

ORDINANCE #283

AN ORDINANCE AMENDING CHAPTER VIII OF THE CODE OF THE TOWN OF CREEDE, COLORADO TO REQUIRE A PERMIT TO CONSTRUCT AND MAINTAIN A BALCONY OVER OR UPON PUBLIC PROPERTY, PROVIDING FOR THE REVOCATION OF SUCH PERMITS AND PROVIDING FOR PENALTIES FOR VIOLATION

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE CITY OF CREEDE, COLORADO, A TOWN:

Section 1. Purpose and Scope. The purpose of this Ordinance is to amend Chapter VIII of the Code of the City of Creede, Colorado, a Town ("City" herein) by the addition of a new Section 4 requiring a permit to construct and maintain a balcony over or upon public property and providing for the revocation of such permits, penalties for violation, costs of removal and all other matters associated with such balconies.

Section 2. Amendment of Chapter VIII. Chapter VIII is hereby amended by the addition of the following Section 4 and subsections:

8-4-1 Revocable Permit Required. No person shall erect or maintain any balcony or similar encroachment from that persons adjacent property, upon or over any street, alley, sidewalk or other public property without first obtaining a permit from the Board of Trustees under this Section.

8-4-2 An applicant for a balcony permit shall:

(a) File a written application therefor on forms furnished by the City that include the following: the date, the name of the applicant, the location of the proposed balcony including the legal description of the applicant and record owner's adjacent property, and such other information as the Board of Trustees may deem necessary;

(b) Pay a one time application fee in the amount of \$50.00.

(c) Provide a copy of the recorded Deed whereby the applicant establishes that he, she, it or they are the record owners of the adjacent property. All record owners of the property shall sign the application as well as the indemnification agreement described herein.

8-4-3 The Board of Trustees shall inspect or cause to be inspected the balcony described in the application. If, in the sole judgment of the Board of Trustees, the issuance of a permit for the balcony is in the best interest of the City, the Board of Trustees shall authorize the City Clerk to issue the permit upon compliance with all other provisions hereof. No such permit shall be issued until approval by the Board of Trustees, verification of ownership, delivery of certificate of insurance, execution and recording of the indemnification agreement and payment of the application fee. The decision of the Board of Trustees shall be final and shall be based upon all circumstances surrounding the proposed balcony. Circumstances to be considered by the Board and the weight to be given to each shall be at the sole discretion of the Board.

8-4-4 The Board of Trustees may revoke a permit issued under this Section 4 whenever the Board of Trustees, in its sole judgment, determines that such permit ought to be revoked. Such revocation may be on the grounds of public safety, public necessity, public good or any other cause which the Board of Trustees, in its sole judgment, determines to be applicable. The grounds for revocation of a permit under this Section 4 shall not be limited to the grounds set forth in Section 8-1-11.

8-4-5 Whenever the Board of Trustees revokes a permit under this Section 4 and whenever a balcony is constructed or maintained on or over any public property without obtaining a permit, the City Clerk shall notify the record owners of the adjacent premises to remove such balcony within such time as the Board of Trustees determines is reasonable under the circumstances.

8-4-6 If the record owners fail to comply with the order to remove the balcony, the Board of Trustees may cause the balcony to be removed and charge the costs thereof, plus up to 15% of such costs for administration, to the record owners of the adjacent property. If any record owner fails or refuses to pay, when due, any charges imposed under this Section, the Board of Trustees may, in addition to taking other collection remedies, certify any unpaid charges, including interest, to the Mineral County Treasurer, to be levied against the adjacent property for collection by the County in the same manner as delinquent general taxes upon such adjacent property are collected.

8-4-7 The Board of Trustees of the City hereby declares that the construction or maintenance of a balcony upon or over any public property within the City, without obtaining a permit as required under this ordinance, constitutes a public nuisance.

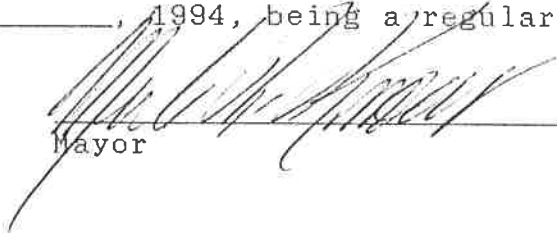
8-4-8 No permit shall be issued or remain in effect unless the permittee, at the permittee's expense and without cost to the City, shall procure, maintain in force, and on file with the City Clerk, sufficient evidence of a general liability policy naming the City as an additional insured covering bodily injury, including death, in the amount of \$300,000.00 combined single limit. Such insurance coverage constitutes a minimum requirement and shall in no way be deemed to limit or lessen the liability of the permittee under the terms of such permit. An endorsement shall be included on the required policy, providing for thirty (30) days notice to the City in the event of any material change or cancellation.

Section 3. It shall be unlawful for any person, firm or corporation to violate any provisions of Section 8-4-1 through 8-4-8 of this Code. Any person, firm or corporation violating any provision of this ordinance shall be guilty of a misdemeanor and, each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provision of this ordinance is committed, continued or permitted, and upon conviction of any such violation, such person, firm, corporation, or legal entity shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

Section 4. If any part or parts of this ordinance are for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declare that it would have passed this ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid or unconstitutional.


Section 5. This ordinance shall be in full force and effect sixty (60) days from and after its publication.

READ IN FULL, PASSED, ADOPTED AND APPROVED ON FIRST READING, this 2 day of May, 1994, being a regular meeting of the Board.



Mayor

SEAL
ATTEST:


Clerk

CERTIFICATE OF PUBLICATION

I certify that publication of the above and foregoing ordinance was completed on the _____ day of _____, 1994, and that the said ordinance will be and become effective upon the expiration of sixty (60) days from and after such date.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the said Town at my office in Creede, Colorado, this _____ day of _____, 1994.

SEAL

City Clerk