

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1261

By: Bennett (Forrest)

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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. 2016, Section
10 22-111), which relates to cleaning and mowing of
11 property; providing costs of cleaning and mowing
shall be based on a fair and reasonable market price;
prohibiting an ordinance from establishing a fee
after timely payment of statement; and providing an
effective date.

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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. 2016,
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:

20 a. that any accumulations of trash or excessive weed or
21 grass growth on the owner's property occurring within
22 six (6) months from and after the date of this notice
23 may be summarily abated by the municipal governing
24 body~~†~~

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

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

1 be a lien against the property from the date the cost is certified
2 to the county treasurer, coequal with the lien of ad valorem taxes
3 and all other taxes and special assessments and prior and superior
4 to all other titles and liens against the property, and the lien
5 shall 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 this subsection ~~A of this section~~.
22 The 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 ordinances; provided, that
3 the municipality shall not enact any ordinance that establishes a
4 fee if timely payment is made within thirty (30) days from the date
5 of the mailing of the statement as provided in paragraph 6 of
6 subsection A of this section.

7 D. As used in this section:

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

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

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, 2017.

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