



Forty-ninth Legislature - Second Regular Session

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9-499. Removal of rubbish, trash, weeds, filth, debris and dilapidated structures; removal by city; costs assessed; collection; priority of assessment; definitions

A. The governing body of a city or town, by ordinance, shall compel the owner, lessee or occupant of property to remove rubbish, trash, weeds or other accumulation of filth, debris or dilapidated structures which constitute a hazard to public health and safety from buildings, grounds, lots, contiguous sidewalks, streets and alleys. An ordinance shall require:

1. Written notice to the owner, the owner's authorized agent or the owner's statutory agent and to the occupant or lessee. The notice shall be served either by personal service or by certified mail. If notice is served by certified mail, the notice shall be mailed to the last known address of the owner, the owner's authorized agent or the owner's statutory agent and to the address to which the tax bill for the property was last mailed. The notice shall be given not less than thirty days before the day set for compliance and shall include the legal description of the property and the cost of such removal to the city or town if the owner, occupant or lessee does not comply. The owner shall be given not less than thirty days to comply. The city or town may record the notice in the county recorder's office in the county in which the property is located. If the notice is recorded and compliance with the notice is subsequently satisfied, the city or town shall record a release of the notice.

2. Provisions for appeal to and a hearing by the governing body of the city or town or a board of citizens that is appointed by the governing body on both the notice and the assessments, unless the removal or abatement is ordered by a court.

3. That any person, firm or corporation that places any rubbish, trash, filth or debris upon any private or public property not owned or under the control of that person, firm or corporation is guilty of a class 1 misdemeanor or a civil violation and, in addition to any fine or penalty which may be imposed for a violation of any provision of this section, is liable for all costs which may be assessed pursuant to this section for removing, abating or enjoining the rubbish, trash, filth or debris.

B. The ordinance may provide that if any person with an interest in the property, including an owner, lienholder, lessee or occupant, after notice as required by subsection A, paragraph 1 of this section does not remove such rubbish, trash, weeds, filth, debris or dilapidated structures and abate the condition which constitutes a hazard to public health and safety, the city or town may remove, abate, enjoin or cause their removal.

C. The governing body of the city or town may prescribe by ordinance a procedure for the removal or abatement, and for making the actual cost of the removal or abatement, including the actual costs of any additional inspection and other incidental connected costs, an assessment upon the property from which the rubbish, trash, weeds or other accumulations are removed or abated.

D. The ordinance may provide that the cost of removal, abatement or injunction of such rubbish, trash, weeds, filth, debris or dilapidated structures from any lot or tract of land, and associated legal costs for abatement or injunctions, shall be assessed on the property from which the rubbish, trash, weeds, accumulations or dilapidated structures are removed, abated or enjoined. The city or town may record the assessment in the county recorder's office in the county in which the property is located, including the date and amount of the assessment, the legal description of the property and the name of the city or town imposing the assessment. Any assessment recorded after July 15, 1996 is prior and superior to all other liens, obligations, mortgages or other encumbrances, except liens for general taxes. A sale of the property to satisfy an assessment obtained under the provisions of this section shall

be made upon judgment of foreclosure and order of sale. A city or town shall have the right to bring an action to enforce the assessment in the superior court in the county in which the property is located at any time after the recording of the assessment, but failure to enforce the assessment by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited in the assessment and of the regularity of all proceedings prior to the recording of the assessment.

E. Assessments that are imposed under subsection D of this section run against the property until paid and are due and payable in equal annual installments as follows:

1. Assessments of less than five hundred dollars shall be paid within one year after the assessment is recorded.
2. Assessments of five hundred dollars or more but less than one thousand dollars shall be paid within two years after the assessment is recorded.
3. Assessments of one thousand dollars or more but less than five thousand dollars shall be paid within three years after the assessment is recorded.
4. Assessments of five thousand dollars or more but less than ten thousand dollars shall be paid within six years after the assessment is recorded.
5. Assessments of ten thousand dollars or more shall be paid within ten years after the assessment is recorded.

F. An assessment that is past due accrues interest at the rate prescribed by section 44-1201.

G. A prior assessment for the purposes provided in this section shall not be a bar to a subsequent assessment or assessments for these purposes, and any number of assessments on the same lot or tract of land may be enforced in the same action.

H. This section applies to all cities and towns organized and operating under the general law of this state, and cities and towns organized and operating under a special act or charter.

I. For purposes of this section:

1. "Property" includes buildings, grounds, lots and tracts of land.
2. "Structures" includes buildings, improvements and other structures that are constructed or placed on land.