

Tenn. Code. Ann. §6-54-113 (2012)

6-54-113. Removal of vegetation and debris from certain lots.

(a) (1) "Municipality," as used in this section, includes incorporated cities and towns and metropolitan governments.

(2) The authority provided in this section is permissive and not mandatory and may or may not be exercised by a municipality, as each municipality deems appropriate.

(b) If it is determined by the appropriate department or person as designated by the governing body of a municipality that any owner of record of real property has created, maintained or permitted to be maintained on such property the growth of trees, vines, grass, underbrush or the accumulation of debris, trash, litter, or garbage, or any combination of the preceding elements, so as to endanger the health, safety or welfare of other citizens or to encourage the infestation of rats and other harmful animals, the appropriate department or person shall provide notice to the owner of record to remedy the condition immediately. The notice shall be given by United States mail, addressed to the last known address of the owner of record. The notice shall be written in plain language and shall also include, but not be limited to, the following elements:

(1) A brief statement of this section, which shall contain the consequences of failing to remedy the noted condition;

(2) The person, office, address and telephone number of the department or person giving notice;

(3) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the community; and

(4) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(c) (1) (A) If the person fails or refuses to remedy the condition within ten (10) days after receiving the notice, the appropriate department or person shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards and the cost thereof assessed against the owner of the property. The municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds of the county in which the property lies, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(B) When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the appropriate department or person shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. Subdivision (c)(1)(A) shall apply to the collection of costs against the owner of an owner-occupied residential property, except that the municipality shall wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subdivision (c)(1)(A) for these charges.

(2) If the person who is the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage or other materials, the ten-day period specified

in subdivision (a)(1) shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays.

(d) (1) The municipal governing body or the appropriate department, or both, may make any rules and regulations necessary for the administration and enforcement of this section. The municipality shall provide for a hearing upon request of the person aggrieved by the determination made pursuant to subsection (b). A request for a hearing shall be made within ten (10) days following the receipt of the notice issued pursuant to subsection (b). Failure to make the request within this time shall without exception constitute a waiver of the right to a hearing.

(2) Any person aggrieved by an order or act of the board, agency or commission under this subsection (d) may seek judicial review of the order or act. The time period established in subsection (c) shall be stayed during the pendency of a hearing.

(e) The provisions of this section are in addition and supplemental to, and not in substitution for, similar authority in any municipality's charter or other applicable law.

(f) In the event a privately owned cemetery would otherwise meet the requirements of this section, and if a Boy Scout troop or other organization were to remedy the conditions existing on such property, the municipality shall be prohibited from filing a lien against such property for the value of the work performed by such organization. Such organization shall be immune from any legal action for damages, and no cause of action for civil or criminal liability may be brought by the owner of record of the cemetery or descendants of those buried in the cemetery against such organization, so long as reasonable care is taken by such organization not to violate § 46-2-105, § 46-3-108 [repealed], or any other provision of law, rule or regulation.

(g) (1) As used in this subsection (g):

(A) "Community organization" means a community-oriented organization or group including, but not limited to, a school group, church youth group, or community support group; and

(B) "Vacant property" means property on which no building exists or on which a building exists but any such building is no longer utilized for any business, commercial or residential purposes.

(2) Except as provided in subsection (f), if a person fails to remedy the condition on vacant property within the time period prescribed by subsection (c), subject to any stay as provided in subsection (d), upon the adoption of a resolution by a two-thirds (2/3) vote of the municipal legislative body of any municipality located in any county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census, to implement this subsection (g) within any such municipality, a community organization shall be entitled to petition the municipality to enter upon such vacant property to remedy the conditions identified in subsection (b). Upon the filing of such a petition, the municipality is authorized to contract with such community organization for such purposes. The contract shall provide for the manner in which the community organization shall be compensated for remedying the conditions pursuant to such contract. Any municipality that contracts with a community organization for such purposes shall be absolutely immune from any liability to any and all persons and for damage to the vacant property for conditions remedied by the community organization. No monetary liability and no cause of action of any nature shall arise against the municipality for acts of omission or commission of such community organization for conditions remedied pursuant to such contract.

HISTORY: Acts 1988, ch. 564, § 1; 1989, ch. 100, § 1; 1991, ch. 515, §§ 1, 3; 1993, ch. 210, § 1; 2007, ch. 382, §§ 1, 2; 2010, ch. 923, § 3.