

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 2602

By: Hamilton

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5
6 AS INTRODUCED

7 An Act relating to cities and towns; amending 11 O.S.
8 2011, Section 22-111, as amended by Section 1,
9 Chapter 136, O.S.L. 2012 (11 O.S. Supp. 2013, Section
10 22-111), which relates to cleaning and mowing of
11 property; modifying filing and mailing of certain
12 notice; modifying awarding of contract; requiring
13 civil remedy be the same as other actions brought by
14 certain collector; and providing an effective date.

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

15 SECTION 1. AMENDATORY 11 O.S. 2011, Section 22-111, as
16 amended by Section 1, Chapter 136, O.S.L. 2012 (11 O.S. Supp. 2013,
17 Section 22-111), is amended to read as follows:

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

22 1. At least ten (10) days' notice shall be given to the owner
23 of the property by mail at the address shown by the current year's
24 tax rolls in the county treasurer's office before the governing body

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

1 secure such payment, all without further prior notice to the
2 property owner;

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

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

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

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

13 6. If payment is not made within thirty (30) days from the date
14 of the mailing of the statement, then within the next thirty (30)
15 days, the municipal clerk shall ~~forward~~ cause to be forwarded a
16 certified statement of the amount of the cost to the county
17 treasurer of the county in which the property is located and the
18 same shall be levied on the property and collected by the county
19 treasurer as other taxes authorized by law. Once certified by the
20 county treasurer, payment may only be made to the county treasurer
21 except as otherwise provided for in this section. In addition the
22 cost and the interest thereon shall be a lien against the property
23 from the date the cost is certified to the county treasurer,
24 assignable to the bidder that provides the highest and best bid to

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

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

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

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

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

6 D. As used in this section:

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

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

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

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

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

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

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

19 SECTION 2. This act shall become effective November 1, 2014.

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