

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1495

By: Simpson

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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. 2019, Section  
10 22-111), and 11 O.S. 2011, Section 22-112, which  
11 relate to general powers of municipalities;  
12 establishing conditions under which certain property  
13 may not be resold at annual tax resale; updating  
14 statutory language; and providing an effective date.

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

16 SECTION 1. AMENDATORY 11 O.S. 2011, Section 22-111, as  
17 amended by Section 1, Chapter 136, O.S.L. 2012 (11 O.S. Supp. 2019,  
18 Section 22-111), is amended to read as follows:

19 Section 22-111. 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:

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

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

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 a notice of lien with the county clerk  
21 describing the property and the work performed by the municipality,  
22 and stating that the municipality claims a lien on the property for  
23 the cleaning or mowing costs;

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

12           6. If payment is not made within thirty (30) days from the date  
13 of the mailing of the statement, then within the next thirty (30)  
14 days, the municipal clerk shall forward a certified statement of the  
15 amount of the cost to the county treasurer of the county in which  
16 the property is located and the same shall be levied on the property  
17 and collected by the county treasurer ~~as~~ when other taxes are  
18 authorized by law. Further, no property will be sold at the annual  
19 tax resale if the only amount due and owing on the property at the  
20 time of resale is a lien created under this section or Section 22-  
21 112 of this title and, the home is occupied by an owner who is one  
22 hundred percent (100%) disabled in accordance with United States  
23 Department of Veterans Affairs guidelines.

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

22       7. The municipality may designate by ordinance an  
23 administrative officer or administrative body to carry out the  
24 duties of the governing body in subsection A of this section. The

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

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

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~~ the 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~~ the 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.
- 24

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. AMENDATORY 11 O.S. 2011, Section 22-112, is  
20 amended to read as follows:

21 Section 22-112. A. A municipal governing body may cause  
22 dilapidated buildings within the municipal limits to be torn down  
23 and removed in accordance with the following procedures:  
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1           1. At least ten (10) days' notice that a building is to be torn  
2 down or removed shall be given to the owner of the property before  
3 the governing body holds a hearing. A copy of the notice shall be  
4 posted on the property to be affected. In addition, a copy of the  
5 notice shall be sent by mail to the property owner at the address  
6 shown by the current year's tax rolls in the office of the county  
7 treasurer. Written notice shall also be mailed to any mortgage  
8 holder as shown by the records in the office of the county clerk to  
9 the last-known address of the mortgagee. At the time of mailing of  
10 notice to any property owner or mortgage holder, the municipality  
11 shall obtain a receipt of mailing from the postal service, which  
12 receipt shall indicate the date of mailing and the name and address  
13 of the mailee. However, if neither the property owner nor mortgage  
14 holder can be located, notice may be given by posting a copy of the  
15 notice on the property, or by publication as defined in Section 1-  
16 102 of this title. The notice may be published once not less than  
17 ten (10) days prior to any hearing or action by the municipality  
18 pursuant to the provisions of this section;

19           2. A hearing shall be held by the governing body to determine  
20 if the property is dilapidated and has become detrimental to the  
21 health, safety, or welfare of the general public and the community,  
22 or if the property creates a fire hazard which is dangerous to other  
23 property;

1           3. Pursuant to a finding that the condition of the property  
2 constitutes a detriment or a hazard and that the property would be  
3 benefited by the removal of such conditions, the governing body may  
4 cause the dilapidated building to be torn down and removed. The  
5 governing body shall fix reasonable dates for the commencement and  
6 completion of the work. The municipal clerk shall immediately file  
7 a notice of dilapidation and lien with the county clerk describing  
8 the property, the findings of the municipality at the hearing, and  
9 stating that the municipality claims a lien on the property for the  
10 destruction and removal costs and that such costs are the personal  
11 obligation of the property owner from and after the date of filing  
12 of the notice. The agents of the municipality are granted the right  
13 of entry on the property for the performance of the necessary duties  
14 as a governmental function of the municipality if the work is not  
15 performed by the property owner within dates fixed by the governing  
16 body. Any action to challenge the order of the municipal governing  
17 body shall be filed within thirty (30) business days from the date  
18 of the order;

19           4. The governing body shall determine the actual cost of the  
20 dismantling and removal of dilapidated buildings and any other  
21 expenses that may be necessary in conjunction with the dismantling  
22 and removal of the buildings, including the cost of notice and  
23 mailing. The municipal clerk shall forward a statement of the  
24 actual cost attributable to the dismantling and removal of the  
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1 buildings and a demand for payment of such costs, by mail to the  
2 property owner. In addition, a copy of the statement shall be  
3 mailed to any mortgage holder at the address provided for in  
4 paragraph 1 of this subsection. At the time of mailing of the  
5 statement of costs to any property owner or mortgage holder, the  
6 municipality shall obtain a receipt of mailing from the postal  
7 service, which receipt shall indicate the date of mailing and the  
8 name and address of the mailee. If a municipality dismantles or  
9 removes any dilapidated buildings, the cost to the property owner  
10 shall not exceed the actual cost of the labor, maintenance, and  
11 equipment required for the dismantling and removal of the  
12 dilapidated buildings. If dismantling and removal of the  
13 dilapidated buildings is done on a private contract basis, the  
14 contract shall be awarded to the lowest and best bidder; and

15 5. 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 cost of the dismantling and removal of  
18 the buildings is not made within six (6) months from the date of the  
19 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 cost to the county treasurer of the county in which the property  
22 is located. Once certified to the county treasurer, payment may  
23 only be made to the county treasurer except as otherwise provided  
24 for in this section. The costs shall be levied on the property and

1 collected by the county treasurer ~~as are~~ when other taxes are  
2 authorized by law. Further, no property will be sold at the annual  
3 tax resale if the only amount due and owing on the property at the  
4 time of resale is a lien created under this section or Section 22-  
5 111 of this title and, the home is occupied by an owner who is one  
6 hundred percent (100%) disabled in accordance with United States  
7 Department of Veterans Affairs guidelines.

8       Until finally paid, the costs and the interest thereon shall be  
9 the personal obligation of the property owner from and after the  
10 date of the notice of dilapidation and lien is filed with the county  
11 clerk. In addition the cost and the interest thereon shall be a  
12 lien against the property from the date the notice of the lien is  
13 filed with the county clerk. The lien shall be coequal with the  
14 lien of ad valorem taxes and all other taxes and special assessments  
15 and shall be prior and superior to all other titles and liens  
16 against the property. The lien shall continue until the cost is  
17 fully paid. At the time of collection, the county treasurer shall  
18 collect a fee of Five Dollars (\$5.00) for each parcel of property.  
19 The fee shall be deposited to the credit of the general fund of the  
20 county. If the county treasurer and the municipality agree that the  
21 county treasurer is unable to collect the assessment, the  
22 municipality may pursue a civil remedy for collection of the amount  
23 owing and interest thereon including an action in personam against  
24 the property owner and an action in rem to foreclose its lien

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

7 B. 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 this section. The  
10 property owner shall have the right of appeal to the municipal  
11 governing body from any order of the administrative officer or  
12 administrative body. Such appeal shall be taken by filing written  
13 notice of appeal with the municipal clerk within ten (10) days after  
14 the administrative order is rendered.

15 C. For the purposes of this section:

16 1. "Dilapidated building" means:

- 17 a. a structure which through neglect or injury lacks  
18 necessary repairs or otherwise is in a state of decay  
19 or partial ruin to such an extent that the structure  
20 is a hazard to the health, safety, or welfare of the  
21 general public,  
22 b. a structure which is unfit for human occupancy due to  
23 the lack of necessary repairs and is considered  
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1 uninhabitable or is a hazard to the health, safety,  
2 and welfare of the general public,

3 c. a structure which is determined by the municipal  
4 governing body or administrative officer of the  
5 municipal governing body to be an unsecured building,  
6 as defined by Section 22-112.1 of this title, more  
7 than three times within any twelve-month period,

8 d. a structure which has been boarded and secured, as  
9 defined by Section 22-112.1 of this title, for more  
10 than eighteen (18) consecutive months, or

11 e. a structure declared by the municipal governing body  
12 to constitute a public nuisance; and

13 2. "Owner" means the owner of record as shown by the most  
14 current tax rolls of the county treasurer.

15 D. Nothing in the provisions of this section shall prevent the  
16 municipality from abating a dilapidated building as a nuisance or  
17 otherwise exercising its police power to protect the health, safety,  
18 or welfare of the general public.

19 E. The officers, employees or agents of the municipality shall  
20 not be liable for any damages or loss of property due to the removal  
21 of dilapidated buildings performed pursuant to the provisions of  
22 this section or as otherwise prescribed by law.

23 F. The provisions of this section shall not apply to any  
24 property zoned and used for agricultural purposes.

1 SECTION 3. This act shall become effective November 1, 2020.

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