

1 ENGROSSED SENATE  
2 BILL NO. 1107

By: Simpson of the Senate

3 and

4 Ownbey of the House

5  
6 An Act relating to cities and towns; amending 11 O.S.  
7 2011, Sections 22-111, as amended by Section 1,  
8 Chapter 136, O.S.L. 2012 and 22-112.1, which relate  
9 to abatement proceedings; modifying procedure for  
10 municipality to recover certain costs; and providing  
11 an effective date.

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

13 SECTION 1. AMENDATORY 11 O.S. 2011, Section 22-111, as  
14 amended by Section 1, Chapter 136, O.S.L. 2012 (11 O.S. Supp. 2017,  
15 Section 22-111), is amended to read as follows:

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

20 1. At least ten (10) days' notice shall be given to the owner  
21 of the property by mail at the address shown by the current year's  
22 tax rolls in the county treasurer's office before the governing body  
23 holds a hearing or takes action. The notice shall order the  
24 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

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

24

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

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

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

22           5. The governing body shall determine the actual cost of such  
23 cleaning and mowing and any other expenses as may be necessary in  
24 connection therewith, including the cost of notice and mailing. The

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

9 6. If payment is not made within thirty (30) days from the date  
10 of the mailing of the statement, then within the next thirty (30)  
11 days, the municipal clerk shall forward a certified statement of the  
12 amount of the cost to the county treasurer of the county in which  
13 the property is located and the same shall be levied on the property  
14 and collected by the county treasurer ~~as~~ when other taxes are  
15 collected as authorized by law. Further, as with ad valorem taxes,  
16 the county treasurer shall no longer attempt to collect these  
17 municipal liens once seven (7) years have passed from the date they  
18 were first certified or should have been certified to the county.  
19 Further, no property will be sold at the annual tax resale if the  
20 only amount due and owing on the property at the time of resale is a  
21 lien created under this section or Section 22-111 of this title.  
22 Once certified by the county treasurer, payment may only be made to  
23 the county treasurer except as otherwise provided for in this  
24 section. In addition the cost and the interest thereon shall be a

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

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

1 notice of appeal with the municipal clerk within ten (10) days after  
2 the administrative order is rendered.

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

22 C. The municipal governing body may enact ordinances to  
23 prohibit owners of property or persons otherwise in possession or  
24 control located within the municipal limits from allowing trash to

1 accumulate, or weeds to grow or stand upon the premises and may  
2 impose penalties for violation of ~~said~~ the ordinances.

3 D. As used in this section:

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

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

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

24

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; 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       11 O.S. 2011, Section 22-112.1, is  
17 amended to read as follows:

18       Section 22-112.1. A. After a building has been declared  
19 dilapidated, as provided in Section 22-112 of this title, and before  
20 the commencement of the tearing and removal of a dilapidated  
21 building, the governing body of any municipality may authorize that  
22 such a building be boarded and secured. However, if the dilapidated  
23 building is vacant and unfit for human occupancy, the governing body  
24



1 of any municipality may authorize the structure to be demolished  
2 pursuant to Section 22-112 of this title.

3 B. A governing body of any municipality may cause the premises  
4 on which an unsecured building is located to be cleaned of trash and  
5 weeds in accordance with the provisions of Section 22-111 of this  
6 title.

7 C. A governing body of any municipality may cause an unsecured  
8 building to be boarded and secured in accordance with the following  
9 procedures:

10 1. Before the governing body orders such action, at least ten  
11 (10) days' notice that such unsecured building is to be boarded and  
12 secured shall be given by mail to any property owners and mortgage  
13 holders as provided in Section 22-112 of this title. At the time of  
14 mailing of notice to any property owner or mortgage holder, the  
15 municipality shall obtain a receipt of mailing from the postal  
16 service, which receipt shall indicate the date of mailing and the  
17 name and address of the mailee. A copy of the notice shall also be  
18 posted on the property to be affected. However, if neither the  
19 property owner nor mortgage holder can be located, notice may be  
20 given by posting a copy of the notice on the property or by  
21 publication as defined in Section 1-102 of this title. Such notice  
22 shall be published one time, not less than ten (10) days prior to  
23 any hearing or action by the municipality pursuant to the provisions  
24 of this section. If a municipal governing body anticipates summary

1 abatement of a nuisance in accordance with the provisions of  
2 paragraph 9 of this subsection, the notice shall state: that any  
3 subsequent need for boarding and securing the building within a six-  
4 month period after the initial boarding and securing of the building  
5 pursuant to such notice may be summarily boarded and secured by the  
6 municipal governing body; that the costs of such boarding and  
7 securing shall be assessed against the owner; and that a lien may be  
8 imposed on the property to secure such payment, all without further  
9 prior notice to the property owner or mortgage holder;

10 2. The owner of the property may give written consent to the  
11 municipality authorizing the boarding and securing of such unsecured  
12 building and to the payment of any costs incurred thereby. By  
13 giving written consent, the owner waives any right the owner has to  
14 a hearing by the municipal governing body;

15 3. If the property owner does not give written consent to such  
16 actions, a hearing may be held by the municipal governing body to  
17 determine whether the boarding and securing of such unsecured  
18 building would promote and benefit the public health, safety or  
19 welfare. Such hearing may be held in conjunction with a hearing on  
20 the accumulation of trash or the growth of weeds or grass on the  
21 premises of such unsecured building held pursuant to the provisions  
22 of paragraph 3 of subsection A of Section 22-111 of this title. In  
23 making such determination, the governing body shall apply the  
24 following standard: the governing body may order the boarding and

1 securing of the unsecured building when the boarding and securing  
2 thereof would make such building less available for transient  
3 occupation, decrease a fire hazard created by such building, or  
4 decrease the hazard that such building would constitute an  
5 attractive nuisance to children.

6 Upon making the required determination, the municipal governing  
7 body may order the boarding and securing of the unsecured building;

8 4. After the governing body orders the boarding and securing of  
9 such unsecured building, the municipal clerk shall immediately file  
10 a notice of unsecured building and lien with the county clerk  
11 describing the property, stating the findings of the municipality at  
12 the hearing at which such building was determined to be unsecured,  
13 and stating that the municipality claims a lien on the property for  
14 the costs of boarding and securing such building and that such costs  
15 are the personal obligation of the property owner from and after the  
16 date of filing the notice;

17 5. Pursuant to the order of the governing body, the agents of  
18 the municipality are granted the right of entry on the property for  
19 the performance of the boarding and securing of such building and  
20 for the performance of all necessary duties as a governmental  
21 function of the municipality;

22 6. After an unsecured building has been boarded and secured,  
23 the governing body shall determine the actual costs of such actions  
24 and any other expenses that may be necessary in conjunction

1 therewith including the cost of the notice and mailing. The  
2 municipal clerk shall forward a statement of the actual costs  
3 attributable to the boarding and securing of the unsecured building  
4 and a demand for payment of such costs, by mail to any property  
5 owners and mortgage holders as provided in Section 22-112 of this  
6 title. At the time of mailing of the statement of costs to any  
7 property owner or mortgage holder, the municipality shall obtain a  
8 receipt of mailing from the postal service, which receipt shall  
9 indicate the date of mailing and the name and address of the mailee.

10 If a municipality boards and secures any unsecured building, the  
11 cost to the property owner shall not exceed the actual cost of the  
12 labor, materials and equipment required for the performance of such  
13 actions. If such actions are done on a private contract basis, the  
14 contract shall be awarded to the lowest and best bidder;

15 7. When payment is made to the municipality for costs incurred,  
16 the municipal clerk shall file a release of lien, but if payment  
17 attributable to the actual costs of the boarding and securing of the  
18 unsecured building is not made within thirty (30) days from the date  
19 of the mailing of the statement to the owner of such property, the  
20 municipal clerk shall forward a certified statement of the amount of  
21 the costs to the county treasurer of the county in which the  
22 property is located. Once certified to the county treasurer,  
23 payment may only be made to the county treasurer except as otherwise  
24 provided for in this section. At the time of collection the county

1 treasurer shall collect a fee of Five Dollars (\$5.00) for each  
2 parcel of property and such fee shall be deposited to the general  
3 fund of the county. The costs shall be levied on the property and  
4 collected by the county treasurer ~~as are~~ when other taxes are  
5 collected as authorized by law. Further, as with ad valorem taxes,  
6 the county treasurer shall no longer attempt to collect these  
7 municipal liens once seven (7) years have passed from the date they  
8 were first certified or should have been certified to the county.  
9 Further, no property will be sold at the annual tax resale if the  
10 only amount due and owing on the property at the time of resale is a  
11 lien created under this section or Section 22-111 of this title.  
12 Until fully paid, the costs and the interest thereon shall be the  
13 personal obligation of the property owner from and after the date  
14 the notice of unsecured building and lien is filed with the county  
15 clerk. In addition the costs and the interest thereon shall be a  
16 lien against the property from the date the notice of the lien is  
17 filed with the county clerk. The lien shall be coequal with the  
18 lien of ad valorem taxes and all other taxes and special assessments  
19 and shall be prior and superior to all other titles and liens  
20 against the property. The lien shall continue until the costs and  
21 interest are fully paid. If the county treasurer and the  
22 municipality agree that the county treasurer is unable to collect  
23 the assessment, the municipality may pursue a civil remedy for  
24 collection of the amount owing and interest thereon by an action in

1 personam against the property owner and an action in rem to  
2 foreclose its lien against the property. A mineral interest if  
3 severed from the surface owner, shall not be subject to any tax or  
4 judgment lien created pursuant to this section. Upon receiving  
5 payment, the municipal clerk shall forward to the county treasurer a  
6 notice of such payment and shall direct discharge of the lien;

7 8. The municipality may designate by ordinance an  
8 administrative officer or administrative body to carry out the  
9 duties of the governing body specified in subsection C of this  
10 section. The property owner or mortgage holder shall have a right  
11 of appeal to the municipal governing body from any order of the  
12 administrative officer or administrative body. Such appeal shall be  
13 taken by filing written notice of appeal with the municipal clerk  
14 within ten (10) days after the administrative order is rendered;

15 9. If a municipal governing body causes a structure within the  
16 municipal limits to be boarded and secured, any subsequent need for  
17 boarding and securing within a six-month period constitutes a public  
18 nuisance and may be summarily boarded and secured without further  
19 prior notice to the property owner or mortgage holder. At the time  
20 of each such summary boarding and securing, the municipality shall  
21 notify the property owner and mortgage holder of the boarding and  
22 securing and the costs thereof. The notice shall state that the  
23 property owner may request an appeal with the municipal clerk within  
24 ten (10) days after the mailing of the notice. The notice and

1 hearing shall be as provided for in paragraph 1 of this subsection.  
2 Unless otherwise determined at the hearing the cost of such boarding  
3 and securing shall be determined and collected as provided for in  
4 paragraphs 6 and 7 of this subsection;

5 10. A governing body of any municipality may determine that a  
6 building is unsecured and order that such building be boarded and  
7 secured in the manner provided for in this subsection even though  
8 such building has not been declared, by the governing body, to be  
9 dilapidated; and

10 11. For the purposes of this subsection:

11 a. "boarding and securing" or "boarded and secured" means  
12 the closing, boarding or locking of any or all  
13 exterior openings so as to prevent entry into the  
14 structure,

15 b. "unsecured building" shall mean any structure which is  
16 not occupied by a legal or equitable owner thereof, or  
17 by a lessee of a legal or equitable owner, and into  
18 which there are one or more unsecured openings such as  
19 broken windows, unlocked windows, broken doors,  
20 unlocked doors, holes in exterior walls, holes in the  
21 roof, broken basement or cellar hatchways, unlocked  
22 basement or cellar hatchways or other similar  
23 unsecured openings which would facilitate an  
24 unauthorized entry into the structure, and

1 c. "unfit for human occupancy" means a structure that due  
2 to lack of necessary repairs is considered  
3 uninhabitable and is a hazard to the health, safety,  
4 and welfare of the general public.

5 D. The provisions of this section shall not apply to any  
6 property zoned and used for agricultural purposes.

7 SECTION 3. This act shall become effective November 1, 2018.

8 Passed the Senate the 7th day of March, 2018.

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10 \_\_\_\_\_  
11 Presiding Officer of the Senate

12 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
13 2018.

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15 \_\_\_\_\_  
16 Presiding Officer of the House  
17 of Representatives  
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