

**TOWN OF MT. CRESTED BUTTE
ORDINANCE NO. 2
SERIES 2023**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, REPEALING AND REENACTING SECTION 9-5 AND AMENDING SECTION 9-7 OF CHAPTER 9 GARBAGE, REFUSE AND RECYCLING, OF THE TOWN OF MT. CRESTED BUTTE TOWN CODE

WHEREAS, the Town of Mt. Crested Butte, Colorado, is a Colorado home-rule municipality; and

WHEREAS, the Town Code has provisions for Garbage Service, Refuse and Recycling programs within the Town; and

WHEREAS, certain residential property owners are delinquent in their obligation to pay the town for the collection and disposal of ashes, garbage and trash upon the schedule and in such amounts as are prescribed by the town manager, as required by the Code; and

WHEREAS, pursuant to Section 9-5 of Chapter 9, a lien has been placed on the premises of such property owners, which lien has not resulted in payment of the amounts due to the Town; and

WHEREAS, staff requests that the Town Council adopt proposed revisions to Section 9-5 which will allow liens to be certified to the Gunnison County Treasurer and collected by the Treasurer as a tax lien, rather than the current process contained in Section 9-5, which requires foreclosing the lien in the same manner as a mechanics' lien; and

WHEREAS, the Town's refuse and recycling contractor will haul up to ninety-six (96) gallons of waste from a property, and therefore Section 9-7 needs to be amended to provide for the increase in container sizes and waste collection up to ninety-six (96) gallons.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, AS FOLLOWS:

Section 1. Chapter 9 Garbage, Refuse and Recycling, Section 9-5, is hereby repealed in its entirety and reenacted to state as follows:

Lien on Premises – Owner Liable.

1. All delinquent 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 charges may be collected by the town 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, as authorized by CRS 31-20-105. The town

may add to the amount due the late payment penalty, and costs incurred by the town in attempting to collect the amount due, including attorney's fees.

2. 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, the legal responsibility for payment of the charges to the town remaining with the owner.
3. No change of ownership or occupancy shall affect the application of this subsection and failure of any owner to learn that they purchased property against which a lien for these services exists shall in no way affect the liability for payment in full.
4. 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. Chapter 9 Garbage, Refuse and Recycling, Section 9-7, is amended to read as follows:

Sec. 9-7 Container specifications generally.

Containers for wastes other than ashes shall be constructed of metal, rubber or other impenetrable material not exceeding ninety-six (96) gallons each in size. Each container shall be flyproof, leakproof, and shall be provided with a secure top that is reasonably resistant to accidental spillage, opening by animals or small children.

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 Town Council of the Town of Mt. Crested Butte, Colorado, that the remaining provisions of this ordinance shall be given full force and effect if it is possible to do so.

INTRODUCED, READ, APPROVED, AND ORDERED PUBLISHED on first reading at a regular meeting of the Town Council of the Town of Mt. Crested Butte, Colorado, this 7th day of February, 2023.

PASSED, ADOPTED, AND APPROVED ON SECOND READING at a regular meeting of the Town Council of the Town of Mt. Crested Butte, Colorado, held the 7th day of March, 2023.

TOWN OF MT. CRESTED BUTTE, COLORADO



By: Nicholas Kempin, Mayor

ATTEST:



Tiffany O'Connell, Town Clerk