

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2536

By: McCullough

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6 AS INTRODUCED

7 An Act relating to cities and towns; amending 11 O.S.
8 2001, Section 22-111, as amended by Section 1,
Chapter 77, O.S.L. 2006 (11 O.S. Supp. 2007, Section
9 22-111), which relates to the Oklahoma Municipal
Code; modifying fees for discharge of certain lien;
10 amending 19 O.S. 2001, Section 266, which relates to
filing and copying fees charged to state governmental
11 entities by the county clerk; expanding exemptions to
include municipalities; amending 28 O.S. 2001,
12 Section 32, as last amended by Section 2, Chapter
288, O.S.L. 2004 (28 O.S. Supp. 2007, Section 32),
13 which relates to county clerk fees; exempting cities
and municipalities from certain fees; and providing
14 an effective date.

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

18 SECTION 1. AMENDATORY 11 O.S. 2001, Section 22-111, as
19 amended by Section 1, Chapter 77, O.S.L. 2006 (11 O.S. Supp. 2007,
20 Section 22-111), is amended to read as follows:

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

1 1. At least ten (10) days' notice shall be given to the owner
2 of the property by mail at the address shown by the current year's
3 tax rolls in the county clerk's or county treasurer's office before
4 the governing body holds a hearing or takes action. The notice
5 shall order the property owner to clean the property of trash, or to
6 cut or mow the weeds or grass on the property, as appropriate, and
7 the notice shall further state that unless such work is performed
8 within ten (10) days of the date of the notice the work shall be
9 done by the municipality and a notice of lien shall be filed with
10 the county clerk against the property for the costs due and owing
11 the municipality. At the time of mailing of notice to the property
12 owner, the municipality shall obtain a receipt of mailing from the
13 postal service, which receipt shall indicate the date of mailing and
14 the name and address of the mailee. However, if the property owner
15 cannot be located within ten (10) days from the date of mailing by
16 the municipal governing body, notice may be given by posting a copy
17 of the notice on the property or by publication, as defined in
18 Section 1-102 of this title, one time not less than ten (10) days
19 prior to any hearing or action by the municipality. If a municipal
20 governing body anticipates summary abatement of a nuisance in
21 accordance with the provisions of subsection B of this section, the
22 notice, whether by mail, posting or publication, shall state: that
23 any accumulations of trash or excessive weed or grass growth on the
24 owner's property occurring within six (6) months from and after the

1 date of this notice may be summarily abated by the municipal
2 governing body; that the costs of such abatement shall be assessed
3 against the owner; and that a lien may be imposed on the property to
4 secure such payment, all without further prior notice to the
5 property owner;

6 2. The owner of the property may give written consent to the
7 municipality authorizing the removal of the trash or the mowing of
8 the weeds or grass. By giving written consent, the owner waives the
9 owner's right to a hearing by the municipality;

10 3. A hearing may be held by the municipal governing body to
11 determine whether the accumulation of trash or the growth of weeds
12 or grass has caused the property to become detrimental to the
13 health, benefit, and welfare of the public and the community or a
14 hazard to traffic, or creates a fire hazard to the danger of
15 property;

16 4. Upon a finding that the condition of the property
17 constitutes a detriment or hazard, and that the property would be
18 benefited by the removal of such conditions, the agents of the
19 municipality are granted the right of entry on the property for the
20 removal of trash, mowing of weeds or grass, and performance of the
21 necessary duties as a governmental function of the municipality.
22 Immediately following the cleaning or mowing of the property, the
23 municipal clerk shall file a notice of lien with the county clerk
24 describing the property and the work performed by the municipality,

1 and stating that the municipality claims a lien on the property for
2 the cleaning or mowing costs;

3 5. The governing body shall determine the actual cost of such
4 cleaning and mowing and any other expenses as may be necessary in
5 connection therewith, including the cost of notice and mailing. The
6 municipal clerk shall forward by mail to the property owner
7 specified in paragraph 1 of this subsection a statement of such
8 actual cost and demanding payment. If the cleaning and mowing are
9 done by the municipality, the cost to the property owner for the
10 cleaning and mowing shall not exceed the actual cost of the labor,
11 maintenance, and equipment required. If the cleaning and mowing are
12 done on a private contract basis, the contract shall be awarded to
13 the lowest and best bidder;

14 6. If payment is not made within thirty (30) days from the date
15 of the mailing of the statement, then within the next sixty (60)
16 days, the municipal clerk shall forward a certified statement of the
17 amount of the cost to the county treasurer of the county in which
18 the property is located and the same shall be levied on the property
19 and collected by the county treasurer as other taxes authorized by
20 law. Once certified by the county treasurer, payment may only be
21 made to the county treasurer except as otherwise provided for in
22 this section. Until fully paid, the cost and the interest thereon
23 shall be the personal obligation of the property owner from and
24 after the date the cost is certified to the county treasurer. In

1 addition the cost and the interest thereon shall be a lien against
2 the property from the date the cost is certified to the county
3 treasurer, coequal with the lien of ad valorem taxes and all other
4 taxes and special assessments and prior and superior to all other
5 titles and liens against the property, and the lien shall continue
6 until the cost shall be fully paid. At the time of collection the
7 county treasurer shall collect a fee of ~~Five Dollars (\$5.00)~~ Twenty-
8 five Dollars (\$25.00) for each parcel of property. The fee shall be
9 deposited to the credit of the general fund of the county. If the
10 county treasurer and the municipality agree that the county
11 treasurer is unable to collect the assessment, the municipality may
12 pursue a civil remedy for collection of the amount owing and
13 interest thereon by an action in person against the property owner
14 and an action in rem to foreclose its lien against the property. A
15 mineral interest, if severed from the surface interest and not owned
16 by the surface owner, shall not be subject to any tax or judgment
17 lien created pursuant to this section. Upon receiving payment, if
18 any, the municipal clerk shall forward to the county treasurer a
19 notice of such payment and directing discharge of the lien; and

20 7. The municipality may designate by ordinance an
21 administrative officer or administrative body to carry out the
22 duties of the governing body in subsection A of this section. The
23 property owner shall have a right of appeal to the municipal
24 governing body from any order of the administrative officer or

1 administrative body. Such appeal shall be taken by filing written
2 notice of appeal with the municipal clerk within ten (10) days after
3 the administrative order is rendered.

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

23 C. The municipal governing body may enact ordinances to
24 prohibit owners of property or persons otherwise in possession or

1 control located within the municipal limits from allowing trash to
2 accumulate, or weeds to grow or stand upon the premises and may
3 impose penalties for violation of said ordinances.

4 D. As used in this section:

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

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

22 The term "weed" shall not include tended crops on land zoned for
23 agricultural use which are planted more than one hundred fifty (150)
24 feet from a parcel zoned for other than agricultural use₊;

1 2. "Trash" means any refuse, litter, ashes, leaves, debris,
2 paper, combustible materials, rubbish, offal, or waste, or matter of
3 any kind or form which is uncared for, discarded, or abandoned-;

4 3. "Owner" means the owner of record as shown by the most
5 current tax rolls of the county treasurer- or county clerk; and

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

7 E. The provisions of this section shall not apply to any
8 property zoned and used for agricultural purposes or to railroad
9 property under the jurisdiction of the Oklahoma Corporation
10 Commission. However, a municipal governing body may cause the
11 removal of weeds or trash from property zoned and used for
12 agricultural purposes pursuant to the provisions of this section but
13 only if such weeds or trash pose a hazard to traffic and are located
14 in, or within ten (10) yards of, the public right-of-way at
15 intersections.

16 SECTION 2. AMENDATORY 19 O.S. 2001, Section 266, is
17 amended to read as follows:

18 Section 266. The county clerk may charge any state agency or
19 other state governmental entity, except child support enforcement
20 offices operated by or for the benefit of the Oklahoma Department of
21 Human Services, rural water districts organized pursuant to the
22 Rural Water, Sewer, Gas and Solid Waste Management Districts Act,
23 and ~~the Oklahoma Boll Weevil Eradication Organization for liens~~
24 ~~filed pursuant to the Boll Weevil Eradication Act~~ any municipal

1 governing body, the usual and customary fee for filing any document
2 with the county clerk and may charge the usual and customary fee for
3 making copies of any document.

4 SECTION 3. AMENDATORY 28 O.S. 2001, Section 32, as last
5 amended by Section 2, Chapter 288, O.S.L. 2004 (28 O.S. Supp. 2007,
6 Section 32), is amended to read as follows:

7 Section 32. A. Notwithstanding any other provision of law
8 county clerks shall charge and collect the following flat fees to be
9 uniform throughout the state regardless of the recording method
10 used, and the county clerks shall not be required to itemize or
11 charge these fees pursuant to any other schedule, except as
12 specifically provided by law:

- 13 1. For recording the first page of deeds,
14 mortgages and any other instruments not
15 subject to the fee imposed by Section 1-9-525
16 of Title 12A of the Oklahoma Statutes.....\$8.00
- 17 2. For recording each additional page of same
18 instrument.....\$2.00
- 19 3. For furnishing hard copies of microfilmed
20 records to bonded abstractors only, per page.....\$1.00
- 21 4. For furnishing photographic copies of
22 photographic records, or of typewritten script
23 or printed records, per page.....\$1.00
- 24 5. For recording plat of one block or less..... \$10.00

- 1 6. For recording plat of more than one block..... \$25.00
- 2 7. For certifying to any copy per page..... \$1.00
- 3 8. For recording an assignment of Tax Sale
- 4 Certificate to be paid by the party purchasing.....\$5.00
- 5 9. For recording of any mark or brand and giving
- 6 certificate for same.....\$5.00
- 7 10. For recording each certificate for estrays
- 8 and forwarding description of same, as
- 9 required by law.....\$1.00
- 10 11. a. For recording and filing of mechanics'
- 11 or materialmen's liens which includes
- 12 the release thereof.....\$10.00
- 13 b. For preparing and mailing notice of
- 14 mechanics' or materialmen's lien.....\$8.00
- 15 plus the actual cost of postage
- 16 c. For each additional page or exhibit.....\$2.00
- 17 12. For recording and filing of fictitious name
- 18 partnership certificates.....\$5.00
- 19 To this fee shall be added the fees required
- 20 by Sections 81 through 86 of Title 54 of the
- 21 Oklahoma Statutes.
- 22 13. For recording the first page of deeds,
- 23 mortgages, and any other instruments which
- 24 are nonconforming pursuant to subsection C of

1 Section 298 of Title 19 of the Oklahoma
2 Statutes..... \$25.00

3 14. For recording each additional page of an
4 instrument which is nonconforming pursuant to
5 subsection C of Section 298 of Title 19 of
6 the Oklahoma Statutes..... \$10.00

7 B. The fees prescribed in paragraph 4 of subsection A of this
8 section shall be deposited into the County Clerk's Lien Fee Account,
9 created pursuant to Section 265 of Title 19 of the Oklahoma
10 Statutes.

11 C. For the purpose of preserving, maintaining, and archiving
12 recorded instruments including, but not limited to, records
13 management, records preservation, automation, modernization, and
14 related lawful expenditures, in addition to all other fees required
15 by law, the county clerk shall collect Five Dollars (\$5.00) for each
16 instrument recorded with the Registrar of Deeds.

17 D. There is hereby created a fund to be known as the "County
18 Clerk's Records Management and Preservation Fund". The fund shall
19 be a continuing fund, not subject to fiscal year limitations, and
20 shall consist of the fees and monies accruing to the fund, as
21 prescribed in subsection C of this section with all monies accruing
22 to the fund to be expended by the clerk and not transferred to any
23 other fund. The intent of this section is to increase the net
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1 funding level available to the county clerk to maintain and preserve
2 public records.

3 E. The fees and costs prescribed in this section shall not
4 apply to child support enforcement offices operated by or on behalf
5 of the Department of Human Services' Child Support Enforcement
6 Division. County clerks shall not charge any fees or costs to such
7 offices, the Division, or the Department.

8 F. The fees and costs prescribed in this section shall not
9 apply to nuisance and lien filings filed on behalf of cities and
10 municipalities.

11 SECTION 4. This act shall become effective November 1, 2008.

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13 51-2-9135 LRB 01/11/08

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