

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

3RD CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED

HOUSE BILL NO. 1492

By: Nations and Pettigrew of
the House

and

Brown of the Senate

3RD CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to cities and towns; amending 11 O.S. 1991, Section 21-110, which relates to detachment of municipal territory; setting forth certain procedures for detachment of municipal territory; deleting certain reference to appeal of certain action; providing that failure to comply renders certain petition insufficient; requiring clerk to determine sufficiency of signatures; requiring certain publication; authorizing public hearing; requiring appeal to be in certain manner; amending 11 O.S. 1991, Section 22-112, as amended by Section 1, Chapter 83, O.S.L. 1997 (11 O.S. Supp. 1998, Section 22-112), which relates to condemnation of dilapidated buildings; modifying definition; amending 11 O.S. 1991, Section 39-108, which relates to hearings upon creation of improvement districts; deleting certain exceptions regarding entities which may file certain protest or objection; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 21-110, is amended to read as follows:

Section 21-110. A. Territory may be detached from the corporate limits of a municipality by the governing body when:

1. An ordinance of the governing body so directs; or
2. A petition requesting detachment, signed by at least three-fourths (3/4) of the registered voters and by the owners of at

1 least three-fourths (3/4), ~~(in value)~~, of the property to be
2 detached, is filed with the governing body.

3 Only land which is within the limits of the municipality and
4 upon its border and not laid out in lots and blocks~~r~~, or land which
5 had been annexed to a municipality, may be detached by petition.

6 B. Petitioners for detachment of municipal territory shall
7 comply with the following procedures:

8 1. A true and complete unsigned copy of the petition requesting
9 detachment shall be filed with the clerk of the municipality before
10 it is circulated and signed by at least three-fourths (3/4) of the
11 registered voters and by the owners of at least three-fourths (3/4),
12 in value, of the property to be detached, as required by subsection
13 A of this section;

14 2. Signed copies of the petition requesting detachment shall be
15 filed with the clerk of the municipality within ninety (90) days
16 after the initial filing of the unsigned copy with the clerk; and

17 3. Notice of ~~any governing body action on a petition~~ the filing
18 of the signed petition requesting detachment, ~~and appeal to the~~
19 district court, with the clerk of the municipality shall be given in
20 the same manner provided for petitions requesting annexation.

21 Failure to comply with the notice requirement or the other
22 procedures set forth in this subsection shall render the petition
23 for detachment insufficient and no action thereon shall be required
24 by the clerk or governing body of the municipality.

25 C. When signed copies of the petition requesting detachment are
26 timely filed with the clerk of the municipality, the clerk shall
27 determine the sufficiency of the signatures appearing on the
28 petition. The clerk shall then publish, in at least one newspaper
29 of general circulation in the municipality, a notice of the filing
30 and the apparent sufficiency or insufficiency of the petition.
31 Within ten (10) days following the publication, the governing body
32 of the municipality shall hold a public hearing on the petition

1 requesting detachment and take such action thereon as the governing
2 body deems appropriate, which may include approval, denial, or
3 deferral.

4 D. Appeal to the district court concerning any action by the
5 clerk or governing body of the municipality on a petition requesting
6 detachment shall be in the same manner provided for petitions
7 requesting annexation.

8 SECTION 2. AMENDATORY 11 O.S. 1991, Section 22-112, as
9 amended by Section 1, Chapter 83, O.S.L. 1997 (11 O.S. Supp. 1998,
10 Section 22-112), is amended to read as follows:

11 Section 22-112. A. A municipal governing body may cause
12 dilapidated buildings within the municipal limits to be torn down
13 and removed in accordance with the ~~provisions of this section.~~
14 following procedures:

15 1. At least ten (10) days' notice that a building is to be torn
16 down or removed shall be given to the owner of the property before
17 the governing body holds a hearing. A copy of the notice shall be
18 posted on the property to be affected. In addition, a copy of the
19 notice shall be sent by mail to the property owner at the address
20 shown by the current year's tax rolls in the office of the county
21 treasurer. Written notice shall also be mailed to any mortgage
22 holder as shown by the records in the office of the county clerk to
23 the last-known address of the mortgagee. At the time of mailing of
24 notice to any property owner or mortgage holder, the municipality
25 shall obtain a receipt of mailing from the postal service, which
26 receipt shall indicate the date of mailing and the name and address
27 of the mailee. However, if neither the property owner nor mortgage
28 holder can be located, notice may be given by posting a copy of the
29 notice on the property, or by publication as defined in Section 1-
30 102 of this title. The notice may be published once not less than
31 ten (10) days prior to any hearing or action by the municipality
32 pursuant to the provisions of this section-;

1 2. A hearing shall be held by the governing body to determine
2 if the property is dilapidated and has become detrimental to the
3 health, safety, or welfare of the general public and the community,
4 or if the property creates a fire hazard which is dangerous to other
5 property-;i

6 3. Pursuant to a finding that the condition of the property
7 constitutes a detriment or a hazard and that the property would be
8 benefited by the removal of such conditions, the governing body may
9 cause the dilapidated building to be torn down and removed. The
10 governing body shall fix reasonable dates for the commencement and
11 completion of the work. The municipal clerk shall immediately file
12 a notice of dilapidation and lien with the county clerk describing
13 the property, the findings of the municipality at the hearing, and
14 stating that the municipality claims a lien on the property for the
15 destruction and removal costs and that such costs are the personal
16 obligation of the property owner from and after the date of filing
17 of the notice. The agents of the municipality are granted the right
18 of entry on the property for the performance of the necessary duties
19 as a governmental function of the municipality if the work is not
20 performed by the property owner within dates fixed by the governing
21 body-;i

22 4. The governing body shall determine the actual cost of the
23 dismantling and removal of dilapidated buildings and any other
24 expenses that may be necessary in conjunction with the dismantling
25 and removal of the buildings, including the cost of notice and
26 mailing. The municipal clerk shall forward a statement of the
27 actual cost attributable to the dismantling and removal of the
28 buildings and a demand for payment of such costs, by mail to the
29 property owner. In addition, a copy of the statement shall be
30 mailed to any mortgage holder at the address provided for in
31 paragraph 1 of this ~~section~~ subsection. At the time of mailing of
32 the statement of costs to any property owner or mortgage holder, the

1 municipality shall obtain a receipt of mailing from the postal
2 service, which receipt shall indicate the date of mailing and the
3 name and address of the mailee. If a municipality dismantles or
4 removes any dilapidated buildings, the cost to the property owner
5 shall not exceed the actual cost of the labor, maintenance, and
6 equipment required for the dismantling and removal of the
7 dilapidated buildings. If dismantling and removal of the
8 dilapidated buildings is done on a private contract basis, the
9 contract shall be awarded to the lowest and best bidder; and

10 5. When payment is made to the municipality for costs incurred,
11 the municipal clerk shall file a release of lien, but if payment
12 attributable to the actual cost of the dismantling and removal of
13 the buildings is not made within six (6) months from the date of the
14 mailing of the statement to the owner of such property, the
15 municipal clerk shall forward a certified statement of the amount of
16 the cost to the county treasurer of the county in which the property
17 is located. The costs shall be levied on the property and collected
18 by the county treasurer as are other taxes authorized by law. Until
19 finally paid, the costs and the interest thereon shall be the
20 personal obligation of the property owner from and after the date of
21 the notice of dilapidation and lien is filed with the county clerk.
22 In addition the cost and the interest thereon shall be a lien
23 against the property from the date the notice of the lien is filed
24 with the county clerk. The lien shall be coequal with the lien of
25 ad valorem taxes and all other taxes and special assessments and
26 shall be prior and superior to all other titles and liens against
27 the property. The lien shall continue until the cost is fully paid.
28 At the time of collection, the county treasurer shall collect a fee
29 of Five Dollars (\$5.00) for each parcel of property. The fee shall
30 be deposited to the credit of the general fund of the county. At
31 any time prior to collection as provided for in this paragraph, the
32 municipality may pursue any civil remedy for collection of the

1 amount owing and interest thereon including an action in personam
2 against the property owner and an action in rem to foreclose its
3 lien against the property. A mineral interest, if severed from the
4 surface interest and not owned by the surface owner, shall not be
5 subject to any tax or judgment lien created pursuant to this
6 section. Upon receiving payment, the municipal clerk shall forward
7 to the county treasurer a notice of such payment and shall direct
8 discharge of the lien.

9 ~~6.~~ B. The municipality may designate, by ordinance, an
10 administrative officer or administrative body to carry out the
11 duties of the governing body specified in this section. The
12 property owner shall have the right of appeal to the municipal
13 governing body from any order of the administrative officer or
14 administrative body. Such appeal shall be taken by filing written
15 notice of appeal with the municipal clerk within ten (10) days after
16 the administrative order is rendered.

17 ~~7.~~ C. For the purposes of this section:

18 a. ~~"dilapidated"~~

19 1. "Dilapidated building" means:

20 a. a structure which through neglect or injury lacks
21 necessary repairs or otherwise is in a state of decay
22 or partial ruin to such an extent that the structure
23 is a hazard to the health, safety, or welfare of the
24 general public ~~or,~~

25 b. a ~~vacant~~ structure which is unfit for human occupancy
26 due to the lack of necessary repairs and is considered
27 uninhabitable ~~and~~ or is a hazard to the health,
28 safety, and welfare of the general public, ~~and~~

29 b. ~~"owner"~~

30 c. a structure which is determined by the municipal
31 governing body or administrative officer of the
32 municipal governing body to be an unsecured building,

1 as defined by Section 22-112.1 of this title, more
2 than three times within any twelve-month period,

3 d. a structure which has been boarded and secured, as
4 defined by Section 22-112.1 of this title, for more
5 than thirty-six (36) consecutive months, or

6 e. a structure declared by the municipal governing body
7 to constitute a public nuisance; and

8 2. "Owner" means the owner of record as shown by the most
9 current tax rolls of the county treasurer.

10 ~~8. D.~~ D. Nothing in the provisions of this section shall prevent
11 the municipality from abating a dilapidated building as a nuisance
12 or otherwise exercising its police power to protect the health,
13 safety, or welfare of the general public.

14 ~~9. E.~~ E. The officers, employees or agents of the municipality
15 shall not be liable for any damages or loss of property due to the
16 removal of dilapidated buildings performed pursuant to the
17 provisions of this section or as otherwise prescribed by law.

18 ~~10. F.~~ F. The provisions of this ~~act~~ section shall not apply to
19 any property zoned and used for agricultural purposes.

20 SECTION 3. AMENDATORY 11 O.S. 1991, Section 39-108, is
21 amended to read as follows:

22 Section 39-108. A. At the hearing of the governing body on the
23 proposed resolution creating a district, any interested person or
24 owner of property to be assessed for the improvement, ~~except a~~
25 ~~school district, city or county,~~ may file a written protest or
26 objection questioning the:

- 27 1. Propriety and advisability of constructing the improvement;
- 28 2. Estimated cost of the improvement;
- 29 3. Manner of paying for the improvement; and
- 30 4. Amount to be assessed against the individual tract or parcel
31 of land.

1 B. The governing body may recess the hearing from time to time
2 so that all protestants may be heard.

3 C. At the hearing, the governing body may:

4 1. Correct any mistake or irregularity in any proceeding
5 relating to the improvement;

6 2. Correct an assessment made against any tract or parcel of
7 land;

8 3. In case of any invalidity, reassess the cost of the
9 improvement against an abutting tract or parcel of land;

10 4. Delete any tract or parcel of land, protested by the owner,
11 from the district; and

12 5. Recess the hearing from time to time.

13 D. Within thirty (30) days after the governing body has
14 concluded the hearing; determined the advisability of constructing
15 the improvement and the type and character of the improvement; and
16 created the improvement district, any person who, during the
17 hearing, filed a written protest with the governing body protesting
18 the construction of the improvement may commence an action in
19 district court to correct or set aside the determination of the
20 governing body. After the lapse of thirty (30) days succeeding the
21 determination of the governing body, any action attacking the
22 validity of the proceedings and the amount of benefit to be derived
23 from the improvement is perpetually barred. Provided, however, if
24 the owners of fifty percent (50%) or more in area of the tracts or
25 parcels within the district or a majority of the owners of record of
26 property in the assessment area protest, in writing, the creation of
27 the district, the district shall not be created.

28 SECTION 4. This act shall become effective November 1, 1999.

29
30 47-1-7245 JAF 6/11/15
31
32