

ORDINANCE NO. 2006-002

AN ORDINANCE CREATING A BOARD OF ADJUSTMENT FOR THE TOWN OF CRESTONE, COLORADO

WHEREAS, the provisions of C.R.S. §31-23-307 state that the governing body of a Town shall provide for the appointment of a Board of Adjustment which shall hear and decide appeals from and review any order requirement, decision, or determination made by any administrative official charged with the enforcement of any Ordinance adopted pursuant to Article 23 of Title 31 of the Colorado Revised Statutes, as well as hearing and deciding all matters referred to it or upon which it is required to pass;

NOW THEREFORE be it hereby ordained by the Board of Trustees of the Town of Crestone:

1. The Board of Adjustment ("BOA") of the Town of Crestone is hereby established which shall consist of five (5) members who shall either be Town residents or own real property in the Town, each to be appointed for three years, provided that two initial members shall be appointed for three (3) years; two initial members shall be appointed for two (2) years; and one initial members shall be appointed for one (1) year. Not more than one member of the Board of Adjustment may be a member of the Town Board of Trustees nor may more than one member of the Board of Adjustment be a member of the Town Planning Commission. Said members may be subject to reappointment for succeeding three (3) year terms.
2. Any members of the BOA may be removed for inefficiency, neglect of duty or malfeasance in office, or by absence at three (3) successive BOA meetings without being excused by the Chairman of said meeting.
3. The BOA shall hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official charged with the enforcement of any ordinance adopted pursuant to Article 23 of Title 31 of the Colorado Revised Statutes and shall hear and decide all matters referred to it upon which it is required to pass.
4. The concurring vote of four (4) members of the BOA shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant any matter upon which it is required to pass under any such Ordinance or to effect any variation in such Ordinance. Every decision of said BOA shall be subject to review by certiorari to the District Court of Saguache County. Any such appeal shall be filed not later than thirty (30) days from the final action taken by the BOA. Such appeal may be taken by any person aggrieved or by an officer, department, board, or bureau of the Town of Crestone.

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State of Colorado

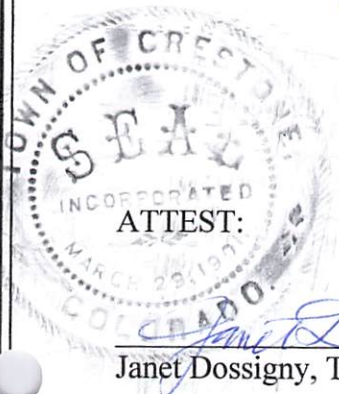
Audrey E. Conley, Saguache County Recorder

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5. An appeal to the BOA shall be taken within the time as prescribed by filing with the Town Clerk a Notice of Appeal specifying the grounds thereof. The Town Clerk shall at once transmit to the BOA all of the papers constituting the record upon which the action appeal from was taken.
6. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the BOA, after the Notice of Appeal has been filed with him that, by reason of facts stated in the Certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the BOA or by the District Court on application, on notice to the officer from whom the appeal is taken, and due cause shown. The BOA shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide the same within a reasonable time. Upon hearing, any party may appear in person or by agent or attorney. The BOA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end has all the powers of the officer from whom the appeal is taken. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such ordinance, the BOA has the power, in passing upon appeals, to vary or modify the application of the regulations or provisions of such ordinance relating to the construction, or alteration of buildings or structures, so that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice done.
7. The BOA may enact Rules of Procedure governing its meetings, hearings, and proceedings.

THE TOWN BOARD OF TRUSTEES FINDS THAT THIS ORDINANCE IS NECESSARY TO THE IMMEDIATE PRESERVATION OF THE PUBLIC PEACE, HEALTH, AND SAFETY, AND SHALL TAKE EFFECT AND BE ENFORCED FROM AND AFTER PASSAGE OF THE SAME.

INTRODUCED, read in full, adopted, approved, and signed this 13th day of February, 2006.



Janet Dossigny
Janet Dossigny, Town Clerk

APPROVED:

Kizzen Laki, Mayor

Anikke Storm, Mayor Pro-tem