

## ORDINANCE NO. L-117

AN ORDINANCE AMENDING CHAPTER 20 OF THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; CREATING SECTIONS 20-250 AND 20-251; AND PROVIDING GENERALLY FOR THE **ESTABLISHMENT OF FORT PIERCE UTILITIES AUTHORITY LIENS AND ACCRUAL OF INTEREST** THEREON; PROVIDING FOR SUPERIORITY, ENFORCEMENT AND SATISFACTION OF LIENS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

**BE IT ORDAINED** BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA:

**SECTION 1:** Chapter 20 of the Code of Ordinances of the City of Fort Pierce, Florida, be and the same is hereby amended to add the following article:

### **ARTICLE IV. LIENS.**

#### **Sec 20-250. Generally.**

All individuals or entities contracting with Fort Pierce Utilities Authority ("FPUA") for electric, gas, water, wastewater and/or sewer service by FPUA ("Customers") shall be jointly and severally liable and responsible for the payment of the service charges therefore imposed by FPUA. Unpaid charges shall become a lien against the real property of the Customer as hereinafter provided. Provided, however, that nonpayment of service charges incurred by a former occupant of the rental property shall not be the basis for any lien against the rental property or legal action against the present occupant or owner of the real property, except to the extent that the present occupant or owner has benefitted directly from the service provided to the present or former occupant.

#### **Sec 20-251. Procedure.**

(a) The FPUA Customer Service Manager shall mail a notice of the delinquency of such services by regular mail to the Customer at the address shown on his latest FPUA billing. The notice shall specify the delinquency billings, individual and total, and shall state that if the delinquency is not paid within 30 days from the date of the notice, a lien in the full amount of the delinquency, together with interest at the legal rate allowed for judgments accruing from the date of delinquency, all costs and expenses of FPUA, may be levied by FPUA, including but not limited to any and all administrative, advertising, recording, notice, collection, legal expenses and court costs and any other charges or costs which continue to accrue, such as the monthly Inactive Account Fee charged by FPUA, may be levied by the FPUA against the real property of the Customer. The notice will further provide that the Customer may, within 15 days of the date of the notice, request a hearing before the FPUA Customer Service Manager to challenge the delinquency and resulting lien. If a hearing is requested, the FPUA Customer Service Manager will schedule a hearing within 10 days of receipt of the request. If no hearing is requested within 15 days from the date of the notice, and payment is not received within 30 days, the FPUA Customer Service Manager may impose the lien for the amounts set forth above without further notice to the property owner.

(b) Such liens shall be recorded in the Public Records of St. Lucie County, Florida.

(c) Each and every lien of FPUA created under this Resolution from delivery of any FPUA service or expenditure of funds or any expense incurred by FPUA shall be deemed to be prior in dignity to any other lien, including but not limited to mortgage liens, irrespective of the date of the recording of the FPUA lien or the date of the recording of any mortgage or other lien on real property, and such FPUA lien shall survive any action to foreclose or otherwise enforce such inferior lien whether such inferior lien arises by virtue of a mortgage or promissory note, a mechanic's lien, a judgment, or other security interest in real property; provided, however, that nothing herein contained shall be construed to be respecting the priority of liens, and where such law or statute specially provides for the priority of liens, the provisions hereof shall be construed to achieve harmony therewith.

(d) Such liens shall be subject to foreclosure if not fully paid within three (3) months of the date of delinquency.

(e) Such liens shall be foreclosed in the same manner in which mortgage liens are enforced.

(f) FPUA may enforce and collect any unpaid lien as provided by law. Each remedy available to FPUA for enforcement and collection shall be cumulative to all others and the use of any particular method or procedure shall not prohibit FPUA from enforcing or collecting a lien by any other means allowed by law.

(g) Upon direction of the FPUA Customer Service Manager, proceedings may be instituted in a court of competent jurisdiction for foreclosure of any lien established by FPUA. FPUA shall be entitled to recover all costs and reasonable attorney's fees incurred in the action.

(h) Each lien established by FPUA shall continue until paid or released or as otherwise provided by law.

(i) Any lien established by FPUA may be satisfied and discharged by paying to FPUA the amount specified in the lien together with interest at the legal rate allowed for judgments accruing from the date of delinquency, all costs and expenses of FPUA, including but not limited to any and all administrative, advertising, recording, notice, collection, legal expenses and court costs and any other charges or costs which continue to accrue, such as the monthly Inactive Account Fee charged by FPUA, and costs and fees to prepare and record a release and satisfaction of the lien in the official records of St. Lucie County, Florida. The amount payable to satisfy any lien may be reduced only as provided by law and with the approval of the FPUA Board.

**SECTION 2:** All other provisions of Chapter 20 not in conflict with Article IV above shall remain in full force and effect.

**SECTION 3.** All ordinances or parts of ordinances in conflict herewith are and the same shall be repealed and shall be of no further force or effect whatsoever.

**SECTION 4.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this

Ordinance but shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

**SECTION 5.** This ordinance shall be and become effective upon final passage.

PASSED - May 3, 2010