

ORDINANCE NO. 322

AN ORDINANCE TO AMEND TITLE 5, CHAPTER 5.04, MAINTENANCE OF REAL PROPERTY, OF THE GREENLAND MUNICIPAL CODE

WHEREAS, the City of Greenland's current procedures for securing clean-up liens do not give the City's liens priority over other lienholders in the event of default;

WHEREAS, sections of the Arkansas Code empowering municipalities to place liens upon real property for the costs associated with maintenance of real property have changed significantly since the adoption of the original Real Property Maintenance Ordinance;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENLAND, ARKANSAS, that:

Section 1: Greenland Municipal Code Chapter 5.04, Section 5.04.02 is hereby deleted in its entirety and replaced with the following:

"5.04.02 Unsanitary, Unsightly, or Unsafe Conditions Defined

An unsanitary, unsightly, or unsafe condition is defined as a condition including but not limited to stagnant pools of water, an accumulation of trash or garbage other than solid waste, waste products from commercial activity; or the refuse accumulations of animal, fruit or vegetable matter, rubbish, leaves, limbs, weeds, metal, plastic, paper, or other substances which may accumulate and/or emit vile, offensive odors, or provide other harborage for insects, flies or rodents, or increase the risk or hazard of fire, or constitute a public nuisance, or create a condition offensive or dangerous to health, safety, aesthetics, or public welfare generally."

Section 2: Greenland Municipal Code Chapter 5.04, Section 5.04.03 is hereby amended by adding the following words:

"or lienholders"

immediately after the phrase "such as leasehold tenants," and immediately prior to the phrase, "are hereby required to cut";

Section 3: Greenland Municipal Code Chapter 5.04, Section 05.04.04 is hereby deleted in its entirety and replaced with the following:

"5.04.04 Correction by City; Lien Notice; Priority Notice

A. If the owner of any lot or other real property within the City of Greenland, Arkansas shall neglect or refuse to remove, abate or eliminate any condition provided for in this chapter, then the City of Greenland, after giving the owner seven (7) days' notice in writing to do so, is authorized to do whatever is necessary to correct the condition and charge the costs thereof to the owner of the lots or other real property. STATE LAW REFERENCE – A.C.A. 14-54-903(b)

B. The City of Greenland is hereby granted a lien against the lot(s) or other real property for the costs of the City in correcting the violation. However, this lien shall not be construed as having priority over any other lien secured by a mortgage on the real property, except as provided in Paragraph C herein. STATE LAW REFERENCE - A.C.A. 14-54-903(b)

C. If there is a mortgage or other lien upon real property at issue within the City, the City shall provide written notice to any lienholders a minimum of ten (10) business days prior to beginning any work on the property. Notice shall be sent to the lienholder's address as indicated in the relevant land records. If the lienholder responds within that period of ten (10) business days that the property owner is in default under the terms of the note or mortgage, the City employee or other agent charged with abating the unsanitary or unsightly condition shall not undertake any monetarily significant work on the property without the prior approval of the City Attorney. STATE LAW REFERENCE - A.C.A. 14-54-903(c)(7)"

Section 4: Greenland Municipal Code Chapter 5.04, Section 5.04.05 is hereby amended by deleting the following words:

“of the publication”

after the phrase “Thereupon, service” and immediately prior to the phrase “as provided by law against non-resident defendants, may be had.”

AND by amending the word:

“registered”

immediately after the words “...notify the defendant by...”
to read:

“certified”

immediately before the words “letter, addressed to his ...”.

AND by the addition of the following paragraphs to Section 5.04.05:

“Except as provided in the preceding paragraph, notices required by this Section shall be published, mailed or delivered by the municipal recorder or other person as designated by the City Council.

After a notice for a specific violation of an order under 5.04.04 directing an owner to eliminate a condition on the owner's property, an additional notice for a subsequent violation of that specific violation within the same calendar year shall not be required before the issuance of a citation.”

Section 5: Greenland Municipal Code Chapter 5.04, Section 5.04.06 is hereby deleted in its entirety and replaced with the following:

“5.04.06 Enforcement of Lien

The amount of the lien may be determined at a public hearing before the City Council held after thirty (30) days' written notice by mail, return receipt requested, to the owner of the property if the name and whereabouts of the owner is known, and to the lienholders of record. If the name of the owner or the whereabouts of the owner cannot be determined, then the amount will be determined only after newspaper publication, as required by law, of notice of the public hearing once a week for four (4) consecutive weeks. The determination of the City Council is subject to appeal to the Circuit Court within the time specified by law. The amount so determined at the hearing, plus ten percent (10%) penalty for collection in accordance with A.C.A. § 14-54-904 (a)(2)(A), may be certified by the City Council by resolution to the tax collector of the county in which the property is located, to be placed on the tax books as delinquent taxes, and collected accordingly. The amount, less three percent (3%) thereof, when so collected shall be paid to the City by the County Tax Collector. In the alternative, the lien provided for pursuant to this ordinance and state law may be enforced in Circuit Court at any time within ten (10) years after lien has been filed pursuant to A.C.A. § 14-54-904(a)."


Section 6: Greenland Municipal Code, Title 5, Chapter 5.04, Section 5.04.07 is hereby deleted in its entirety and replaced with the following:

"5.04.07 Additional Penalties

In addition to any liens provided for in Section 5.04.04 and 5.04.06, any violation of this chapter by a property owner or any person holding a possessory interest in the property, such as a leasehold tenant or lienholder following notice as provided in 5.04.05, may be issued a citation for violation of 5.04.03 and upon conviction such violation is punishable by a fine of not less than Twenty-Five Dollars (\$25.00) nor more than Two Hundred Fifty Dollars (\$250.00), and up to four times that amount for repeated and willful violations of the same ordinance and/or a fine for not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100.00) for each day of continuance."

Section 7: This Ordinance shall be effective October 1, 2016. In all other respects, Title 5, Chapter 5.04 is not amended or modified and is hereby ratified and confirmed.

Passed and approved this 14th day of November, 2016.



BILL GROOM, Mayor

ATTEST:



STEPHANIE SHARP, Recorder-Treasurer