

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1512

By: Gilbert

AS INTRODUCED

An Act relating to cities and towns; establishing procedures to be followed by municipality to abate illegal activity at property within municipality; authorizing enactment of ordinances for certain purposes; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 22-135 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section, "illegal activity" means any activity that would constitute a crime under the Oklahoma Statutes. Upon a request submitted by a citizen, a municipal governing body may abate illegal activity at property located within the municipality in accordance with the following procedure:

1. At least five (5) days' notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the governing body holds a hearing or takes action. The notice shall order the property owner to cease all illegal activity at the property or, if the illegal activity is being conducted by someone other than the

owner of the property, to abate the illegal activity at the property by eviction or any other lawful means. The notice shall further state that unless the illegal activity is discontinued within ten (10) days of the date of the notice the municipality shall be authorized to act to abate the illegal activity at the property, to assess the costs of abating the illegal activity and to file a notice of lien with the county clerk against the property for the costs due and owing the municipality. At the time of mailing of notice to the property owner, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if the property owner cannot be located within five (5) days from the date of mailing by the municipal governing body, notice may be given by posting a copy of the notice on the property or by publication, as defined in Section 1-102 of Title 11 of the Oklahoma Statutes, one time not less than five (5) days prior to any hearing or action by the municipality;

2. The owner of the property may give written consent to the municipality abating the illegal activity. By giving written consent, the owner waives the right to a hearing by the municipality;

3. A hearing may be held by the municipal governing body to determine whether the property has been used for illegal activity;

4. Upon a finding that the property has been used for illegal activity, the agents of the municipality are granted the right of entry on the property for the purpose of abating the illegal activity. The municipal clerk shall file a notice of lien with the county clerk describing the property and the work performed by the municipality and stating that the municipality claims a lien on the property for the costs of abating the illegal activity on the property;

5. The governing body shall determine the actual cost of abating the illegal activity at the property and any other expenses as may be necessary, including the cost of notice and mailing. The municipal clerk shall forward by mail to the property owner specified in paragraph 1 of this subsection a statement of the actual cost and demanding payment;

6. If payment is not made within twenty (20) days from the date of the mailing of the statement, the municipal clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the county treasurer. In addition, the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection, the county treasurer shall collect a fee of Five Dollars (\$5.00) for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. At any time prior to the collection as provided in this paragraph, the municipality may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, if any, the municipal clerk shall

forward to the county treasurer a notice of such payment and directing discharge of the lien; and

7. The municipality may designate by ordinance an administrative officer or administrative body to carry out the duties of the governing body in this subsection. The property owner shall have a right of appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within five (5) days after the administrative order is rendered.

B. If a notice is given by a municipal governing body to a property owner ordering the property within the municipality to abate the illegal activity in accordance with the procedures provided for in subsection A of this section, any subsequent illegal activity which occurs at the property within a six-month period may be declared to be a nuisance and may be summarily abated by the municipality without further prior notice to the property owner. At the time of each such summary abatement, the municipality shall notify the property owner of the abatement and the costs thereof. The notice shall state that the property owner may request a hearing within five (5) days after the date of mailing the notice. The notice and hearing shall be as provided for in subsection A of this section. Unless otherwise determined at the hearing, the cost of the abatement shall be determined and collected as provided for in paragraphs 5 and 6 of subsection A of this section. This subsection shall not apply if the records of the county clerk show that the property was transferred after notice was given pursuant to subsection A of this section.

C. The municipal governing body may enact ordinances to prohibit owners of property or persons otherwise in possession or control of property located within the municipal limits from

permitting illegal activity on the premises and may impose penalties for violation of said ordinances.

SECTION 2. This act shall become effective November 1, 1997.

46-1-5761

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