

1 STATE OF OKLAHOMA

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

3 SENATE BILL 420

By: Newberry

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,
Chapter 136, O.S.L. 2012 (11 O.S. Supp. 2016, Section
9 22-111), which relates to general powers of
municipalities, modifying certain definition; and
10 providing an effective date.

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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. 2016,
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

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

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 other taxes authorized by
15 law. Once certified by the county treasurer, payment may only be
16 made to the county treasurer except as otherwise provided for in
17 this section. In addition the cost and the interest thereon shall
18 be a lien against the property from the date the cost is certified
19 to the county treasurer, coequal with the lien of ad valorem taxes
20 and all other taxes and special assessments and prior and superior
21 to all other titles and liens against the property, and the lien
22 shall continue until the cost shall be fully paid. At the time of
23 collection the county treasurer shall collect a fee of Five Dollars
24 (\$5.00) for each parcel of property. The fee shall be deposited to

1 the credit of the general fund of the county. If the county
2 treasurer and the municipality agree that the county treasurer is
3 unable to collect the assessment, the municipality may pursue a
4 civil remedy for collection of the amount owing and interest thereon
5 by an action in person against the property owner and an action in
6 rem to foreclose its lien against the property. A mineral interest,
7 if severed from the surface interest and not owned by the surface
8 owner, shall not be subject to any tax or judgment lien created
9 pursuant to this section. Upon receiving payment, if any, the
10 municipal clerk shall forward to the county treasurer a notice of
11 such payment and directing discharge of the lien; and

12 7. The municipality may designate by ordinance an
13 administrative officer or administrative body to carry out the
14 duties of the governing body in subsection A of this section. The
15 property owner shall have a right of appeal to the municipal
16 governing body from any order of the administrative officer or
17 administrative body. Such appeal shall be taken by filing written
18 notice of appeal with the municipal clerk within ten (10) days after
19 the administrative order is rendered.

20 B. If a notice is given by a municipal governing body to a
21 property owner ordering the property within the municipal limits to
22 be cleaned of trash and weeds or grass to be cut or mowed in
23 accordance with the procedures provided for in subsection A of this
24 section, any subsequent accumulations of trash or excessive weed or

1 grass growth on the property occurring within a six-month period may
2 be declared to be a nuisance and may be summarily abated without
3 further prior notice to the property owner. At the time of each
4 such summary abatement the municipality shall notify the property
5 owner of the abatement and the costs thereof. The notice shall
6 state that the property owner may request a hearing within ten (10)
7 days after the date of mailing the notice. The notice and hearing
8 shall be as provided for in subsection A of this section. Unless
9 otherwise determined at the hearing the cost of such abatement shall
10 be determined and collected as provided for in paragraphs 5 and 6 of
11 subsection A of this section. This subsection shall not apply if
12 the records of the county clerk show that the property was
13 transferred after notice was given pursuant to subsection A of this
14 section.

15 C. The municipal governing body may enact ordinances to
16 prohibit owners of property or persons otherwise in possession or
17 control located within the municipal limits from allowing trash to
18 accumulate, or weeds to grow or stand upon the premises and may
19 impose penalties for violation of ~~said~~ the ordinances.

20 D. As used in this section:

21 1. "Weed" includes but is not limited to poison ivy, poison
22 oak, or poison sumac and all vegetation at any state of maturity
23 which:
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- 1 a. exceeds twelve (12) inches in height, except healthy
2 trees, shrubs, or produce for human consumption grown
3 in a tended and cultivated garden unless such trees
4 and shrubbery by their density or location constitute
5 a detriment to the health, benefit and welfare of the
6 public and community or a hazard to traffic or create
7 a fire hazard to the property or otherwise interfere
8 with the mowing of ~~said~~ the weeds,
- 9 b. regardless of height, harbors, conceals, or invites
10 deposits or accumulation of refuse or trash,
- 11 c. harbors rodents or vermin,
- 12 d. gives off unpleasant or noxious odors,
- 13 e. constitutes a fire or traffic hazard, or
- 14 f. is dead or diseased.

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

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

21 3. "Owner" means the owner of record as shown by the most
22 current tax rolls of the county treasurer or the entity responsible
23 for easements or rights of way on a property; and

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

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

10 SECTION 2. This act shall become effective November 1, 2017.

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