In the case of non-natural or highly irregular topography due to man-made impacts within the existing site development area, not created by the applicant, an average slope may be used (see below). On any lot/property exhibiting evidence of cut or fill grade not authorized by the P.O.A. the applicant may be required to provide a professional soil analysis to determine the natural grade. No excessive fill, excavation or other artificial methods of grade manipulation will be permitted to create an exaggerated building site to manipulate the building height measurement (see diagram below)



In the case of non-natural or highly irregular topography due to man-made impacts within the existing site development area, an average slope may be used.

HEIGHT: No portion of any structure (except for chimney elements) shall exceed a true vertical dimension of the heights prescribed herein, as measured vertically from the existing grade directly below (see diagram below)



LAND USE CHANGE DECISION for the purpose of these Crested Butte South Special Area Regulations, a determination made pursuant to Section 108: BOD Approval of Applications.

Section 4-105: ACKNOWLEDGEMENT BY GUNNISON COUNTY OF EXISTING CRESTED BUTTE SOUTH COVENANTS, RESTRICTIONS, RESOLUTIONS, RULES AND REGULATIONS.

The BOCC acknowledges the following covenants, restrictions, resolutions, rules and regulations applicable to the Crested Butte South Special Area identified as follows, all in the records of the Clerk and Recorder of Gunnison County, Colorado:

1. Terms, provisions, options, rights of first refusal, covenants, conditions, restrictions, easements, charges, assessments and liens (provisions, if any, based on race, color, religion, or natural origin are omitted) provided in the Covenants and Restrictions of Crested Butte South recorded August 26, 1970 in Book 420 at Page 404, in Resolution of the Crested Butte South Property Owner's Association Board of Directors Concerning the Amendment of the Covenants and Restrictions of Crested Butte South recorded January 21, 1983 in Book 589 at Page 304, in Resolution recorded December 8, 1988 in Book 661 at Page 284, in Resolution recorded April 27, 1990 in Book 677 at Page 578, in Resolution recorded April 27, 1990 in Book 677 at Page 581, in Resolution recorded November 20, 1990 in Book 684 at Page 901, in Resolution recorded June 8, 1993 in Book 725 at Page 218, in Resolution recorded October 22, 1993

in Book 733 at Page 740, and in Resolution recorded December 15, 1994 in Book 757 at Page 223.

2. Crested Butte South Property Owner's Association, Inc. Amending the Covenants and Restrictions of Crested Butte South Regarding Regulation of Modular or Factory Built Structures recorded May 1, 1996 in Book 782 at Page 202.
3. Crested Butte South Property Owner's Association, Inc. Amending the Covenants and Restrictions of Crested Butte South Regarding Minimum Size of Multi-Family Structures recorded May 1, 1996 in Book 782 at Page 203.
4. Crested Butte South Property Owner's Association, Inc. Amending the Covenants and Restrictions of Crested Butte South Regarding Residential Uses on Commercial Property recorded May 1, 1996 in Book 782 at Page 204.
5. Crested Butte South Property Owner's Association, Inc. Amending the Covenants and Restrictions of Crested Butte South Regarding Resubdivision recorded May 1, 1996 in Book 782 at Page 205.
6. Notice of Amendment of Covenants and Restrictions of Crested Butte South, Recorded November 22, 1996, bearing Reception No. 472225, concerning residential uses on commercial property, re-subdivision, minimum size of multi family structures, and regulation of modular or factory built structures.
7. Resolution of the Board of Directors Crested Butte South Property Owner's Association, Inc. Concerning the Provisions of a Legal Survey as an Architectural Submittal Requirement recorded March 27, 1998 bearing Reception No. 482581.
8. Resolution Concerning Setbacks for Driveways, Septic Tanks and Wells recorded April 30, 1998 bearing Reception No. 483318.
9. Resolution Concerning Lot Appearance recorded October 19, 1998 bearing Reception No. 487930.
10. Rules and Resolutions Regarding Dogs recorded November 8, 1999 bearing Reception No. 497644.
11. Amending the Resolutions Concerning Building Deposits recorded March 22, 2001 bearing Reception No. 509429.
12. Resolution of the Board of Directors of Crested Butte South Property Owner's Association, Inc. Rules and Regulations Regarding Outdoor Commercial Vendors recorded September 25, 2001 bearing Reception No. 514482.

13. Resolution of the Board of Directors of Crested Butte South Property Owner's Association, Inc. Concerning the Provisions of the Use of Metal Siding on the Exterior of Buildings in Crested Butte South recorded February 5, 2002 bearing Reception No. 517978.
14. Resolution of the Board of Directors of Crested Butte South Property Owners Association, Inc. recorded June 23rd, 2003 bearing Reception No. 531851, concerning rules and regulations regarding fines.
15. Amendment to covenants and Restrictions of Crested Butte South recorded February 23, 2004 bearing Reception No. 539220, concerning the following sections: 2.02, 20.01, 25.01, and 25.04.
16. Resolution of the BOCC establishing the process for the conversion of existing multi-family dwelling units to townhome units on improved lots within Crested Butte South, bearing Reception No. 244256.
17. In addition, the following which are not recorded in the records of the Clerk and Recorder of Gunnison County, Colorado:
 - A. The Crested Butte South Construction Rules and Regulations, as adopted by the Crested Butte South Property Owners Association Board of Directors on May 10, 2006.
 - B. Agreement and Notice of Architectural Review Conditions for Crested Butte South, as adopted by the Crested Butte South Property Owners Association Board of Directors on March 12, 2003.
 - C. Noise Guidelines for Crested Butte South, as adopted by the Crested Butte South Property Owners Association Board of Directors on May 10, 2006.
 - D. Crested Butte South Subdivision Residential Design Guidelines, as most recently modified and adopted on February 13, 2008.
 - E. Architectural Review Application (and Fee Schedule), as adopted by the Crested Butte South Property Owners Association Board of Directors on January 9, 2008.
 - F. Trash Regulations for the Health & Safety of the Residents of CB South, as adopted by the Crested Butte South Property Owners Association Board of Directors on August 8, 2007.

- G. Regulation for operation a Home Child Care Business in Crested Butte South, as adopted by the Crested Butte South Property Owners Association Board of Directors on November 14, 2007.
- H. Regulation for Operating a Home Occupation in Crested Butte South, as adopted by the Crested Butte South Property Owners Association Board of Directors on November 14, 2007.
- I. Notice and Hearing and Enforcement Policy and Procedures for the Crested Butte South Property Owners Association, Inc, as adopted by the Crested Butte South Property Owners Association Board of Directors August 13, 2008.
- J. Policy Regarding Inspection and Copying of Association Records for the Crested Butte South Property Owners Association, Inc, as adopted by the Crested Butte South Property Owners Association Board of Directors October 11, 2006.
- K. Reserve Fund Investment Policy for the Crested Butte South Property Owners Association, Inc, as adopted by the Crested Butte South Property Owners Association Board of Directors October 11, 2006.
- L. Policy Regarding the Adoption and Amendment of Policies for the Crested Butte South Property Owners Association, Inc, as adopted by the Crested Butte South Property Owners Association Board of Directors October 11, 2006.
- M. Policy and Procedure Regarding Emergency Vehicles for the Crested Butte South Property Owners Association, Inc, as adopted by the Crested Butte South Property Owners Association Board of Directors October 11, 2006.
- N. Director Conflict of Interest Policy for the Crested Butte South Property Owners Association, Inc, as adopted by the Crested Butte South Property Owners Association Board of Directors October 11, 2006.
- O. Policy Regarding Conduct of Meetings for the Crested Butte South Property Owners Association, Inc, as adopted by the Crested Butte South Property Owners Association Board of Directors October 11, 2006.
- P. Collection Policy for the Crested Butte South Property Owners Association, Inc, as adopted by the Crested Butte South Property Owners Association Board of Directors October 11, 2006.

All of the above are identified, collectively, as the “Existing Covenants, Restrictions, Resolutions, Rules and Regulations”.

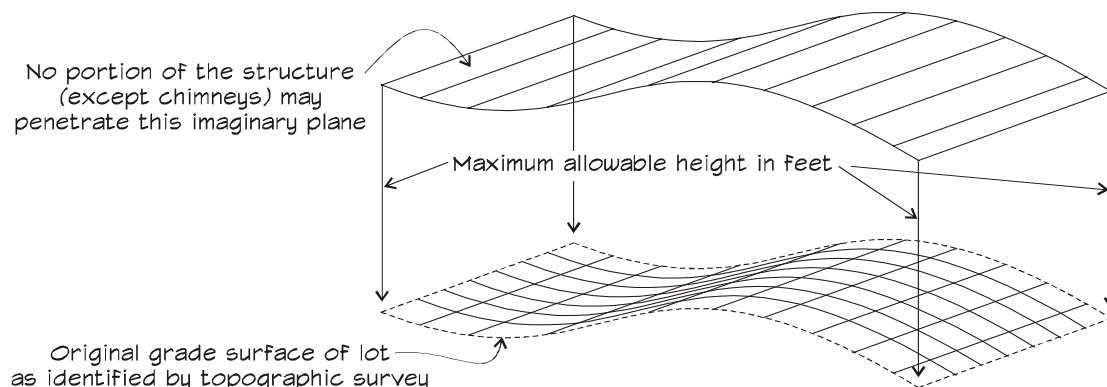
Section 106: AMENDMENT OF EXISTING COVENANTS, RESTRICTIONS, RESOLUTIONS, RULES AND REGULATIONS.

The Existing Covenants, Restrictions, Resolutions, Rules and Regulations, and no portion of them, shall be amended without the prior written acknowledgement, by motion or recorded resolution, of the BOCC.

Section 107: BOCC INTERPRETATION OF THE EXISTING COVENANTS, RESTRICTIONS, RESOLUTIONS, RULES AND REGULATIONS.

Unless expressly prohibited by the Existing Covenants, Restrictions, Resolutions, Rules and Regulations, the BOCC interprets the Existing Covenants, Restrictions, Resolutions, Rules and Regulations as follows; these interpretations control over any conflicting requirement(s) of the LUR or building code(s) adopted or amended by the BOCC:

- A. **COMMERCIAL CORE HEIGHT.** The height of commercial structures within the Commercial Core shall be no more than thirty five feet (35') from the existing grade.
- B. **BULK PLANE HEIGHT MEASUREMENT.** The bulk plane height measurement of all structures shall be calculated as follows: No portion of any structure (except for chimney elements) shall exceed a true vertical dimension of the heights prescribed herein, as measured vertically from the existing grade directly below (see diagram below)



- Commercial Core Lots: Thirty-five feet (35')

- Commercial Perimeter Lots: Thirty-two feet (32')
 - Residential Lots: Thirty-two feet (32')
- C. DETACHED ACCESSORY STRUCTURE. Any residential lot or parcel may have, in addition to the primary residential structure, one (1) detached accessory structure; EXCEPT, the detached accessory structure cannot be conveyed separately from the primary residential structure.

Section 108: BOD DECISIONS ON APPLICATIONS.

- A. DECISIONS BY THE CRESTED BUTTE SOUTH DESIGN REVIEW COMMITTEE AND BOARD OF DIRECTORS. Unless the following provisions are inconsistent with the Existing Covenants, Restrictions, Resolutions, Rules and Regulations as they may be amended, each final architectural or other land use change decision in the Crested Butte South Special Area shall be made by Crested Butte South Design Review Committee (the "DRC") UNLESS an appeal is made to the BOD; in the case of an appeal, the final architectural or other land use change decision shall be made by the BOD, further reviewable only by the requirements of Section 109. Each such land use change decision must expressly include that the decision is made in compliance with the LUR.

Section 109: GUNNISON COUNTY REVIEW OF DRC AND BOD APPROVALS.

- A. ADMINISTRATIVE REVIEW. Each final land use change decision made by the DRC or BOD shall be accepted and reviewed by Gunnison County as an administrative review project as defined by the LUR, subject to the following:
1. REVIEW ONLY OF WRITTEN RECORD. The Gunnison County Planning Director shall only review the written record of the DRC or BOD, and shall not overturn the final decision of the DRC or BOD unless there is no credible evidence in such written record to support the final decision of the DRC or BOD; and
 2. APPEAL TO BOCC. If the decision of the Gunnison County Planning Director is appealed to the BOCC, the BOCC shall not overturn the final decision of the DRC or BOD unless there is no credible evidence in the written record of the DRC or BOD to support the final decision of the DRC or BOD.

Section 110: STANDING TO INITIATE AN APPEAL.

Any landowner or adult tenant in the Crested Butte South Special Area, and any person residing within three miles of the boundary of the Crested Butte South Special Area,

shall have the right to initiate an appeal of a land use change decision of the DRC, the BOD, the Gunnison County Planning Director, or the BOCC.

Section 111: EXHAUSTION OF ADMINISTRATIVE REMEDIES.

Each person with standing to initiate an appeal must, as a prerequisite to each appeal, have made an objection or appeal at the preceding review and approval process. No issue may be raised at an appeal unless it has been raised at each preceding review and approval process.

Section 112: PUBLIC NOTICE.

In addition to each requirement contained in the Existing Covenants, Restrictions, Resolutions, Rules and Regulations regarding public notice, the BOD shall cause a minimum of fourteen (14) days notice of each application to the DRC or BOD of an architectural or land use application in the Crested Butte South Special Area to be published in the official newspaper of the Town of Crested Butte, Colorado.

Section 113: ALL APPROVALS MUST COMPLY WITH LUR SECTION 1-105.

Each final approval by the DRC and BOD must contain requirements no less stringent than those identified in LUR, Section 1-105.A.1 through 9 inclusive as amended.

Section 114: NO WAIVER OF LUR ARTICLE 11: RESOURCE PROTECTION STANDARDS, OR LUR ARTICLE 12: DEVELOPMENT INFRASTRUCTURE STANDARDS.

Nothing in these Crested Butte South Special Area Regulations is, or shall be construed to be, a waiver of any requirement or condition of LUR ARTICLE 11: RESOURCE PROTECTION STANDARDS, or LUR ARTICLE 12: DEVELOPMENT INFRASTRUCTURE STANDARDS, as amended.

Section 115: PARTIAL WAIVER OF LUR ARTICLE 13: PROJECT DESIGN STANDARDS.

These Crested Butte South Special Area Regulations supersede and control over LUR Article 13: PROJECT DESIGN STANDARDS, as amended, except that nothing in these Crested Butte South Special Area Regulations is, or shall be construed to be, a waiver of any requirement or condition of LUR Article 13, Section 13-106, Energy and Resource Conservation, or Section 13-107, Installation of Solid-Fuel Burning Devices, as amended.

Section 116: NO OTHER WAIVER OF LUR.

Nothing in these Crested Butte South Special Area Regulations is, or shall be construed to be, a waiver of any provision of the LUR unless these Crested Butte South Special Area Regulations expressly contain such a waiver.

Section 117: NO ILLEGAL DELEGATION OF AUTHORITY.

Nothing in these Crested Butte South Special Area Regulations is, or shall be construed to be, an illegal delegation of authority by the BOCC. The BOCC retains final authority to review and determine each application specifically as set forth in these Crested Butte South Special Area Regulations.

Section -118: ANY ILLEGAL CONDITION OR REQUIREMENT SHALL BE VOID.

Notwithstanding anything contained in the Existing Covenants, Restrictions, Resolutions, Rules and Regulations, or other rules and regulations of the BOD, any illegal condition or requirement contained in a final decision of the DRC or BOD shall be void. The authority to make a determination of illegality is vested in the BOCC without recourse by the DRC or BOD.

Section 119: GENERAL SAVINGS PROVISION.

These Crested Butte South Special Area Regulations do not modify, supersede or negate any provision of the LUR, and shall not be construed to modify, supersede or negate any provision of the LUR except as explicitly identified in these Crested Butte South Special Area Regulations.