

1 **SENATE FLOOR VERSION**

2 February 14, 2019

3 SENATE BILL NO. 594

By: Simpson

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5
6 An Act relating to cities and towns; amending 11 O.S.
7 2011, Section 22-111, as amended by Section 1,
8 Chapter 136, O.S.L. 2012 (11 O.S. Supp. 2018, Section
9 22-111), and 11 O.S. 2011, Section 22-112, which
10 relate to general powers of municipalities;
11 establishing conditions under which certain property
12 may not be resold at annual tax resale; updating
13 statutory language; 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. 2018,
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
holds a hearing or takes action. The notice shall order the
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~~ when other taxes are
15 authorized by law. Further, no property shall be sold at the annual
16 tax resale if the only amount due and owing on the property at the
17 time of resale is a lien created under this section, the home is
18 occupied by the owner and either the owner is one hundred percent
19 (100%) disabled in accordance with United States Department of
20 Veterans Affairs guidelines, or qualifies for disability under 42
21 U.S.C. 416, or is over sixty five (65) years of age. Once certified
22 by the county treasurer, payment may only be made to the county
23 treasurer except as otherwise provided for in this section. In
24 addition the cost and the interest thereon shall be a lien against

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

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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, is
17 amended to read as follows:

18 Section 22-112. A. A municipal governing body may cause
19 dilapidated buildings within the municipal limits to be torn down
20 and removed in accordance with the following procedures:

21 1. At least ten (10) days' notice that a building is to be torn
22 down or removed shall be given to the owner of the property before
23 the governing body holds a hearing. A copy of the notice shall be
24 posted on the property to be affected. In addition, a copy of the

1 notice shall be sent by mail to the property owner at the address
2 shown by the current year's tax rolls in the office of the county
3 treasurer. Written notice shall also be mailed to any mortgage
4 holder as shown by the records in the office of the county clerk to
5 the last-known address of the mortgagee. At the time of mailing of
6 notice to any property owner or mortgage holder, the municipality
7 shall obtain a receipt of mailing from the postal service, which
8 receipt shall indicate the date of mailing and the name and address
9 of the mailee. However, if neither the property owner nor mortgage
10 holder can be located, notice may be given by posting a copy of the
11 notice on the property, or by publication as defined in Section 1-
12 102 of this title. The notice may be published once not less than
13 ten (10) days prior to any hearing or action by the municipality
14 pursuant to the provisions of this section;

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

20 3. Pursuant to a finding that the condition of the property
21 constitutes a detriment or a hazard and that the property would be
22 benefited by the removal of such conditions, the governing body may
23 cause the dilapidated building to be torn down and removed. The
24 governing body shall fix reasonable dates for the commencement and

1 completion of the work. The municipal clerk shall immediately file
2 a notice of dilapidation and lien with the county clerk describing
3 the property, the findings of the municipality at the hearing, and
4 stating that the municipality claims a lien on the property for the
5 destruction and removal costs and that such costs are the personal
6 obligation of the property owner from and after the date of filing
7 of the notice. The agents of the municipality are granted the right
8 of entry on the property for the performance of the necessary duties
9 as a governmental function of the municipality if the work is not
10 performed by the property owner within dates fixed by the governing
11 body. Any action to challenge the order of the municipal governing
12 body shall be filed within thirty (30) business days from the date
13 of the order;

14 4. The governing body shall determine the actual cost of the
15 dismantling and removal of dilapidated buildings and any other
16 expenses that may be necessary in conjunction with the dismantling
17 and removal of the buildings, including the cost of notice and
18 mailing. The municipal clerk shall forward a statement of the
19 actual cost attributable to the dismantling and removal of the
20 buildings and a demand for payment of such costs, by mail to the
21 property owner. In addition, a copy of the statement shall be
22 mailed to any mortgage holder at the address provided for in
23 paragraph 1 of this subsection. At the time of mailing of the
24 statement of costs to any property owner or mortgage holder, the

1 municipality shall obtain a receipt of mailing from the postal
2 service, which receipt shall indicate the date of mailing and the
3 name and address of the mailee. If a municipality dismantles or
4 removes any dilapidated buildings, the cost to the property owner
5 shall not exceed the actual cost of the labor, maintenance, and
6 equipment required for the dismantling and removal of the
7 dilapidated buildings. If dismantling and removal of the
8 dilapidated buildings is done on a private contract basis, the
9 contract shall be awarded to the lowest and best bidder; and

10 5. When payment is made to the municipality for costs incurred,
11 the municipal clerk shall file a release of lien, but if payment
12 attributable to the actual cost of the dismantling and removal of
13 the buildings is not made within six (6) months from the date of the
14 mailing of the statement to the owner of such property, the
15 municipal clerk shall forward a certified statement of the amount of
16 the cost to the county treasurer of the county in which the property
17 is located. Once certified to the county treasurer, payment may
18 only be made to the county treasurer except as otherwise provided
19 for in this section. The costs shall be levied on the property and
20 collected by the county treasurer ~~as are~~ when other taxes are
21 authorized by law. Further, no property will be sold at the annual
22 tax resale if the only amount due and owing on the property at the
23 time of resale is a lien created under this section or Section 22-
24 111 of this title and either:

1 a. the home is occupied by an owner who is one hundred
2 percent (100%) disabled in accordance with United
3 States Department of Veterans Affairs guidelines,

4 b. the home is occupied by an owner who is disabled in
5 accordance with Social Security laws established in 42
6 U.S.C. 416, or

7 c. the owner is over sixty five (65) years old.

8 Until finally paid, the costs and the interest thereon shall be the
9 personal obligation of the property owner from and after the date of
10 the notice of dilapidation and lien is filed with the county clerk.

11 In addition the cost and the interest thereon shall be a lien
12 against the property from the date the notice of the lien is filed
13 with the county clerk. The lien shall be coequal with the lien of
14 ad valorem taxes and all other taxes and special assessments and
15 shall be prior and superior to all other titles and liens against
16 the property. The lien shall continue until the cost is fully paid.

17 At the time of collection, the county treasurer shall collect a fee
18 of Five Dollars (\$5.00) for each parcel of property. The fee shall
19 be deposited to the credit of the general fund of the county. If
20 the county treasurer and the municipality agree that the county
21 treasurer is unable to collect the assessment, the municipality may
22 pursue a civil remedy for collection of the amount owing and
23 interest thereon including an action in personam against the
24 property owner and an action in rem to foreclose its lien against

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

SECTION 3. This act shall become effective November 1, 2019.

COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
February 14, 2019 - DO PASS

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