

ORDINANCE NO. 2014-74

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING SECTION 9-7-5, PROVIDING FOR COLLECTION OF ATTORNEY'S FEES AND COURT COSTS WITH LIEN FORECLOSURE SUITS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, the City is updating the language on lien foreclosure collections and desires to clarify the fees and costs to be covered should a foreclosure proceeding or lawsuit occur, to make it more consistent with other sections of the code; and

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Section 9-7-5 of Article 7: Nuisances of Chapter IX, General Regulations, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

...

§ 9-7-5 CORRECTION BY CITY; LIEN.

(A) That the provisions of this section shall be cumulative of any criminal penalties or civil remedies provided for herein.

(B) Upon a determination that noxious matter exists upon a premises, the owner of the premises shall be given notice to abate such noxious matter within seven days after the receipt of such notice. Should the owner of the premises fail to comply with such notice of abatement within seven days, the city may:

- (1) Do the work or make the improvements required; and
- (2) Pay for the work done or improvements made and charge the expenses to the owner of the property.

(C) The city in the notice of violation may inform the owner:

- (1) By mail and a posting on the property; or
- (2) By personally delivering the notice that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the

notice, the city without further notice may correct the violation at the owners expense and assess the expense against the premises.

(D) After the work has been completed and paid for by the city, a statement of expenses incurred by the city to abate such conditions and administrative fees as prescribed by separate ordinance shall be mailed to the owner of the property. The owner of the property shall pay for work and administrative fees within 30 days of the date of mailing thereof.

(E) In the event that the amount shown on the said statement for the work and administrative fees has not been paid within 30 days of mailing, the city shall assess expenses incurred under this section as follows:

(1) The Mayor or City Manager shall file a statement of such expenses and administrative fees incurred, giving the amount of such expenses, date on which the work was done or improvements made, state the name of the owner (if known) and the legal description of the property. The statement shall be filed with the County Clerk, and the city shall have a privileged lien on such lot or real estate upon which the work was done or improvements made to secure the expenditures so made, in accordance with the provisions of Tex. Health & Safety Code § 342.006 et seq. This lien shall be second only to tax liens and liens for street improvements; and the amount shall bear 10% interest per annum on the amount due from the date of payment by the city.

(2) It is further provided that for any such expenditures and interest, suit may be instituted and recovery and foreclosure of the lien may be had in the name of the city, and the statement of expenses and administrative fees so made, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements. Should the City file suit to foreclose on any liens to recover unpaid expenditures, fees, interest, and expenses, it shall also be entitled to collect the maximum interest rate allowed, reasonable attorney's fees and other court costs and fees allowable under the law.

(F) The remedy provided by the assessment and foreclosure of lien is in addition to any criminal penalties or other civil remedies provided for herein.

(G) The city may foreclose a lien on property established herein in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code, as amended or hereinafter amended.

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II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the 8th day of December, 2014.

PASSED AND APPROVED on this the 15th day of December, 2014.

EFFECTIVE DATE: December 31, 2014

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney