

**PETERSBURG BOROUGH
ORDINANCE #2021-16**

**AN ORDINANCE AMENDING CHAPTERS 9.16, 14.04, 14.08, 14.12, and 14.16
OF THE MUNICIPAL CODE TO AUTHORIZE CREATION AND RECORDING
OF A LIEN IN FAVOR OF THE BOROUGH IN ORDER TO SECURE PAYMENT
OF DELINQUENT FEES, COSTS AND EXPENSES**

WHEREAS, the Alaska Legislature passed, and the Governor signed into law, amendments to AS 09.45.169, AS 29.35.010, and AS 34.35.950 to authorize the creation, recording, and notice of a lien on real 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 provided for by ordinance; and

WHEREAS, the Assembly wishes to create such liens to allow for the recovery of the costs and expenses incurred by the Borough in abatement of nuisances, and in the provision of utility services.

THEREFORE, THE PETERSBURG BOROUGH ASSEMBLY ORDAINS:

Section 1. Classification: This ordinance is of a general and permanent nature and shall be codified in the Petersburg Municipal Code.

Section 2. Purpose: The purpose of this ordinance is to create liens to secure the payment of borough fees, costs and expenses under PMC 9.16, 14.04, 14.08, 14.12 and 14.16.

Section 3. Substantive Provisions:

A. Chapter 9.16 (Nuisances) of the Petersburg Borough Municipal Code is amended by adding a new section 9.16.105, entitled Lien, to read as follows:

9.16.105 - Lien.

A. The costs and expenses incurred by the borough under PMC 9.16.100 shall constitute a lien in favor of the borough upon the real property where the nuisance is or was located.

B. The lien imposed by this section arises and attaches at such time as payment becomes delinquent and continues until the entire amount due is satisfied.

C. A notice of lien may be recorded in the Petersburg Recording District, First Judicial District, State of Alaska. If recorded, a copy of the notice of lien shall be mailed to the last known address of the property owner of record.

D. Fees for the administrative cost of filing and releasing a notice of lien shall be:

1. Filing of notice of lien: Fifty Dollars (\$50) plus recorder's filing fee; and
2. Releasing of notice of lien: Fifty Dollars (\$50) plus recorder's filing fee.

E. An action to foreclose a lien created by this section shall be commenced and pursued in the manner provided for the foreclosure of liens under state law.

F. Except as otherwise provided by state law, upon recordation, the lien has priority over any other liens except for:

1. liens for property taxes, special assessments, and sales and use taxes;
2. liens that were perfected before the recording of the lien under this paragraph;
3. liens that, under state law, are prior, paramount, and superior to all other liens; and
4. mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the lien.

G. The creation and enforcement of the lien hereunder is a cumulative remedy and shall be in addition to all other remedies available to the borough permitted by law.

B. Chapter 14.04 (Water Utility) of the Petersburg Borough Municipal Code is amended by adding a new section 14.04.455, entitled Lien, to read as follows:

14.04.455 - Lien.

A. The fees and other charges imposed under this Chapter, including without limitation monthly service fees, commodity charges, disconnect and reconnect fees and interest, shall constitute a lien in favor of the borough upon the real property to which service is provided.

B. The lien imposed by this section arises and attaches at such time as payment becomes delinquent and continues until the entire amount due is satisfied.

C. A notice of lien may be recorded in the Petersburg Recording District, First Judicial District, State of Alaska. If recorded, a copy of the notice of lien shall be mailed to the last known address of the account holder of record, and the property owner of record if not the same as the account holder.

D. Fees for the administrative cost of filing and releasing a notice of lien shall be:

1. Filing of notice of lien: Fifty Dollars (\$50) plus recorder's filing fee; and
2. Releasing of notice of lien: Fifty Dollars (\$50) plus recorder's filing fee.

E. An action to foreclose a lien created by this section shall be commenced and pursued in the manner provided for the foreclosure of liens under state law.

F. Except as otherwise provided by state law, upon recordation, the lien has priority over any other liens except for:

1. liens for property taxes, special assessments, and sales and use taxes;
2. liens that were perfected before the recording of the lien under this paragraph;

3. liens that, under state law, are prior, paramount, and superior to all other liens; and

4. mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the lien.

G. The creation and enforcement of the lien hereunder is a cumulative remedy and shall be in addition to all other remedies available to the borough permitted by law.

C. Chapter 14.08 (Sewer Utility) of the Petersburg Borough Municipal Code is amended by adding a new section 14.08.365, entitled Lien, to read as follows:

14.08.365 - Lien.

A. The fees and other charges imposed under this Chapter, including without limitation monthly service charges, commodity charges, disconnect and reconnect fees and interest, shall constitute a lien in favor of the borough upon the real property to which service is provided.

B. The lien imposed by this section arises and attaches at such time as payment becomes delinquent and continues until the entire amount due is satisfied.

C. A notice of lien may be recorded in the Petersburg Recording District, First Judicial District, State of Alaska. If recorded, a copy of the notice of lien shall be mailed to the last known address of the account holder of record, and the property owner of record if not the same as the account holder.

D. Fees for the administrative cost of filing and releasing a notice of lien shall be:

1. Filing of notice of lien: Fifty Dollars (\$50) plus recorder's filing fee; and
2. Releasing of notice of lien: Fifty Dollars (\$50) plus recorder's filing fee.

E. An action to foreclose a lien created by this section shall be commenced and pursued in the manner provided for the foreclosure of liens under state law.

F. Except as otherwise provided by state law, upon recordation, the lien has priority over any other liens except for:

1. liens for property taxes, special assessments, and sales and use taxes;
2. liens that were perfected before the recording of the lien under this paragraph;
3. liens that, under state law, are prior, paramount, and superior to all other liens; and
4. mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the lien.

G. The creation and enforcement of the lien hereunder is a cumulative remedy and shall be in addition to all other remedies available to the borough permitted by law.

D. Chapter 14.12 (Sanitation) of the Petersburg Borough Municipal Code is amended by adding a new section 14.12.185, entitled Lien, to read as follows:

14.12.185 - Lien.

A. The fees and other charges imposed under this Chapter, including without limitation monthly collection rates, pack-out, return call and extra refuse service fees, and interest, shall constitute a lien in favor of the borough upon the real property to which service is provided.

B. The lien imposed by this section arises and attaches at such time as payment becomes delinquent and continues until the entire amount due is satisfied.

C. A notice of lien may be recorded in the Petersburg Recording District, First Judicial District, State of Alaska. If recorded, a copy of the notice of lien shall be mailed to the last known address of the account holder of record, and the property owner of record if not the same as the account holder.

D. Fees for the administrative cost of filing and releasing a notice of lien shall be:

1. Filing of notice of lien: Fifty Dollars (\$50) plus recorder's filing fee; and
2. Releasing of notice of lien: Fifty Dollars (\$50) plus recorder's filing fee.

E. An action to foreclose a lien created by this section shall be commenced and pursued in the manner provided for the foreclosure of liens under state law.

F. Except as otherwise provided by state law, upon recordation, the lien has priority over any other liens except for:

1. liens for property taxes, special assessments, and sales and use taxes;
2. liens that were perfected before the recording of the lien under this paragraph;
3. liens that, under state law, are prior, paramount, and superior to all other liens; and
4. mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the lien.

G. The creation and enforcement of the lien hereunder is a cumulative remedy and shall be in addition to all other remedies available to the borough permitted by law.

E. Chapter 14.16 (Electric Utility) of the Petersburg Borough Municipal Code is amended by adding a new section 14.16.765, entitled Lien, to read as follows:

14.16.765 - Lien.

A. The fees and other charges imposed under this Chapter, including without limitation customer, energy and demand charges, disconnect and reconnect fees, and interest, shall constitute a lien in favor of the borough upon the real property to which service is provided.

B. The lien imposed by this section arises and attaches at such time as payment becomes delinquent and continues until the entire amount due is satisfied.

C. A notice of lien may be recorded in the Petersburg Recording District, First Judicial District, State of Alaska. If recorded, a copy of the notice of lien shall be mailed to the last known address of the account holder of record, and the property owner of record if not the same as the account holder.

D. Fees for the administrative cost of filing and releasing a notice of lien shall be:

1. Filing of notice of lien: Fifty Dollars (\$50) plus recorder's filing fee; and
2. Releasing of notice of lien: Fifty Dollars (\$50) plus recorder's filing fee.

E. An action to foreclose a lien created by this section shall be commenced and pursued in the manner provided for the foreclosure of liens under state law.

F. Except as otherwise provided by state law, upon recordation, the lien has priority over any other liens except for:

1. liens for property taxes, special assessments, and sales and use taxes;
2. liens that were perfected before the recording of the lien under this paragraph;
3. liens that, under state law, are prior, paramount, and superior to all other liens; and
4. mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the lien.

G. The creation and enforcement of the lien hereunder is a cumulative remedy and shall be in addition to all other remedies available to the borough permitted by law.

Section 4. Severability: If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected.

Section 5. Effective Date: This Ordinance shall become effective immediately upon final passage.

Passed and approved by the Petersburg Borough Assembly, Petersburg, Alaska this
_____ day of _____ 2021.

Mark Jensen, Mayor

ATTEST:

Debra K. Thompson, Borough Clerk

Adopted:
Noticed:
Effective: