

1 HB682  
2 135705-2  
3 By Representative Hubbard (M) (N & P)  
4 RFD: Lee County Legislation  
5 First Read: 12-APR-12

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ENROLLED, An Act,

Relating to any Class 6 municipality adopting the form of government provided in Chapter 44D, Title 11, Code of Alabama 1975; to provide for the abatement of weeds which become a nuisance under certain conditions; to provide for notice to the property owners; to provide for the assessment of costs for the abatement when the work is 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 adopting the form of government provided in Chapter 44D, 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 mature, cause the spread of weeds and, when breathed in, cause irritation of the throat, lungs, and eyes of the public; or hiding debris, such as broken glass or metal, which could inflict injury to persons; or being unsightly; or growth of

1 grass or weeds, other than ornamental plant growth, which  
2 exceeds 12 inches in height may be declared to be a public  
3 nuisance and abated as provided in this act.

4 (b) This act shall not apply to any of the  
5 following:

6 (1) Heavily wooded areas in their natural state  
7 which are undeveloped.

8 (2) Farm properties.

9 (3) Properties under current construction.

10 Section 3. (a) Whenever, in the opinion of the city  
11 official or any other city employee designated by the mayor, a  
12 nuisance exists, the official shall order the owner of the  
13 property on which the nuisance is located to abate the  
14 condition.

15 (b) The enforcing official shall give the owner  
16 written notice in person or by certified letter with signature  
17 of receipt required. The notice shall require the owner to  
18 abate the condition within the time stated in the notice or to  
19 request a hearing before an administrative official of the  
20 city designated by the mayor or council to determine whether  
21 there is a nuisance. The notice shall apprise the owner of the  
22 facts of the alleged nuisance and shall name the particular  
23 date, time, and place for the hearing if requested by the  
24 owner.

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

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

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

13           (f) A hearing before the administrative official  
14 shall be requested within five days of the date of the notice  
15 by the enforcing official. The enforcing official shall notify  
16 the owner by personal service or by certified mail of the  
17 determination of the administrative official. If the  
18 administrative official determines that a nuisance exists, the  
19 owner shall comply with the initial order to abate issued by  
20 the enforcing official, with modifications as may be made by  
21 the administrative official.

22           (g) Any person aggrieved by the decision of the  
23 administrative official at the hearing may, within 10 days  
24 from receipt of the determination by the administrative  
25 official, appeal to the circuit court upon filing with the

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

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

17 (b) Upon completion of the abatement work performed  
18 by the municipality, including work by contractors employed by  
19 the city, the enforcing official shall compute the actual  
20 expenses, including, but not limited to, total wages paid,  
21 value of the use of equipment, advertising expenses, postage,  
22 and materials purchased, which were incurred by the  
23 municipality as a result of the work. An itemized statement of  
24 the expenses shall be provided by certified letter with  
25 signature receipt required to the last known address of the

1 owner of the property. This notice shall be sent at least five  
2 days in advance of the time fixed by the city council to  
3 consider the assessment of the cost against the property.

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

18 (d) The revenue officer shall cause a certified copy  
19 of the resolution assessing the cost of abatement to be filed  
20 for recording in the office of the judge of probate and shall  
21 forward a copy to the Lee County Revenue Commissioner. Upon a  
22 filing, the Lee County Revenue Commissioner shall add the  
23 amount of the lien to the ad valorem tax bill on the property  
24 and shall collect the amount as if it were a tax, using all

1 methods available for collecting ad valorem tax, and remit the  
2 amount to the 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 or parcel  
9 or 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 is in addition to any and all power and authority which a  
15 Class 6 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.

