

Senate Engrossed

municipal ordinances; penalties; notice

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 150

SENATE BILL 1601

AN ACT

AMENDING SECTION 9-499, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL ORDINANCES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-499, Arizona Revised Statutes, is amended to
3 read:

4 9-499. Removal of rubbish, trash, weeds, filth, debris and
5 dilapidated buildings; removal by city; costs
6 assessed; collection; priority of assessment;
7 responsibility of payment; definitions

8 A. The governing body of a city or town, by ordinance, shall compel
9 the owner, lessee or occupant of property to remove from the property and
10 its contiguous sidewalks, streets and alleys any rubbish, trash, weeds or
11 other accumulation of filth, debris or dilapidated buildings that
12 constitute a hazard to public health and safety. An ordinance shall
13 require:

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

29 2. Provisions for appeal on both the notice and the assessments,
30 unless the removal or abatement is ordered by a court.

31 3. That any person that recklessly places or causes to be placed
32 any rubbish, trash, filth or debris on any property not owned or under the
33 control of that person:

34 (a) Is guilty of a class 1 misdemeanor or a civil violation unless
35 that person immediately removes or causes to be removed the rubbish,
36 trash, filth or debris from that property. One hundred percent of any
37 assessed fine or civil penalty shall be deposited in the general fund of
38 the city or town in which the fine or civil penalty was assessed. At
39 least fifty percent of the fine or civil penalty shall be used by the city
40 or town for the purposes of illegal dumping cleanup.

41 (b) In addition to any fine or penalty imposed for a violation of
42 this section, is liable for all costs that may be assessed pursuant to
43 this section for removing, abating or enjoining the rubbish, trash, filth
44 or debris and for all costs incurred by the owner, lessee, occupant or

1 lienholder of the property in the removal and disposal of the rubbish,
2 trash, filth or debris.

3 (c) If required to remove any rubbish, trash, filth or debris
4 pursuant to this section, shall provide the city or town with a receipt
5 from a disposal facility or other documentation evidencing lawful disposal
6 of the rubbish, trash, filth or debris.

7 B. Any person that places or causes to be placed any rubbish,
8 trash, filth or debris on any property that is more than forty acres in
9 size and that is not owned or under the control of that person retains
10 ownership of the rubbish, trash, filth or debris until the person lawfully
11 disposes of the rubbish, trash, filth or debris.

12 C. The ordinance may provide that if any person with an interest in
13 the property, including an owner, lienholder, lessee or occupant, after
14 notice as required by subsection A, paragraph 1 of this section does not
15 remove or cause to be removed the rubbish, trash, weeds, filth, debris or
16 dilapidated buildings and abate the condition that constitutes a hazard to
17 public health and safety, the city or town may remove, abate, enjoin or
18 cause their removal.

19 D. The governing body of the city or town may prescribe by
20 ordinance a procedure for the removal or abatement, and for making the
21 actual cost of the removal or abatement, including the actual costs of any
22 additional inspection and other incidental connected costs, an assessment
23 on the property from which the rubbish, trash, weeds, buildings or other
24 accumulations are removed or abated.

25 E. The ordinance may provide that the cost of removal, abatement or
26 injunction of the rubbish, trash, weeds, filth, debris or dilapidated
27 buildings from any property, and associated legal costs for abatement or
28 injunctions, shall be assessed on the property from which the rubbish,
29 trash, weeds, accumulations or dilapidated buildings are removed, abated
30 or enjoined. The city or town may record the assessment in the county
31 recorder's office in the county in which the property is located,
32 including the date and amount of the assessment, the legal description of
33 the property and the name of the city or town imposing the assessment.
34 Any assessment recorded after July 15, 1996 is prior and superior to all
35 other liens, obligations, mortgages or other encumbrances, except liens
36 for general taxes. A sale of the property to satisfy an assessment
37 obtained under this section shall be made on judgment of foreclosure and
38 order of sale. A city or town shall have the right to bring an action to
39 enforce the assessment in the superior court in the county in which the
40 property is located at any time after the recording of the assessment, but
41 failure to enforce the assessment by such action shall not affect its
42 validity. The recorded assessment is prima facie evidence of the truth of
43 all matters recited in the assessment and of the regularity of all
44 proceedings before the recording of the assessment. The assessment

1 provided for in this subsection shall not be levied against state or
2 federal property.

3 F. Assessments that are imposed under this section run against the
4 property until paid and are due and payable in equal annual installments
5 as follows:

6 1. Assessments of less than ~~five hundred dollars~~ \$500 shall be paid
7 within one year after the assessment is recorded.

8 2. Assessments of ~~five hundred dollars~~ \$500 or more but less than
9 ~~one thousand dollars~~ \$1,000 shall be paid within two years after the
10 assessment is recorded.

11 3. Assessments of ~~one thousand dollars~~ \$1,000 or more but less than
12 ~~five thousand dollars~~ \$5,000 shall be paid within three years after the
13 assessment is recorded.

14 4. Assessments of ~~five thousand dollars~~ \$5,000 or more but less
15 than ~~ten thousand dollars~~ \$10,000 shall be paid within six years after the
16 assessment is recorded.

17 5. Assessments of ~~ten thousand dollars~~ \$10,000 or more shall be
18 paid within ten years after the assessment is recorded.

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

21 H. A prior assessment for the purposes provided in this section
22 shall not be a bar to a subsequent assessment or assessments for these
23 purposes, and any number of assessments on the same property may be
24 enforced in the same action.

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

28 J. Notwithstanding subsection F of this section, for residential
29 property of four or fewer units, a city or town may not require payment of
30 the assessments imposed under this section by the homeowner if the
31 property was serving as a rental and had a tenant during the time of the
32 removal of the rubbish, trash, filth or debris.

33 K. THE GOVERNING BODY OF A CITY OR TOWN MAY NOT IMPOSE A FINE,
34 PENALTY OR ASSESSMENT FOR A VIOLATION OF THIS SECTION UNTIL THE NOTICE
35 REQUIREMENT OF SUBSECTION A, PARAGRAPH 1 OF THIS SECTION HAS BEEN MET AND
36 THE TIME TO REQUEST AN APPEAL OF THE NOTICE AND THE ASSESSMENT AS REQUIRED
37 PURSUANT TO SUBSECTION A, PARAGRAPH 2 OF THIS SECTION HAS ELAPSED.

38 ~~K.~~ L. For the purposes of this section:

39 1. "Dilapidated building" means any real property structure that is
40 likely to burn or collapse and its condition endangers the life, health,
41 safety or property of the public.

42 2. Owner does not include a state or federal landowner.

43 3. "Property" includes real property and structures on the real
44 property.

S.B. 1601

APPROVED BY THE GOVERNOR MARCH 26, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 26, 2021.