

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2476

By: Scott of the House

and

Johnson (Rob) of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to cities and towns; amending 11 O.S.
12 2011, Section 22-111, which relates to general powers
13 of municipalities; modifying notice requirement;
 modifying number of days to send certain statement to
 treasurer; and providing an effective date.

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

17 SECTION 1. AMENDATORY 11 O.S. 2011, Section 22-111, is
18 amended to read as follows:

19 Section 2-111. A. A municipal governing body may cause
20 property within the municipal limits to be cleaned of trash and
21 weeds or grass to be cut or mowed in accordance with the following
22 procedure:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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1 or publication, shall state: that any accumulations of trash or
2 excessive weed or grass growth on the owner's property occurring
3 within six (6) months from and after the date of this notice may be
4 summarily abated by the municipal governing body; that the costs of
5 such abatement shall be assessed against the owner; and that a lien
6 may be imposed on the property to secure such payment, all without
7 further prior notice to the property owner;

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

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

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

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

18 6. If payment is not made within thirty (30) days from the date
19 of the mailing of the statement, then within the next ~~sixty (60)~~
20 thirty (30) days, the municipal clerk shall forward a certified
21 statement of the amount of the cost to the county treasurer of the
22 county in which the property is located and the same shall be levied
23 on the property and collected by the county treasurer as other taxes

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

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1 municipal clerk shall forward to the county treasurer a notice of
2 such payment and directing discharge of the lien; and

3 7. The municipality may designate by ordinance an
4 administrative officer or administrative body to carry out the
5 duties of the governing body in subsection A of this section. The
6 property owner shall have a right of appeal to the municipal
7 governing body from any order of the administrative officer or
8 administrative body. Such appeal shall be taken by filing written
9 notice of appeal with the municipal clerk within ten (10) days after
10 the administrative order is rendered.

11 B. If a notice is given by a municipal governing body to a
12 property owner or mortgage holder ordering the property within the
13 municipal limits to be cleaned of trash and weeds or grass to be cut
14 or mowed in accordance with the procedures provided for in
15 subsection A of this section, any subsequent accumulations of trash
16 or excessive weed or grass growth on the property occurring within a
17 six-month period may be declared to be a nuisance and may be
18 summarily abated without further prior notice to the property owner.
19 At the time of each such summary abatement the municipality shall
20 notify the property owner of the abatement and the costs thereof.
21 The notice shall state that the property owner may request a hearing
22 within ten (10) days after the date of mailing the notice. The
23 notice and hearing shall be as provided for in subsection A of this

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1 section. Unless otherwise determined at the hearing the cost of
2 such abatement shall be determined and collected as provided for in
3 paragraphs 5 and 6 of subsection A of this section. This subsection
4 shall not apply if the records of the county clerk show that the
5 property was transferred after notice was given pursuant to
6 subsection A of this section.

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

12 D. As used in this section:

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

16 a. exceeds twelve (12) inches in height, except healthy
17 trees, shrubs, or produce for human consumption grown
18 in a tended and cultivated garden unless such trees
19 and shrubbery by their density or location constitute
20 a detriment to the health, benefit and welfare of the
21 public and community or a hazard to traffic or create
22 a fire hazard to the property or otherwise interfere
23 with the mowing of said weeds~~†~~1

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- 1 b. regardless of height, harbors, conceals, or invites
2 deposits or accumulation of refuse or trash~~;~~;
3 c. harbors rodents or vermin~~;~~;
4 d. gives off unpleasant or noxious odors~~;~~;
5 e. constitutes a fire or traffic hazard~~;~~; or
6 f. is dead or diseased.

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

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

13 3. "Owner" means the owner of record as shown by the most
14 current tax rolls of the county treasurer~~;~~; and

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

16 E. The provisions of this section shall not apply to any
17 property zoned and used for agricultural purposes or to railroad
18 property under the jurisdiction of the Oklahoma Corporation
19 Commission. However, a municipal governing body may cause the
20 removal of weeds or trash from property zoned and used for
21 agricultural purposes pursuant to the provisions of this section but
22 only if such weeds or trash pose a hazard to traffic and are located
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1 in, or within ten (10) yards of, the public right-of-way at
2 intersections.

3 SECTION 2. This act shall become effective November 1, 2012.
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5 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
6 03/01/2012 - DO PASS, As Amended and Coauthored.
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