

1 HB496
2 135959-2
3 By Representative Hubbard (M) (N & P)
4 RFD: Lee County Legislation
5 First Read: 08-MAR-12

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ENROLLED, An Act,

Relating to any Class 6 municipalities having an alternate council as provided in Section 11-43A-8, Code of Alabama 1975, under the form of government provided in Article 1, Chapter 43A, Code of Alabama 1975; to provide for the abatement of grass and weeds which become a nuisance under certain conditions; to provide for notice to the property owners; to provide for the assessment of the costs for abatement when the work is required to be performed by the municipality; and to provide for liens on the property under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall apply only to a Class 6 municipality having an alternate council as provided in Section 11-43A-8, Code of Alabama 1975, under the form of government provided in Article 1, Chapter 43A, Title 11, Code of Alabama 1975.

Section 2. (a) An abundance of overgrown grass or weeds within the municipality which is injurious to the general public health, safety, and general welfare by providing breeding grounds and shelter for rats, mice, snakes, mosquitoes, and other vermin, insects, and pests; or attaining heights and dryness so as to constitute a serious fire threat and hazard; or bearing wingy or downy seeds, which when

1 mature, cause the spread of weeds and, when breathed in, cause
2 irritation of the throat, lungs, and eyes of the public; or
3 hiding debris, such as broken glass or metal, which could
4 inflict injury on a person going upon the property; or being
5 unsightly; or growth of grass or weeds, other than ornamental
6 plant growth, which exceeds 12 inches in height, may be
7 declared to be a public nuisance and abated as provided in
8 this act.

9 (b) This act shall not apply to any of the
10 following:

11 (1) Heavily wooded areas in their natural state
12 which are undeveloped.

13 (2) Farm properties.

14 (3) Properties under current construction.

15 Section 3. (a) Whenever in the opinion of the city
16 official or any other city employee designated by the city
17 manager, a nuisance exists, the official shall order the owner
18 of the property on which the nuisance is located to abate the
19 condition.

20 (b) The enforcing official shall give the owner
21 written notice in person or by first class mail. The notice
22 shall apprise the owner of the facts of the alleged nuisance
23 and require the condition be abated within the time stated in
24 the notice or to request a hearing before an administrative

1 official of the city designated by the city manager, to
2 determine whether there has been a violation.

3 (c) The notice shall be sent to that person shown by
4 the records of the county to have been the last person
5 assessed for payment of ad valorem tax on the property where
6 the nuisance is situated. It shall be the responsibility of
7 that person to promptly advise the enforcing official of a
8 change of ownership or interest in the property.

9 (d) The notice shall also be posted in a conspicuous
10 place on the property.

11 (e) The notice shall require the owner to complete
12 abatement of the nuisance within 14 days from the date of
13 notice, provided the enforcing official may stipulate
14 additional time, but in no case more than 28 days.

15 (f) A property owner shall have five days in which
16 to request a hearing before the administrative official to
17 appeal the determination of the enforcing official. After the
18 hearing, the enforcing official shall notify the owner by
19 personal service or by first class mail of the determination
20 of the administrative official. If the administrative official
21 determines that a nuisance exists, the owner shall comply with
22 the initial order to abate issued by the enforcing official,
23 with modifications as may be made by the administrative
24 official. Any person aggrieved by the decision of the
25 administrative official at the hearing, within 10 days, may

1 appeal to the circuit court upon filing with the clerk of the
2 court notice of the appeal and bond for security of costs in
3 the form and amount to be approved by the circuit clerk. Upon
4 filing of the notice of appeal and approval of the bond, the
5 clerk of the court shall serve a copy of the notice of appeal
6 on the clerk of the municipality and the appeal shall be
7 docketed in the court and shall be a preferred case therein.
8 The clerk of the municipality, upon receiving the notice,
9 shall file with the clerk of the court a copy of the findings
10 and determination of the administrative official in its
11 proceedings. Any trials shall be held without jury upon the
12 determination of the administrative official that the weeds
13 are a public nuisance.

14 Section 4. (a) If the owner fails, neglects, or
15 refuses to abate the condition after notice to do so, the
16 enforcing official shall cause the offending grass or weeds to
17 be cut.

18 (b) Upon completion of the abatement work performed
19 by the municipality, including work by contractors employed by
20 the municipality, the enforcing official shall compute the
21 actual expenses, including, but not limited to, total wages
22 paid, value of the use of equipment, advertising expenses,
23 postage, and materials purchased, which were incurred by the
24 municipality as a result of the work. An itemized statement of
25 the expenses shall be given by first class mail to the last

1 known address of the owner of the property. This notice shall
2 be sent at least five days in advance of the city council
3 meeting in which they will consider the assessment of the cost
4 against property.

5 (c) At the time fixed for receiving and considering
6 the statement, the council shall hear the same, together with
7 any objections which may be raised by the owner whose property
8 is liable to be assessed for the work and thereupon make
9 modifications in the statement as they deem necessary, after
10 which a resolution may assess the cost. The cost stated in the
11 resolution shall constitute a lien on the property. The city
12 clerk shall charge the assessments against the respective lots
13 and parcels of land for municipal purposes. Thereafter, the
14 amounts shall be collected at the same time and in the same
15 manner as ordinary municipal assessments are collected, and
16 shall be subject to the same penalties and the same procedure
17 under foreclosure and sale in case of delinquency as provided
18 for ordinary municipal assessments.

19 (d) The city clerk shall cause a certified copy of
20 the resolution assessing the cost of abatement to be filed for
21 recording in the office of the judge of probate and shall
22 forward a copy to the county tax collector. Upon a filing, the
23 tax collector shall add the amount of the lien to the ad
24 valorem tax bill on the property and shall collect the amount
25 as if it were a tax, using all methods available for

1 collecting ad valorem tax, and remit the amount to the
2 municipality.

3 Section 5. Where an assessment is made against a lot
4 or lots or parcel or parcels of land, a subsequent redemption
5 by a person authorized to redeem, or sale by the state, shall
6 not operate to discharge, or in any manner affect the lien of
7 the municipality for the assessment, but a redemptioner or
8 purchaser at a sale by the state of any lot or lots, parcel or
9 parcels of land upon which an assessment has been levied,
10 whether prior to or subsequent to a sale to the state for the
11 nonpayment of taxes, shall take the same subject to the
12 assessment.

13 Section 6. This act is cumulative in its nature and
14 in addition to any and all power and authority which a
15 municipality may have under any other law.

16 Section 7. The provisions of this act are severable.
17 If any part of this act is declared invalid or
18 unconstitutional, that declaration shall not affect the part,
19 which remains.

20 Section 8. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.

