

DRAFT DOCUMENT: NOT OFFICIAL LEGISLATION

A BILL

TO BE ENTITLED

AN ACT

Relating to the City of Alabaster; to provide for the abatement of plants which become a nuisance under certain conditions; to provide for notice to property owners; to provide for the assessment of costs for abatement; to provide for the collection of costs; and to provide for liens in certain circumstances.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) The Mayor of the City of Alabaster shall designate a city official or employee to serve as the enforcing official for public nuisances related to plants in the city.

(b) The enforcing official may serve written notice upon the owner of any property in the city informing the owner that a nuisance is located on the property and ordering the abatement of the nuisance.

(c) (1) The written notice shall require the owner to complete the abatement of the nuisance within 14 days from service of the notice. Upon finding that the difficulty of the abatement or other unusual factors necessitate additional time, the enforcing official may provide the owner up to 28

29 days from service of the notice to complete the abatement.

30 (2) The written notice shall notify the owner that, in
31 lieu of completing the abatement within the time stated in the
32 notice, the owner may appear at a hearing before the
33 administrative official to determine whether the conditions on
34 the property constitute a public nuisance that should be
35 abated. The owner shall notify the enforcing official of the
36 owner's intent to appear at the hearing within five days of
37 service of the written notice. The hearing shall take place at
38 least 10 days after service of the written notice.

39 (3) The written notice shall apprise the owner of the
40 facts of the alleged nuisance, including a description or
41 address of the property that provides reasonable notice of its
42 location; the address of the enforcing official; and the date,
43 time, and place of the hearing before the administrative
44 official.

45 (d)(1) The enforcing official, on or before the date of
46 service of the written notice on the owner, shall post the
47 written notice in a conspicuous place on the property on which
48 the nuisance is located.

49 (2) The enforcing official shall serve the owner with
50 the written notice in one of the following methods:

51 a. By hand delivering it to the owner.

52 b. By mailing it to the owner at the owner's last known
53 address by first class mail.

54 c. By leaving it at the owner's residence or place of
55 business with an individual of suitable age and discretion
56 residing or employed at that location.

d. If the owner is not an individual, by delivering it to an agent of the owner.

(3) Service by first class mail is complete upon mailing.

(e) (1) The enforcing official may rely upon information appearing on record in the office of the county tax collector, tax assessor, or revenue commissioner to establish the identity of an owner of property and to establish the owner's last known address. Use of this information shall be deemed conclusive and sufficient proof of the information.

(2) The enforcing official may use any additional means of providing notice that he or she deems appropriate including, but not limited to, posting notice in one or more public places within the city or publishing notice in a newspaper of general circulation in the city.

Section 2. (a) The city council shall designate an individual other than the enforcing official to serve as the administrative official for the purposes of this act.

(b) Upon receipt of an owner's intent to appear at a hearing, the administrative official shall suspend the order to abate.

(c) The administrative official, upon agreement with the owner, may reschedule the hearing or continue the hearing for good cause.

(d) A hearing held pursuant to this act shall be open to the public. Any interested party may present evidence or testimony. The city shall keep a record of the proceedings as part of the city's public records.

85 (e) Within five days after the conclusion of a hearing,
86 the administrative official shall render a written decision on
87 the merits of the proposed abatement. The administrative
88 official shall deliver the written decision to the owner and
89 the enforcing official by personal service or by first class
90 mail.

91 (f) If the administrative official determines that a
92 nuisance does not exist, the notice to abate is void. The
93 determination does not bar any subsequent public nuisance
94 notice at the same property.

95 (g) If the administrative official determines that a
96 nuisance does exist, the written decision shall inform the
97 owner that the nuisance must be abated within 14 days from
98 service of the determination. Upon finding that the difficulty
99 of the abatement or other unusual factors necessitate
100 additional time, the administrative official may provide the
101 owner up to 28 days from service of the determination to
102 complete the abatement.

103 (h) An owner, within 10 days after receipt of a
104 determination, may appeal the determination to the circuit
105 court by filing with the circuit court clerk a notice of
106 appeal and bond for security of costs in the form and amount
107 approved by the circuit clerk. Upon receipt of an adequate
108 notice of appeal and bond, the circuit clerk shall serve a
109 copy of the notice of appeal on the city clerk and the appeal
110 shall be docketed in the circuit court and shall be a
111 preferred case. Upon receipt of the notice, the city clerk
112 shall file with the circuit clerk a copy of the finding and

determination of the administrative official. Any trial shall be held without a jury.

Section 3. (a) If a nuisance is not abated within the time permitted by the enforcing official's non-suspended notice or, following a hearing attended by the owner, within the time permitted by the administrative official's determination, then the city may enter upon the property and abate the nuisance or contract for the abatement of the nuisance. However, if an appeal has been filed pursuant to this act, then the city may not abate the nuisance until the determination or judgment authorizing abatement becomes final as provided by law.

(b) Upon completion of abatement work by or under contract with the city, the enforcing official shall create an itemized list of the city's expenses in abating the nuisance, including, but not limited to, the cost of labor, value of the use of equipment, advertising expenses, postage, administrative expenses, legal expenses, or materials purchased.

(c) The itemized statement and a notice of the time fixed by the city council to consider the assessment of the costs against the property shall be sent by first class mail to the last known address of the owner of the property at least five days before the fixed time.

(d) At the fixed time, the city council shall receive and consider the itemized statement and any objections which may be raised by the owner of the property. The council may modify the statement as necessary. Following all due

141 consideration, the council may adopt a resolution assessing
142 the appropriate costs. The costs stated in the resolution
143 shall constitute a lien on the property and shall be referred
144 to as a weed lien on the property.

145 (e) The city council shall provide a copy of any
146 resolution adopted pursuant to this section to the county
147 revenue commissioner. The county revenue commissioner shall
148 add the costs of the weed lien to the next regular bill for
149 taxes levied against the property subject to the weed lien,
150 and the costs shall be collected and remitted to the city at
151 the same time and in the same manner as ordinary municipal ad
152 valorem taxes are collected and remitted. The weed lien shall
153 be subject to the same penalties and the same procedure under
154 foreclosure and sale in the case of delinquency as ordinary
155 municipal ad valorem taxes. However, in a foreclosure and sale
156 resulting solely due to a delinquency caused by a weed lien,
157 the city shall reimburse the county for all costs associated
158 with the foreclosure and sale unless the costs are collected
159 at the time of the sale as part of the sale.

160 (f) The city clerk may also file a certified copy of
161 the resolution showing the weed lien with the office of the
162 judge of probate.

163 Section 4. When a weed lien is made against a lot or
164 parcel of land, a subsequent redemption of the lot or parcel
165 by a person authorized to redeem, or a sale of the lot or
166 parcel by the state, shall not discharge or in any other way
167 alter the city's weed lien.

168 Section 5. This act shall become effective on June 1,

169 2025.