

Tenn. Code Ann. § 5-1-115

Current through the 2019 Regular Session.

TN - Tennessee Code Annotated > Title 5 Counties > Chapter 1 General Provisions > Part 1 Counties Generally

5-1-115. Removal of vegetation and debris from certain lots. [For Amendment contingent on county approval; see the Compiler's Notes.]

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

(b)If it is determined by the appropriate department or person, as designated by the governing body of a county, 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, garbage, or any combination of the preceding elements, or a vacant dilapidated building or structure, 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 state that the owner of the property is entitled to a hearing. 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)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 cost shall be a lien upon the property in favor of the county. These costs shall be placed upon the tax rolls of the county as a lien upon the property and shall be collected in the same manner as the county's taxes are collected, when the county causes a notice thereof to be filed in the office of the register of deeds of the county in which the property lies, second only to liens of the state, county and municipality for taxes, any

lien of the county 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. Such notice shall identify the owner of record of the real property, contain the property address, describe the property sufficiently to identify it and recite the amount of the obligation secured by the lien.

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

(d)

(1) The county governing body or the appropriate department, or both, may make any rules and regulations necessary for the administration and enforcement of this section. The county 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)(1) Except in any county having a population of:

<u>not less than</u>	<u>nor more than</u>
5,800.....	6,100
31,500.....	31,800
40,200.....	40,500
55,700.....	56,000
77,800.....	78,000
92,200.....	92,500

according to the 1990 federal census or any subsequent federal census, the provisions of subsection (c) permitting a county to remedy such dangerous conditions shall not apply to any parcel of property upon which an owner-occupied residence is located.

(2) Notwithstanding subdivision (e)(1), in any county having a population of not less than sixty-nine thousand four hundred (69,400) nor more than sixty-nine thousand five hundred (69,500), according to the 2000 federal census or any subsequent federal census, the provisions of subsection (c) permitting a county to remedy such dangerous conditions shall apply to any parcel of property, including any parcel upon which an owner-occupied residence is located.

(3) This subsection (e) shall not apply to subsection (g).

(4) Notwithstanding subdivision (e)(1), in any county having a population of not less than twenty-seven thousand seven hundred (27,700) nor more than twenty-seven

thousand eight hundred (27,800), according to the 2010 federal census or any subsequent federal census, subsection (c) permitting a county to remedy such dangerous conditions shall apply to any parcel of property, including any parcel upon which an owner-occupied residence is located.

(5)Notwithstanding subdivision (e)(1), in any county having a population of not less than seventy-two thousand three hundred (72,300) nor more than seventy-two thousand four hundred (72,400), according to the 2010 federal census or any subsequent federal census, subsection (c) permitting a county to remedy such dangerous conditions shall apply to any parcel of property, including any parcel upon which an owner-occupied residence is located.

(6)Notwithstanding subdivision (e)(1), in any county having a population of not less than thirty-eight thousand three hundred (38,300) and not more than thirty-eight thousand four hundred (38,400), according to the 2010 federal census or any subsequent federal census, subsection (c) permitting a county to remedy such dangerous conditions shall apply to any parcel of property, including any parcel upon which an owner-occupied residence is located.

(7)Notwithstanding subdivision (e)(1), in any county having a population of not less than fifty-seven thousand four hundred (57,400) and not more than fifty-seven thousand five hundred (57,500), according to the 2010 federal census or any subsequent federal census, subsection (c) permitting a county to remedy such dangerous conditions shall apply to any parcel of property, including any parcel upon which an owner-occupied residence is located.

(f)This section is in addition and supplemental to, and not in substitution for, similar authority in any county's charter or other applicable law.

(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, neighborhood preservation nonprofit corporation, 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)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 county legislative body of 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 such county, a community organization shall be entitled to petition the county to enter upon such vacant property to remedy the conditions identified in subsection (b). Upon the filing of such a petition, the county 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 county 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 county for acts of omission or commission of such community organization for conditions remedied pursuant to such contract.

History

Acts 1989, ch. 49, § 1; 1990, ch. 941, §§ 1, 2; 1992, ch. 997, § 1; 1994, ch. 894, §§ 1-3; 1996, ch. 613, § 1; 1999, ch. 53, § 1; 2000, ch. 791, § 1; 2003, ch. 3, § 1; 2006, ch. 530, § 1; 2010, ch. 923, §§ 1, 2; 2014, ch. 963, § 2; 2015, ch. 258, § 1; 2016, ch. 681, § 1; 2017, ch. 303, § 1; 2018, ch. 815, § 1.

Annotations

Notes

Compiler's Notes.

Acts 1994, ch. 894, § 4 provided that if any provision of that act, which amended this section, or its application to any person or circumstance is held invalid, then all provisions and applications of that act are invalid and void.

Acts 2000, ch. 791, § 2 provided that this act shall have no effect in any county having a population of not less than 92,200 nor more than 92,500, according to the 1990 federal census or any subsequent federal census, unless it is approved by a two-thirds vote of the legislative body of such county. The text set out above reflects the amended section by ch. 791 if approved by the two-thirds vote.

Acts 2014, ch. 963, § 5 provided that the secretary of state is authorized to promulgate rules to effectuate the purposes of the act. All such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

For table of U.S. decennial populations of Tennessee counties, see Volume 13 and its supplement.

Amendments.

The 2014 amendment, effective January 1, 2015, inserted "neighborhood preservation nonprofit corporation," in (g)(1)(A).

The 2015 amendment added (e)(4).

The 2016 amendment added (e)(5).

The 2017 amendment added (e)(6).

The 2018 amendment added (e)(7).

Effective Dates.

Acts 2014, ch. 963, § 6. January 1, 2015; provided that for the purpose of promulgating rules and making necessary provisions for the implementation of the act, this act shall take effect May 19, 2014.

Acts 2015, ch. 258, § 2. April 24, 2015.

Acts 2016, ch. 681, § 2. March 24, 2016.

Acts 2017, ch. 303, § 2. May 5, 2017.

Acts 2018, ch. 815, § 2. April 27, 2018.

Research References & Practice Aids

Cross-References.

Removal of vegetation and debris from certain lots, municipal power, § 6-54-113.

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