

**TOWN OF RED CLIFF, COLORADO  
ORDINANCE 8, SERIES 2015**

**AN ORDINANCE CATEGORIZING MECHANIZED RECREATIONAL VEHICLE RENTAL BUSINESSES AS A SPECIAL REVIEW USE IN THE TOWN OF RED CLIFF'S "MIXED USE/TOWN CENTER — MU/TC" ZONE DISTRICT, AMENDING ARTICLE 6 OF CHAPTER 10 OF THE TOWN OF RED CLIFF MUNICIPAL CODE REGARDING SPECIAL REVIEW USES, AND ESTABLISHING CONDITIONS APPLICABLE TO SPECIAL REVIEW USE PERMITS ISSUED FOR MECHANIZED RECREATIONAL VEHICLE RENTAL BUSINESSES.**

**WHEREAS**, the Town of Red Cliff ("Town") is a municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority and privileges to which it is entitled under Colorado law;

**WHEREAS**, § 16-3-10 of the Town of Red Cliff Municipal Code ("Code") divides the Town into eight zone districts in order to carry out the purposes of Chapter 16 of the Code;

**WHEREAS**, § 16-3-10(3) of the Code identifies one of these zone districts as the "Mixed Use/Town Center — MU/TC" zone district ("District");

**WHEREAS**, § 16-4-30(a) of the Code states that the District is "intended to provide sites for a variety of uses, such as lodges, commercial establishments and offices in a predominately pedestrian environment" and that the regulations pertaining to the District set forth in the Code are "intended to provide development which distinguishes the Town Center from other areas within the Town";

**WHEREAS**, §§ 16-4-30(b)(1)-(15) of the Code identify fifteen specific uses as permitted uses within the District;

**WHEREAS**, § 16-4-30(b)(16) of the Code also categorizes "additional uses determined to be similar to allowed uses in accordance with the intent of this zone district" as permitted uses within the District;

**WHEREAS**, pursuant to § 16-3-20 of the Code, the Town's Planning and Zoning Commission has, on two previous occasions, upon application, determined that a proposed mechanized recreational vehicle rental business is an allowed use in the District under § 16-4-30(b)(16) of the Code;

**WHEREAS**, § 16-4-30(c) of the Code identifies eight<sup>1</sup> special review uses in the District;

**WHEREAS**, Article 6 of Chapter 16 of the Code generally requires the proponent of any use identified as a special review use in Article 4 of the Code to obtain a special review use permit prior to the issuance of a building permit or the commencement of such special review use and further establishes permitting procedures and conditions applicable to such special review uses;

**WHEREAS**, in light of the unique impacts mechanized recreational vehicle rental businesses could impose on the Town, the Town's Board of Trustees ("Board") has determined that it is appropriate

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<sup>1</sup> As amended by Ordinances 2 and 8, Series 2013, identifying the keeping of chickens and marijuana establishments as special review uses in the District.

to allow such businesses in the District only as a special review use under § 16-4-30(c) of the Code, subject to Article 6 of Chapter 16 of the Code;

**WHEREAS**, in light of the unique impacts mechanized recreational vehicle rental businesses could impose on the Town, the Board has determined that it is appropriate that the special review use permit to be obtained by any such business pursuant to Article 6 of Chapter 16 of the Code be subject to particularized conditions regarding the manner and method by which such businesses will be allowed to operate in the Town;

**WHEREAS**, the Board is in the process of comprehensively revising Chapter 16 of the Code to make it clearer and easier to use; and,

**WHEREAS**, in light of this ongoing project and prompted by its review of Article 6 of Chapter 16 of the Code for the purposes of preparing this Ordinance, the Board has determined that certain revisions to Article 6 are necessary and proper at this time.

**NOW, THEREFORE, THE TOWN OF RED CLIFF ORDAINS:**

Section 1: Section 20 of Article 4 of Chapter 16 of the Code is amended by the addition of a new subsection (9) to subsection (c), stating in its entirety:

(9) Mechanized Recreational Vehicle Rental Businesses, as defined in § 16-6-70(b).

Section 2: Section 5 is added to Article 6 of Chapter 16 of the Code, stating in its entirety:

**Sec 16-6-5 Purpose.**

The purpose of this Article relating to those uses identified as special review uses in Article 4 is to recognize that certain uses may or may not be appropriate in a zone district depending on the particular circumstances applicable to a proposed use, to allow the Town to review such proposed uses, and to ensure that the location and operation of such proposed will be compatible with surrounding uses and the development objectives of the Town.

Section 3: Section 10 of Article 6 of Chapter 16 of the Code is amended to state in its entirety:

**Sec. 16-6-10 Special review use permit.**

(a) The proponent of a use identified as a special review use in Article 4 must obtain a special review use permit pursuant to this Article 6 prior to commencement of the use or the issuance of a building permit for any structure related to the use.

(b) A use identified as a special review use in Article 4 will not be considered a use by right until the proponent of the use obtains a special review use permit pursuant to this Article 6 and will not vest until a development plan for the property is approved in accordance with this Chapter 16.

Section 4: Section 20 of Article 6 of Chapter 16 of the Code is amended to state in its entirety:

**Sec. 16-6-20 Applications for special review use permits.**

Applications for special review use permits will be made on a form provided by the Administrator and supported by documents, maps, plans and other material containing the following information:

(a) The name and address of the applicant and a statement that the applicant, if not the owner of the property at which the use will occur, has the permission of the owner to make the application and engage in the use;

(b) The legal description, street address and other identifying information concerning the property at which the use will occur;

(c) A description of the precise nature of the use, the operating characteristics of the use, any proposed measures to make the use compatible with surrounding uses, and any proposed measures for ongoing maintenance of the use;

(d) A site plan showing the location of the proposed use and any structures on the property at which the use will occur;

(e) Preliminary building plans, elevations and perspective drawings sufficient to indicate the dimensions, general appearance, scale and interior plans of any proposed structures related to the use;

(f) A proposed development schedule indicating the proposed date of the beginning of the use and the anticipated rate of development of the use; and,

(g) Any additional materials the Administrator determines are necessary for adequate review of the application and use.

Section 5: Section 30 of Article 6 of Chapter 16 of the Code is amended to state in its entirety:

**Sec 16-6-30 Procedure, conditions, effect and revocation.**

(a) Upon receipt of an application complying with § 16-6-20 and any special review use permit application fee established by the Town, the Administrator will schedule a public hearing before the Planning and Zoning Commission for consideration of the application.

(b) At least ten days before the public hearing, the Administrator will give notice of the application and public hearing to the record owners of all properties adjacent to the property at which the use will occur.

(c) At the conclusion of the public hearing, the Planning and Zoning Commission may (i) approve the application as submitted and issue a special review use permit, (ii) approve the application and issue a special review use permit subject to such conditions as it deems necessary or (iii) deny the application. A special review use permit may be revocable, may be granted for a limited period of time and may be made subject to such conditions as the Planning and Zoning Commission may prescribe. All special review use permits issued in accordance with this Article 6 are conditioned upon the holder of the permit paying all fees, taxes and fines due to the Town pursuant to this Code and otherwise acting in conformance with all other applicable requirements of this Code.

(d) A special review use permit will lapse and become void within one year of the date upon which it was issued if a building permit is not obtained for or construction is not commenced on any structure related to the use or if the use has not commenced. A special review use permit will lapse and become void if the use for which the special review permit was issued is discontinued for a period of one year.

(e) Except as otherwise provided in this Article 6, a special review use permit will remain valid so long as the holder of the permit conducts the use as described in the application and observes all conditions to such permit imposed by the Planning and Zoning Commission.

(f) If the holder of a special review use permit fails to conduct the use as described in the application or fails to observe all conditions to such permit imposed by the Planning and Zoning Commission, the Planning and Zoning Commission may revoke the special review use permit after affording the holder of the permit an opportunity to be heard.

Section 6: Section 40 of Article 6 of Chapter 16 of the Code is amended to state in its entirety:

**Sec 16-6-40 Criteria.**

The Planning and Zoning Commission will consider the following criteria with respect to a proposed special review use:

(a) The relationship to and impact of the use on the development objectives of the Town;

(b) The compatibility of the use with adjacent uses;

(c) The effect of the use on traffic and parking;

(d) The effect of the use upon the character of the area in which the use is to be located;

(e) The extent to which the use complies with all other applicable requirements of this Code and conforms to the Comprehensive Plan; and,

(f) Such other factors as the Planning and Zoning Commission deems applicable to the use.

Section 7: Section 50 of Article 6 of Chapter 16 of the Code is amended to state in its entirety:

**Sec. 16-6-50 Changes to special review uses.**

(a) The Administrator may approve changes to an existing special review use permit, including, but not limited to, additions to structures related to the use and modifications to the operation of the use, if the Administrator determines that the changes are in accordance with the development objectives of the Town, do not alter the basic character and intent of the original special review use permit and will not adversely affect the public health, safety and welfare.

(b) Any change to an existing special review use not satisfying the requirements of subsection (a) will be reviewed by the Planning and Zoning Commission in accordance with the procedures described in § 16-6-30 as if the holder of the permit had submitted an application for the changed special review use.

Section 8: Section 70 is added to Article 6 of Chapter 16 of the Code, stating in its entirety:

**Sec. 16-6-70. Special review use permits for mechanized recreational vehicle rental businesses.**

(a) In addition to any other requirement or procedure described in this Article 6, any special review use permit for a mechanized recreational vehicle rental business will be subject to this section.

(b) As used in this section “mechanized recreational vehicle rental business” means a business engaged in the rental of mechanized recreational vehicles to the public for a fee, whether such rental is by trip or by any specified period of time.

(c) *Conditions of Operation.* All special review use permits issued for mechanized recreational vehicle rental businesses will be subject to the following conditions:

(i) Except in the case of emergencies, permit holders will not rent any mechanized recreational vehicle or allow any person to operate a rented mechanized recreational vehicle outside the hours of 8:00 a.m. and 5:00 p.m.

(ii) Permit holders will clearly mark all mechanized recreational vehicles available for rent with an individualized badge, sticker or similar identifying mark sufficient to allow Town staff or members of the public to readily identify the vehicle as a rental vehicle and the permit holder to whom such vehicle belongs, which badge, sticker or similar identifying mark will be approved by the Administrator prior to commencement of the use.

(iii) Permit holders will not modify or alter mechanized recreational vehicles available for rent in such a way as to increase the normal operating decibel level of such vehicles above factory specifications, rent any mechanized recreational vehicle which has a non-stock muffler, no muffler, a muffler which is not in good working order or a muffler which fails to prevent excessive or unusual noise or annoying smoke, or rent any mechanized recreational vehicle with a tuned exhaust or racing engine not having a conventional exhaust.

(iv) Permit holders will cause the renters of rented mechanized recreational vehicles to operate the vehicles only on those streets, roads and pathways within the Town’s boundaries designated to the permit holder by the Administrator.

(v) Permit holders will cause the renters of rented mechanized recreational vehicles to observe all applicable federal, state, and local rules, regulations, standards, statutes, and ordinances governing the use and operation of mechanized recreational vehicles while operating such vehicles within the Town’s boundaries.

(vi) Permit holders will cause the renters of rented mechanized recreational vehicles to drive the vehicles as near as safely possible to the right-hand side of the roadway, in a single-file line, within the Town’s boundaries; to come to a complete stop at the intersection of every street, whether or not such intersection is marked with a stop sign, within the Town’s boundaries; to signal all turns within the Town’s boundaries; to yield the right-of-way to all other vehicular traffic within the Town’s boundaries; to travel at no more than 15 miles per hour within the Town’s boundaries; and, to keep headlight and taillights illuminated at all times within the Town’s boundaries.

(vii) Permit holders will be required to pay all mechanized recreational vehicle rental business special review use permit fees established by the Town or provide such in-kind services to the Town as are determined and agreed to by the Administrator in lieu of payment of such fees.

(d) *Review and Revocation.* All special review use permits issued for mechanized recreational vehicle rental businesses will be subject to annual review by the Planning

and Zoning Commission to determine whether the holder of the permit has observed all conditions to the permit imposed by the Planning and Zoning Commission and by subsection (c). Upon such annual review and after affording the holder of the permit an opportunity to be heard, the Planning and Zoning Commission may (i) allow the permit to continue as originally issued, (ii) impose such additional conditions on the permit as it deems necessary, (iii) impose such fines as are warranted as a result of the holder of the permit's failure to adhere to any conditions imposed on the permit, and/or (iv) revoke the permit.

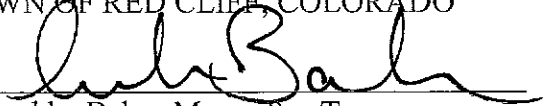
Section 9: Findings. The Board of Trustees hereby finds, determines and declares that this Ordinance is necessary and proper to protect the public peace, health, safety and welfare of the Town of Red Cliff and its inhabitants.

Section 10: Severability. If any section, paragraph, clause, provision or part of this Ordinance is for any reason held to be invalid or unenforceable, the remainder of this Ordinance shall continue in full force and effect, it being the intent of the Board of Trustees that this Ordinance would have been adopted even if such invalid or unenforceable matter had not been included therein. It is further declared that if any section, provision or part of this Ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of the Ordinance and the application thereof to other persons shall not be affected thereby.

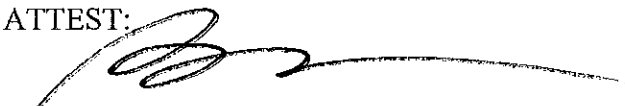
Section 11: Effective Date. This Ordinance will become effective thirty days after publication thereof following final passage.

INTRODUCED, TITLE READ IN FULL, APPROVED ON THE FIRST READING AND ORDERED POSTED IN FULL THIS 1ST DAY OF SEPTEMBER 2015. A public hearing on the SECOND READING of this Ordinance will be held at the regular meeting of the Board of Trustees of the Town of Red Cliff on the 15th day of September 2015 at 7:00 p.m. in the Town Hall of the Town of Red Cliff.

TOWN OF RED CLIFF, COLORADO

  
Anuschka Bales, Mayor Pro-Tem

ATTEST:

  
Barb Smith, Town Administrator

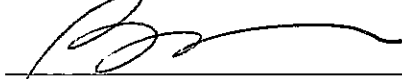
ADOPTED AND ORDERED PUBLISHED on this 15th day of September 2015.

TOWN OF RED CLIFF, COLORADO



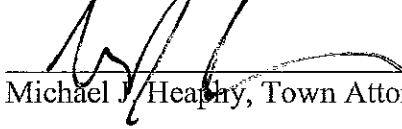
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M. Scott Burgess, Mayor

ATTEST:



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Barb Smith, Town Administrator

APPROVED AS TO FORM:



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Michael J. Heaphy, Town Attorney