

SB 1337

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THE STATE SENATE  
Wednesday, March 1, 2006

Senate Bill No. 1337  
As Amended

SENATE BILL NO. 1337 - By: LEFTWICH of the Senate and THOMPSON of the House.

An Act relating to cities and towns; amending 11 O.S. 2001, Section 22-111, which relates to cleaning and mowing of property; modifying provisions for certain exemptions; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 22-111, is amended to read as follows:

Section 22-111. A. A municipal governing body may cause property within the municipal limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the following procedure:

1. At least ten (10) days' notice shall be given to the owner of the property by mail at the address shown by the current year's most recent tax rolls in the county treasurer's or county assessor's office before the governing body holds a hearing or takes action. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and the notice shall further state that unless such work is performed within ten (10) days of the date of the notice the

1 work shall be done by the municipality and a notice of lien shall be  
2 filed with the county clerk against the property for the costs due  
3 and owing the municipality. At the time of mailing of notice to the  
4 property owner, the municipality shall obtain a receipt of mailing  
5 from the postal service, which receipt shall indicate the date of  
6 mailing and the name and address of the ~~mailee~~ recipient. However,  
7 if the property owner cannot be located within ten (10) days from  
8 the date of mailing by the municipal governing body, notice may be  
9 given by posting a copy of the notice on the property or by  
10 publication, as defined in Section 1-102 of this title, one time not  
11 less than ten (10) days prior to any hearing or action by the  
12 municipality. If a municipal governing body anticipates summary  
13 abatement of a nuisance in accordance with the provisions of  
14 subsection B of this section, the notice, whether by mail, posting  
15 or publication, shall state: that any accumulations of trash or  
16 excessive weed or grass growth on the owner's property occurring  
17 within six (6) months from and after the date of this notice may be  
18 summarily abated by the municipal governing body; that the costs of  
19 such abatement shall be assessed against the owner; and that a lien  
20 may be imposed on the property to secure such payment, all without  
21 further prior notice to the property owner;

22 2. The owner of the property may give written consent to the  
23 municipality authorizing the removal of the trash or the mowing of

1 the weeds or grass. By giving written consent, the owner waives the  
2 owner's right to a hearing by the municipality;

3 3. A hearing may be held by the municipal governing body to  
4 determine whether the accumulation of trash or the growth of weeds  
5 or grass has caused the property to become detrimental to the  
6 health, benefit, and welfare of the public and the community or a  
7 hazard to traffic, or creates a fire hazard to the danger of  
8 property;

9 4. Upon a finding that the condition of the property  
10 constitutes a detriment or hazard, and that the property would be  
11 benefited by the removal of such conditions, the agents of the  
12 municipality are granted the right of entry on the property for the  
13 removal of trash, mowing of weeds or grass, and performance of the  
14 necessary duties as a governmental function of the municipality.  
15 Immediately following the cleaning or mowing of the property, the  
16 municipal clerk shall file a notice of lien with the county clerk  
17 describing the property and the work performed by the municipality,  
18 and stating that the municipality claims a lien on the property for  
19 the cleaning or mowing costs;

20 5. The governing body shall determine the actual cost of such  
21 cleaning and mowing and any other expenses as may be necessary in  
22 connection therewith, including the cost of notice and mailing. The  
23 municipal clerk shall forward by mail to the property owner

1 specified in paragraph 1 of this subsection a statement of such  
2 actual cost and demanding payment. If the cleaning and mowing are  
3 done by the municipality, the cost to the property owner for the  
4 cleaning and mowing shall not exceed the actual cost of the labor,  
5 maintenance, and equipment required. If the cleaning and mowing are  
6 done on a private contract basis, the contract shall be awarded to  
7 the lowest and best bidder;

8 6. If payment is not made within thirty (30) days from the date  
9 of the mailing of the statement, the municipal clerk shall forward a  
10 certified statement of the amount of the cost to the county  
11 treasurer of the county in which the property is located and the  
12 same shall be levied on the property and collected by the county  
13 treasurer as other taxes authorized by law. Once certified by the  
14 county treasurer, payment may only be made to the county treasurer  
15 except as otherwise provided for in this section. Until fully paid,  
16 the cost and the interest thereon shall be the personal obligation  
17 of the property owner from and after the date the cost is certified  
18 to the county treasurer. In addition the cost and the interest  
19 thereon shall be a lien against the property from the date the cost  
20 is certified to the county treasurer, coequal with the lien of ad  
21 valorem taxes and all other taxes and special assessments and prior  
22 and superior to all other titles and liens against the property, and  
23 the lien shall continue until the cost shall be fully paid. At the

1 time of collection the county treasurer shall collect a fee of Five  
2 Dollars (\$5.00) for each parcel of property. The fee shall be  
3 deposited to the credit of the general fund of the county. If the  
4 county treasurer and the municipality agree that the county  
5 treasurer is unable to collect the assessment, the municipality may  
6 pursue a civil remedy for collection of the amount owing and  
7 interest thereon by an action in personam against the property owner  
8 and an action in rem to foreclose its lien against the property. A  
9 mineral interest, if severed from the surface interest and not owned  
10 by the surface owner, shall not be subject to any tax or judgment  
11 lien created pursuant to this section. Upon receiving payment, if  
12 any, the municipal clerk shall forward to the county treasurer a  
13 notice of such payment and directing discharge of the lien; and

14 7. The municipality may designate by ordinance an  
15 administrative officer or administrative body to carry out the  
16 duties of the governing body in subsection A of this section. The  
17 property owner shall have a right of appeal to the municipal  
18 governing body from any order of the administrative officer or  
19 administrative body. Such appeal shall be taken by filing written  
20 notice of appeal with the municipal clerk within ten (10) days after  
21 the administrative order is rendered.

22 B. If a notice is given by a municipal governing body to a  
23 property owner ordering the property within the municipal limits to

1 be cleaned of trash and weeds or grass to be cut or mowed in  
2 accordance with the procedures provided for in subsection A of this  
3 section, any subsequent accumulations of trash or excessive weed or  
4 grass growth on the property occurring within a six-month period may  
5 be declared to be a nuisance and may be summarily abated without  
6 further prior notice to the property owner. At the time of each  
7 such summary abatement the municipality shall notify the property  
8 owner of the abatement and the costs thereof. The notice shall  
9 state that the property owner may request a hearing within ten (10)  
10 days after the date of mailing the notice. The notice and hearing  
11 shall be as provided for in subsection A of this section. Unless  
12 otherwise determined at the hearing, the cost of such abatement  
13 shall be determined and collected as provided for in paragraphs 5  
14 and 6 of subsection A of this section. This subsection shall not  
15 apply if the records of the county clerk show that the property was  
16 transferred after notice was given pursuant to subsection A of this  
17 section.

18 C. The municipal governing body may enact ordinances to  
19 prohibit owners of property or persons otherwise in possession or  
20 control located within the municipal limits from allowing trash to  
21 accumulate, or weeds to grow or stand upon the premises and may  
22 impose penalties for violation of said ordinances.

23 D. As used in this section:

1        1. "Weed" includes but is not limited to poison ivy, poison  
2 oak, or poison sumac and all vegetation at any state of maturity  
3 which:

- 4            a. exceeds twelve (12) inches in height, except healthy  
5 trees, shrubs, or produce for human consumption grown  
6 in a tended and cultivated garden unless such trees  
7 and shrubbery by their density or location constitute  
8 a detriment to the health, benefit and welfare of the  
9 public and community or a hazard to traffic or create  
10 a fire hazard to the property or otherwise interfere  
11 with the mowing of said weeds~~+~~l
- 12            b. regardless of height, harbors, conceals, or invites  
13 deposits or accumulation of refuse or trash~~+~~l
- 14            c. harbors rodents or vermin~~+~~l
- 15            d. gives off unpleasant or noxious odors~~+~~l
- 16            e. constitutes a fire or traffic hazard~~+~~l or
- 17            f. is dead or diseased.

18        The term "weed" shall not include tended crops on land zoned for  
19 agricultural use which are planted more than one hundred fifty (150)  
20 feet from a parcel zoned for other than agricultural use~~+~~i

21        2. "Trash" means any refuse, litter, ashes, leaves, debris,  
22 paper, combustible materials, rubbish, offal, or waste, or matter of  
23 any kind or form which is uncared for, discarded, or abandoned~~+~~i

1           3. "Owner" means the owner of record as shown by the most  
2 current tax rolls of the county assessor or treasurer-; and

3           4. "Cleaning" means the removal of trash from property.

4           E. The provisions of this section shall not apply to any  
5 property zoned and used for agricultural purposes or to railroad  
6 property under the jurisdiction of the Oklahoma Corporation  
7 Commission.—~~However; provided,~~ a municipal governing body may cause  
8 the removal of weeds or trash from property zoned and used for  
9 agricultural purposes and recover the cost for such removal pursuant  
10 to the ~~provisions~~ procedures set forth in subsections A and B of  
11 this section, but only if such weeds or trash pose a fire hazard or  
12 a hazard to traffic and are located in, or within ten (10) yards of,  
13 ~~the a paved~~ public right-of-way at intersections used for vehicular  
14 travel.

15           SECTION 2. This act shall become effective November 1, 2006.

16           COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 2-27-06  
17 - DO PASS, As Amended and Coauthored.