

1 SB84
2 164370-2
3 By Senator Melson (N & P)
4 RFD: Local Legislation
5 First Read: 03-MAR-15

1 SB84

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4 With Notice and Proof

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6 ENROLLED, An Act,

7 Relating to the City of Athens; to provide for the
8 abatement of grass or weeds which becomes a nuisance under
9 certain conditions; to provide for notice to the property
10 owners; to provide for the assessment of the costs for
11 abatement when the work is required to be performed by the
12 city; to provide for the city's collection of the costs
13 through the addition of the costs to ad valorem taxes; and to
14 provide for liens on the property under certain conditions.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. This act shall apply only in the City of
17 Athens.

18 Section 2. An abundance of overgrown grass or weeds
19 within the city which is injurious to the general public
20 health, safety, and general welfare by providing breeding
21 grounds and shelter for rats, mice, snakes, mosquitoes, and
22 other vermin, insects, and pests; or attaining heights and
23 dryness so as to constitute a serious fire threat or hazard;
24 or bearing wingy or downy seeds, when mature, that cause the
25 spread of weeds and, when breathed, irritation to the throat,

1 lungs, and eyes of the public; or hiding debris, such as
2 broken glass or metal, which could inflict injury on a person
3 going upon the property; or being unsightly; or a growth of
4 grass or weeds, including plants of no value, undesirable, and
5 usually of rank growth; or grass, shrubs, and undergrowth,
6 other than ornamental plant growth, which exceeds 12 inches in
7 height, may be declared to be a public nuisance and abated as
8 provided in this act.

9 Section 3. (a) For purposes of this act, the
10 enforcing official shall mean either the mayor or such other
11 city official or employee as the mayor from time to time may
12 designate. Whenever, in the opinion of the enforcing official,
13 a public nuisance exists as described in Section 2, the
14 enforcing official may serve written notice upon the owner of
15 the property on which the nuisance is located ordering the
16 abatement of the nuisance.

17 (b) The notice shall require the owner to complete
18 abatement of the nuisance within 14 days from the date of the
19 notice, provided that the enforcing official may allow for
20 additional time when it is reasonably required due to the
21 difficulty of the abatement or other unusual factors tending
22 to necessitate additional time, but in no case more than 28
23 days from the date of the notice.

24 (c) The written notice shall require the owner to
25 abate the condition within the time stated in the notice or to

1 request a hearing before the administrative official to
2 determine whether the conditions on the property constitute a
3 public nuisance that should be abated. For purposes of this
4 act, the administrative official shall mean a person
5 designated by the city council, but such person shall not be
6 the same person as the enforcing official. The notice shall
7 apprise the owner of the facts of the alleged nuisance,
8 including a description or address of the property, or both,
9 that provides reasonable notice of its location, the address
10 of the enforcing official, and shall name the particular date,
11 time, and place for the hearing before the administrative
12 official if requested by the owner, which date shall be at
13 least 10 days after the date of the written notice.

14 (d) The enforcing official shall serve the owner
15 with the written notice by delivering it to the owner; or by
16 mailing it to the owner, via first class mail, at the owner's
17 last known address. Delivery under this subsection means
18 handing it to the owner, or in a case where the owner is an
19 impersonal entity to an agent of the entity; or leaving it at
20 the owner's residence or place of business with a person of
21 suitable age and discretion residing or employed therein.
22 Service by mail is complete upon mailing. The enforcing
23 officer may, but is not required to, rely upon any information
24 appearing on record in the office of the Limestone County
25 Revenue Commissioner to establish the identity of an owner of

1 property and to establish the owner's last known address,
2 which, if utilized, shall be deemed conclusive and sufficient
3 proof of the same.

4 (e) The written notice shall also be posted at a
5 conspicuous place on the property on which the nuisance is
6 located, on or prior to the date of service of the written
7 notice as described in subsection (d).

8 (f) The enforcing official is authorized, but not
9 required, to utilize any additional means of providing notice
10 that the enforcing official deems appropriate. Specifically,
11 the enforcing official is authorized, but not required, to
12 provide this additional, optional notice by placement of
13 notice in a public place or places located within the city, or
14 by publishing notice in a newspaper of general circulation
15 published in the city as often and for as long as deemed
16 appropriate. The additional, optional notice provided for in
17 this section may be provided in whatever form the enforcing
18 official deems appropriate.

19 (g) If the owner desires a hearing before the
20 administrative official, then the owner may request a hearing
21 by delivering a written notice to the enforcing official
22 within five days after the date of service of the notice. If
23 so requested, then the enforcing official's order to abate the
24 nuisance will be suspended, and the administrative official
25 will hold a hearing at the time and place specified in the

1 notice previously issued by the enforcing official or at such
2 other time and place that may be mutually agreed upon by the
3 administrative official and the owner. The administrative
4 official may continue the hearing from time to time, upon good
5 cause shown. At the hearing, any interested party will have
6 the right to present evidence and testimony. The hearing will
7 be open to the public, and a record of the proceedings must be
8 kept as a part of the city's public records. The
9 administrative official must render a written decision on the
10 merits of the proposed abatement within five days of the
11 conclusion of the hearing. The enforcing official shall notify
12 the owner by personal service or by first class mail of the
13 written determination of the administrative official. If the
14 administrative official determines that a nuisance exists and
15 should be abated, the written determination of the
16 administrative official shall inform the owner that the owner
17 must complete the abatement ordered by the enforcing official
18 within 10 days of the date of the administrative official's
19 decision, or upon such additional time, but in no case more
20 than 28 days from the administrative official's determination.
21 If the administrative official determines that a nuisance does
22 not exist, then the enforcing official's notice to abate the
23 nuisance will be null and void, but such determination shall
24 not bar any subsequent notice concerning the same property.

1 (h) Any person aggrieved by the decision of the
2 administrative official at the hearing, within 10 days from
3 receipt of the determination by the administrative official,
4 may appeal to the circuit court upon filing with the clerk of
5 the court notice of the appeal and bond for security of costs
6 in the form and amount to be approved by the circuit clerk.
7 Upon filing of the notice of appeal and approval of the bond,
8 the clerk of the court shall serve a copy of the notice of
9 appeal on the clerk of the municipality and the appeal shall
10 be docketed in the court and shall be a preferred case. The
11 clerk of the municipality shall, upon receiving the notice,
12 file with the clerk of the court a copy of the finding and
13 determination of the administrative official in its
14 proceedings. Any trials shall be held without a jury upon the
15 determination of the administrative official that the weeds
16 are a public nuisance.

17 Section 4. (a) If the owner fails, neglects, or
18 refuses to abate the nuisance, or the nuisance is not
19 otherwise abated, (1) within the time permitted to do so as
20 stated in the enforcing official's notice, where such notice
21 was not suspended by the request for a hearing before the
22 administrative official; or (2) within the time permitted to
23 do so as stated in the administrative official's written
24 determination, then the city may enter upon the property and
25 abate the nuisance using its own forces, or it may provide by

1 contract for the abatement. However, if an appeal has been
2 taken to the circuit court as provided in subsection (h) of
3 Section 3, then the city may not abate the nuisance until the
4 determination or judgment authorizing abatement becomes final
5 as provided by law.

6 (b) Upon completion of the abatement work performed
7 by the city, including work by contractors employed by the
8 city, the enforcing official shall compute the city's expenses
9 in causing the abatement of the nuisance, including, but not
10 limited to, cost of labor, value of the use of the equipment,
11 advertising expenses, postage, administrative expense, legal
12 expense, and materials purchased, which were incurred by the
13 city as a result of the work. An itemized statement of the
14 expenses shall be given by first class mail to the last known
15 address of the owner of the property. This notice shall be
16 sent at least five days in advance of the time fixed by the
17 city council to consider the assessment of the cost against
18 property.

19 (c) At the time fixed for receiving and considering
20 the statement, the city council shall hear the same, together
21 with any objections which may be raised by the owner whose
22 property is liable to be assessed for the city's expenses in
23 causing the abatement of the nuisance, and thereupon make
24 modifications in the statement as deemed necessary, after
25 which a resolution may assess the cost. The cost stated in the

1 resolution shall constitute a lien on the property, and shall
2 be referred to as a weed lien on the property.

3 (d) A copy of the resolution shall be given to the
4 Limestone County Revenue Commissioner. It shall be the duty of
5 the revenue commissioner to add the costs of the weed lien to
6 the next regular bill for taxes levied against the property
7 subject to the weed lien, and thereafter, the costs shall be
8 collected and remitted to the city at the same time and in the
9 same manner as ordinary municipal ad valorem taxes are
10 collected, and shall be subject to the same penalties and the
11 same procedure under foreclosure and sale in case of
12 delinquency; provided, however, that if the foreclosure and
13 sale is the result of a delinquency caused by a weed lien, the
14 municipality shall reimburse the county tax collector or
15 revenue commissioner for all costs associated with the
16 foreclosure and sale unless the costs are collected at the
17 time of sale as part of the sale.

18 (e) The city clerk may also cause a certified copy
19 of the resolution showing the weed lien to be filed for
20 recording in the office of the judge of probate.

21 Section 5. When a weed lien is made against a lot
22 or lots or parcel or parcels of land, a subsequent redemption
23 thereof by a person authorized to redeem, or sale thereof by
24 the state, shall not operate to discharge, or in any manner
25 affect the weed lien of the city, but a redemptioner or

1 purchaser at a sale by the state of any lot or lots, parcel or
2 parcels of land upon which a weed lien has been made, whether
3 prior to or subsequent to a sale to the state for the
4 nonpayment of taxes, shall take the same subject to the weed
5 lien.

6 Section 6. This act is cumulative in its nature and
7 in addition to any and all power and authority which a city
8 may have under any other law.

9 Section 7. The provisions of this act are severable.
10 If any part of this act is declared invalid or
11 unconstitutional, that declaration shall not affect the part
12 which remains.

13 Section 8. This act shall become effective
14 immediately following its passage and approval by the
15 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB84

Senate 17-MAR-15

I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris
Secretary

House of Representatives

Passed: 02-APR-15

By: Senator Melson