

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2594

By: Kirby

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5
6 AS INTRODUCED

7 An Act relating to legal notice of publication;
8 amending 11 O.S. 2001, Section 1-102, which relates
9 to the Oklahoma Municipal Code; modifying definition;
10 amending 25 O.S. 2001, Section 106, which relates to
11 legal notice of publication; allowing notice to be
12 published on a municipal website; modifying
13 publication requirements if there is no legal
14 newspaper in a county; and providing an effective
15 date.

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

17 SECTION 1. AMENDATORY 11 O.S. 2001, Section 1-102, is
18 amended to read as follows:

19 Section 1-102. As used in the Oklahoma Municipal Code:

20 1. "Charter municipality" or "Municipality governed by charter"
21 means any municipality which has adopted a charter in accordance
22 with the provisions of the Constitution and laws of Oklahoma and at
23 the time of adoption of the charter had a population of two thousand
24 (2,000) or more. Once a municipal charter has been adopted and
approved, it becomes the organic law of the municipality in all
matters pertaining to the local government of the municipality and

1 prevails over state law on matters relating to purely municipal
2 concerns;

3 2. "City" means a municipality which has incorporated as a city
4 in accordance with the laws of this state;

5 3. "Governing body" or "Municipal governing body" means the
6 city council of a city, the board of trustees of a town, or the
7 legislative body of a municipality, as it may be defined by
8 applicable law or charter provision;

9 4. "Mayor" means the official head of the municipal government
10 as defined by applicable law or charter provision. The mayor is the
11 presiding officer of the governing body in all statutory forms of
12 municipal government, and is the chief executive officer in cities
13 having the statutory aldermanic and statutory strong-mayor-council
14 forms of city government;

15 5. "Municipality" means any incorporated city or town;

16 6. "Officer or official" means any person who is elected to an
17 office in municipal government or is appointed to fill an unexpired
18 term of an elected office, and the clerk and the treasurer whether
19 elected or appointed. When "officer" or "official" is modified by a
20 term which refers to a personnel position or duty, the holder of the
21 position or duty is not an officer or official of the municipality
22 for any purpose;

23 7. "Ordinance" means a formal legislative act of a municipal
24 governing body which has the force and effect of a continuing

1 regulation and a permanent rule of conduct or government for the
2 municipality;

3 8. "Publish" or "Publication" means printing in a newspaper
4 which:

5 a. maintains an office in the municipality and is of
6 general circulation in the municipality. If there is
7 no such newspaper, then in any newspaper which is of
8 general circulation in the municipality; and

9 b. meets the requirements of a legal newspaper as
10 provided in Section 106 of Title 25 of the Oklahoma
11 Statutes.

12 If there is no newspaper meeting the requirements as provided
13 for in this paragraph, the term publish or publication shall mean
14 posting a copy of the item ~~to be published in ten or more public~~
15 ~~places in the municipality. When a notice is required to be~~
16 ~~published for a prescribed period of time, publishing the notice one~~
17 ~~(1) day each week during the prescribed period of publication is~~
18 ~~sufficient in accordance with Section 103 of Title 25 of the~~
19 ~~Oklahoma Statutes~~ on the municipality's website;

20 9. "Quorum" means a majority of all the members of the
21 governing body, board, or commission, including vacant positions;

22 10. "Registered voter" means any person who is a qualified
23 elector, as defined by the provisions of Section 1 of Article III of
24 the Oklahoma Constitution, who resides within the limits of a

1 municipality and who has registered to vote in the precinct of his
2 residence;

3 11. "Resident" means a person whose actual dwelling or primary
4 residence is located within the corporate limits of the
5 municipality;

6 12. "Resolution" means a special or temporary act of a
7 municipal governing body which is declaratory of the will or opinion
8 of a municipality in a given matter and is in the nature of a
9 ministerial or administrative act. A resolution is not a law and
10 does not prescribe a permanent rule of conduct or government; and

11 13. "Town" means a municipality which has incorporated as a
12 town in accordance with the laws of Oklahoma.

13 SECTION 2. AMENDATORY 25 O.S. 2001, Section 106, is
14 amended to read as follows:

15 Section 106. No legal notice, advertisement, or publication of
16 any kind required or provided for by the laws of this state to be
17 published in a newspaper shall have force or effect unless published
18 in a legal newspaper of the county or on a municipality's website.

19 A legal newspaper of the county is any newspaper which, during a
20 period of one hundred four (104) consecutive weeks immediately prior
21 to the first publication of such notice, advertisement, or
22 publication:

23 1. Has maintained a paid general subscription circulation in
24 the county; and

1 2. Has been admitted to the United States mails as paid
2 second-class mail matter; and

3 3. Has been continuously and uninterruptedly published in the
4 county.

5 If there is no legal newspaper in a county, then all legal notices,
6 advertisements, or publications of any kind required or provided for
7 by the laws of this state shall be published ~~in a legal newspaper in~~
8 ~~an adjoining county of this state, which newspaper has general~~
9 ~~circulation in the county or political subdivision in which such~~
10 ~~notice is required~~ on the municipality's website.

11 Nothing in this section shall invalidate the publication of such
12 legal notices, advertisements, or publications in a newspaper which
13 has moved its place of publication from one location in the county
14 to another location in the same county without breaking the
15 continuity of its regular issues for the requisite length of time,
16 or the name of which may have been changed when said change of
17 location was made as permitted by United States postal laws and
18 regulations. Failure to issue or publish said newspaper for a
19 period of fourteen (14) days due to fire, accident, or other
20 unforeseen cause, or by reason of the pendency of mortgage
21 foreclosure, attachment, execution, or other legal proceedings
22 against the type, presses, or other personal property used by the
23 newspaper, shall not be deemed a failure to maintain continuous and
24 consecutive publication as required by the provisions of this

1 section, nor shall said failure invalidate the publication of a
2 notice otherwise valid. Failure to issue or publish a newspaper
3 qualified to publish legal notices, advertisements, or publications
4 of any kind, for a period totaling not more than fourteen (14)
5 consecutive days during a calendar year shall not be deemed a
6 failure to maintain continuous and consecutive publication as
7 required by the provisions of this section, nor shall said failure
8 invalidate the publication of a notice otherwise valid.

9 SECTION 3. This act shall become effective November 1, 2010.

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