



City of Adak, Alaska

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ORDINANCE NO. 17-2018-104

AN ORDINANCE AMENDING ADAK CODE OF ORDINANCES CHAPTERS 4.11 AND 8.02 TO CREATE LIENS FOR UTILITY SERVICES AND TO RECOVER COSTS OF ABATEMENT

WHEREAS, Chapter 9 SLA 17, amending AS 09.45.160, AS 11.46.560, and 29.35.010 to authorize municipal liens was signed into law and effective as of June 13, 2017;

WHEREAS, AS 29.35.010 now states the general powers of a municipality include providing by ordination for the creation, recording, and notice of a lien on real or personal property to secure past due utility fees, costs incurred by the municipality in the abatement of an unsafe or dangerous building, and other fees and charges proceed for by ordinance; and

WHEREAS, AS 09.45.160 and AS 11.46.560 recognize liens provide for by a specific municipal ordinance as valid, lawful liens;

BE IT ORDAINED AND ENACTED BY THE CITY OF ADAK:

Section 1. Amendment of ACO §4.11. Adak Code of Ordinances Chapter 4.11 – Adak Utilities Billings and Collections is hereby amended with the addition of a new Section 4.11.065, to read as follows:

4.11.065 – Services Lien.

- A. Upon any delinquency, the charges, interest, penalties and other costs due and owing under this chapter shall constitute a lien of the city upon the real property to which services were provided.
- B. Upon any delinquency, the charges, interest, penalties and other costs due and owing under this chapter shall constitute a lien of the city upon the personal property of the customer of record for the account.
- C. A notice of lien for amounts described in this section may be recorded in the office of the district recorder, Aleutian Islands Recording District, Third Judicial District and in the State Recorder's Office UCC Central File System; however failure to so record said interests shall not be construed as a waiver or abrogation of any and all priorities, rights and interests of the city at law and in equity. Upon full satisfaction of payment of all charges, interest, penalties and costs due and owing to the city, the city shall file a certificate discharging the lien.
- E. In an action to enforce a lien, the court shall allow as part of the costs all money paid for drawing the lien and for filing and recording the lien claim, and a reasonable attorney fee for the foreclosure of the lien.

Section 2. Amendment of ACO §8.02.15. Adak Code of Ordinances Section 8.02.015 is hereby amended to read as follows [deletions are in brackets, additions are underlined]:

8.02.015 – Initial Determination.

Whenever any administrative official or officials of the city, such as the fire chief, police chief, building inspector, electrical inspector, sanitarian, etc., shall after inspection, declare a building or object to be a dangerous structure or a fire or health hazard or public nuisance, or determine abatement costs incurred by the city, he shall render to the city manager a full report of the condition of such building or object and a statement of the reasons why such structure should be abated, including in his report all violations of this chapter or rules or regulations issued thereunder, together with his recommendation as to altering, repairing, tearing down or removing said structure[.], or in the case of a determination of abatement costs incurred by the city, a detailed accounting of such costs.

Section 3. **Amendment of ACO §8.02.025.** Adak Code of Ordinances Subsection 8.02.025(A)(1) is hereby amended to read as follows [deletions are in brackets, additions are underlined]:

1. To hear and decide appeals where it is alleged there is an error in the order or findings of the city [council] manager made pursuant to ACO §8.02.020 or any order, requirement, decision, or determination made by the city [council] manager regarding terms of this chapter.

Section 4. **Amendment of ACO §8.02.** Adak Code of Ordinances Section 8.02.060 is hereby repealed in its entirety and replaced with a new Section 8.02.060 to read as follows:

8.02.060 – Costs.

- A. Cost of abatement by enforcement of this chapter may be recovered from the owner of the affected property and from any person determined to have caused the nuisance through a civil action filed with the superior court. The court shall allow as part of recoverable costs a reasonable attorney fee for the action to recover cost.
- B. Cost of abatement by enforcement of this chapter shall constitute a lien upon the affected property, and a notice of lien for amounts described in this section may be recorded in the office of the district recorder, Aleutian Islands Recording District, Third Judicial District; however failure to so record said interests shall not be construed as a waiver or abrogation of any and all priorities, rights and interests of the city at law and in equity. Upon full satisfaction of payment of all charges, interest, penalties and costs due and owing to the city, the city shall file a certificate discharging the lien. In an action to enforce a lien, the court shall allow as part of the costs all money paid for drawing the lien and for filing and recording the lien claim, and a reasonable attorney fee for the foreclosure of the lien.

Section 5. This ordinance is of a permanent and general character and shall be codified in the Code of Ordinances.

Section 6. This ordinance is effective upon adoption.

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE ADAK CITY COUNCIL THIS ____ DAY OF _____ 2017.

Mayor Thomas Spitler

ATTEST:

Debra Sharrah, City Clerk

Date of Introduction: July 19, 2017
Date of First Reading: July 19, 2017
Date of Second Reading:
Date of Public Hearing:

Introduced By: City Manager
Attorney Review: June 27, 2017

FIRST READING