

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

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to any Class 6 municipalities having an  
14 alternate council as provided in Section 11-43A-8, Code of  
15 Alabama 1975, under the form of government provided in Article  
16 1, Chapter 43A, Code of Alabama 1975; to provide for the  
17 abatement of grass and weeds which become a nuisance under  
18 certain conditions; to provide for notice to the property  
19 owners; to provide for the assessment of the costs for  
20 abatement when the work is required to be performed by the  
21 municipality; and to provide for liens on the property under  
22 certain conditions.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

1 government provided in Article 1, Chapter 43A, Title 11, Code  
2 of Alabama 1975.

3 Section 2. (a) An abundance of overgrown grass or  
4 weeds within the municipality which is injurious to the  
5 general public health, safety, and general welfare by  
6 providing breeding grounds and shelter for rats, mice, snakes,  
7 mosquitoes, and other vermin, insects, and pests; or attaining  
8 heights and dryness so as to constitute a serious fire threat  
9 and hazard; or bearing wingy or downy seeds, which when  
10 mature, cause the spread of weeds and, when breathed in, cause  
11 irritation of the throat, lungs, and eyes of the public; or  
12 hiding debris, such as broken glass or metal, which could  
13 inflict injury on a person going upon the property; or being  
14 unsightly; or growth of grass or weeds, other than ornamental  
15 plant growth, which exceeds 12 inches in height, may be  
16 declared to be a public nuisance and abated as provided in  
17 this act.

18 (b) This act shall not apply to any of the  
19 following:

20 (1) Heavily wooded areas in their natural state  
21 which are undeveloped.

22 (2) Farm properties.

23 (3) Properties under current construction.

24 Section 3. (a) Whenever in the opinion of the city  
25 official or any other city employee designated by the city  
26 manager, a nuisance exists, the official shall order the owner

1 of the property on which the nuisance is located to abate the  
2 condition.

3 (b) The enforcing official shall give the owner  
4 written notice in person or by first class mail. The notice  
5 shall apprise the owner of the facts of the alleged nuisance  
6 and require the condition be abated within the time stated in  
7 the notice or to request a hearing before an administrative  
8 official of the city designated by the city manager, to  
9 determine whether there has been a violation.

10 (c) The notice shall be sent to that person shown by  
11 the records of the county to have been the last person  
12 assessed for payment of ad valorem tax on the property where  
13 the nuisance is situated. It shall be the responsibility of  
14 that person to promptly advise the enforcing official of a  
15 change of ownership or interest in the property.

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

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

22 (f) A property owner shall have five days in which  
23 to request a hearing before the administrative official to  
24 appeal the determination of the enforcing official. After the  
25 hearing, the enforcing official shall notify the owner by  
26 personal service or by first class mail of the determination  
27 of the administrative official. If the administrative official

1 determines that a nuisance exists, the owner shall comply with  
2 the initial order to abate issued by the enforcing official,  
3 with modifications as may be made by the administrative  
4 official. Any person aggrieved by the decision of the  
5 administrative official at the hearing, within 10 days, may  
6 appeal to the circuit court upon filing with the clerk of the  
7 court notice of the appeal and bond for security of costs in  
8 the form and amount to be approved by the circuit clerk. Upon  
9 filing of the notice of appeal and approval of the bond, the  
10 clerk of the court shall serve a copy of the notice of appeal  
11 on the clerk of the municipality and the appeal shall be  
12 docketed in the court and shall be a preferred case therein.  
13 The clerk of the municipality, upon receiving the notice,  
14 shall file with the clerk of the court a copy of the findings  
15 and determination of the administrative official in its  
16 proceedings. Any trials shall be held without jury upon the  
17 determination of the administrative official that the weeds  
18 are a public nuisance.

19 Section 4. (a) If the owner fails, neglects, or  
20 refuses to abate the condition after notice to do so, the  
21 enforcing official shall cause the offending grass or weeds to  
22 be cut.

23 (b) Upon completion of the abatement work performed  
24 by the municipality, including work by contractors employed by  
25 the municipality, the enforcing official shall compute the  
26 actual expenses, including, but not limited to, total wages  
27 paid, value of the use of equipment, advertising expenses,

1 postage, and materials purchased, which were incurred by the  
2 municipality as a result of the work. An itemized statement of  
3 the expenses shall be given by first class mail to the last  
4 known address of the owner of the property. This notice shall  
5 be sent at least five days in advance of the city council  
6 meeting in which they will consider the assessment of the cost  
7 against property.

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

22 (d) The city clerk shall cause a certified copy of  
23 the resolution assessing the cost of abatement to be filed for  
24 recording in the office of the judge of probate and shall  
25 forward a copy to the county tax collector. Upon a filing, the  
26 tax collector shall add the amount of the lien to the ad  
27 valorem tax bill on the property and shall collect the amount

1 as if it were a tax, using all methods available for  
2 collecting ad valorem tax, and remit the amount to the  
3 municipality.

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

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

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

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