ORDINANCE NO. 9
SERIES 2015

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, AMENDING TITLE 12 UTILITIES, CHAPTER 12.40 UTILITY SERVICE RATES AND FEES, RULES AND REGULATIONS, SECTION 12.40.030 RULES AND REGULATIONS, H. LIEN ON PREMISES AND CHAPTER 12.60 GARBAGE COLLECTION AND RECYCLING SYSTEM, SECTION 12.60.120 PAYMENT OF CHARGES – WHEN DUE – DELINQUENCIES - LIEN

WHEREAS, Chapter 12.40 of Title 12 of the City of Gunnison Municipal Code (GMC) provides that all delinquent water, sewer and refuse charges shall become a lien upon the premises to which the services are delivered from the date charges become due and until paid; and

WHEREAS, if the delinquent charges are not paid, the City may enforce the liability or lien by court action, which may involve obtaining a judgment against the owner of the premises and the premises, and subsequently foreclosing on the premises; and

WHEREAS, obtaining a judgment and decree of foreclosure can be an expensive and time consuming process for the City; and

WHEREAS, Section 12.60.120 of Chapter 12.60 Garbage Collection and Recycling System of the GMC provides for certification of the delinquent charges to the county treasurer, which are collected and paid over by the county treasurer in the same manner as taxes are authorized to be collected and paid over by the county treasurer; and

WHEREAS, utilizing the county treasurer process to collect delinquent accounts is efficient both in time and cost to the City; and

WHEREAS, staff recommends amending Section 12.40.030 H. to allow for the county treasurer to collect and pay over delinquent accounts; and

WHEREAS, staff also recommends deleting Section 12.60.120 Payment of Charges – When due – Delinquencies – Lien, under Chapter 12.60 Garbage Collection and Recycling System, to avoid duplication and inconsistencies within the GMC.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, THAT:

Section 1. Title 12 Utilities, Chapter 12.40 Utility Service Rates and Fees, Rules and Regulations, Section 12.40.030 Rules and Regulations, H. Lien On Premises, is hereby amended to read as follows:

> H. Lien on Premises – Owner Liable. All delinquent water, sewer, and refuse charges shall become a lien upon the premises to which these services are delivered from the date same becomes due and until paid. The owner of the lot or building shall be liable for payment of all these charges levied against the property for these services used or taken upon the property and if delinquent charges are not paid within 30 days of the date of billing, the lien may be made effective by the city certifying the amount of the charges and the period covered by the charges and giving a legal description of the premises to the county treasurer, to be collected and paid over by the county treasurer in the same manner as taxes are authorized to be collected and paid over by the county treasurer. The City may add to the amount due the late payment penalty, and costs incurred by the City in attempting to collect the amount due, including attorney's fees.
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> An occupant or tenant's obligation to pay for these services under any occupancy or rental agreement shall not relieve the owner from such liability or lien when these service bills become delinquent.

No change of ownership or occupancy shall affect the application of this subsection and failure of any owner to learn that he purchased property against which a lien for these services exists shall in no way affect his liability for payment in full.

The lien under this Section shall be prior to any and all other liens and encumbrances filed subsequent to the certifying of the lien to the county treasurer, but shall be subject to all general taxes and all local improvement assessments, whether levied prior or subsequent thereto.

Section 2. Title 12 Utilities, Chapter 12.60 Garbage Collection and Recycling System, Section 12.60.120 Payment of Charges – When due – Delinquencies – Lien, is hereby deleted in its entirety.

Section 3. Severability. Should any section, clause, phrase, or provision of this ordinance be ruled invalid or unenforceable by any court of competent jurisdiction, it is hereby declared the intent of the City Council of the City of Gunnison, Colorado, that the remaining provisions of this ordinance shall be given full force and effect if it is possible to do so.

INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED this 28th day July, 2015, on first reading, and introduced, read, and adopted on second and final reading this 11th day of August, 2015.

Richard Hagan
Richard Hagan, Mayor

(SEAL)

(ATTEST)

Gail A Davidson
Gail A. Davidson, City Clerk

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