

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL NO. 647

6 By: Frix

7 COMMITTEE SUBSTITUTE

8 An Act relating to cities and towns; amending 11 O.S.
9 2021, Section 43-105, which relates to amendments or
10 changes of regulations, restrictions, and boundaries;
11 establishing requirements for legislative municipal
12 procedures; amending 11 O.S. 2021, Section 43-109.1,
13 which relates to challenge to actions of a municipal
14 governing body; providing requirements to invalidate
15 certain municipal zoning decisions; amending 11 O.S.
16 2021, Section 44-110, which relates to appeals from
17 the board of adjustment; permitting municipalities to
18 adopt certain appeals procedures; amending 11 O.S.
19 2021, Section 45-104, which relates to public
20 improvements and plats of land, planning commission
21 review, and subdivision regulations; establishing
22 requirements for preliminary or final plats and
23 subdivisions; designating determinations as quasi-
24 judicial; establishing basis of determinations;
clarifying purpose of notice and hearing; providing
for award of reasonable costs in appeals proceedings;
updating statutory language; and providing an
effective date.

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

22 SECTION 1. AMENDATORY 11 O.S. 2021, Section 43-105, is
23 amended to read as follows:
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1 Section 43-105. A. Regulations, restrictions, and district
2 boundaries of municipalities may be amended, supplemented, changed,
3 modified, or repealed. The requirements of Section 43-104 of this
4 title on public hearings and notice shall apply to all proposed
5 amendments or changes to regulations, restrictions, or district
6 boundaries.

7 B. Protests against proposed changes shall be filed at least
8 three (3) days before the date of the public hearings. If protests
9 are filed by the owners of:

10 1. ~~the owners of twenty~~ Twenty percent (20%) or more of the
11 area of the lots included in a proposed change; or

12 2. ~~the owners of fifty~~ Fifty percent (50%) or more of the area
13 of the lots within a ~~three hundred (300) foot~~ three-hundred-foot
14 radius of the exterior boundary of the territory included in a
15 proposed change;

16 then the proposed change or amendment shall not become effective
17 except by the favorable vote of three-fourths (3/4) of all the
18 members of the municipal governing body where there are more than
19 seven members in the governing body, and by three-fifths (3/5)
20 favorable vote where there are seven or ~~less~~ fewer members in the
21 governing body.

22 C. While comprehensive plans may be utilized as a guide in the
23 decision-making process, determinations shall be made in light of
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1 objective and relevant facts as well as by utilizing processes and
2 requirements outlined in the municipal code.

3 D. The notice and hearing provisions in Sections 43-104 through
4 43-106 of this title, or as otherwise may be applicable, are
5 intended to provide members of the public with a right to be heard,
6 explain how they think their interests are affected, and bring to
7 the attention of the governing body objective and relevant facts.
8 However, decisions on land use applications shall not be based
9 solely upon the presence, numbers, or magnitude of opposition or
10 protests in the absence of objective and relevant facts.

11 SECTION 2. AMENDATORY 11 O.S. 2021, Section 43-109.1, is
12 amended to read as follows:

13 Section 43-109.1. A. Any suit to challenge any action,
14 decision, ruling, or order of the municipal governing body under the
15 provisions of this article shall be filed with the district court
16 within thirty (30) business days from the action, decision, ruling
17 or order.

18 B. Municipal zoning decisions are deemed valid unless the
19 challenging party proves the ordinance lacks a substantial relation
20 to the public health, safety, or general welfare of the public in
21 light of objective and relevant facts, or if a zoning decision
22 constitutes an unreasonable, arbitrary exercise of police power.

23 SECTION 3. AMENDATORY 11 O.S. 2021, Section 44-110, is
24 amended to read as follows:

1 Section 44-110. A. An appeal from any action, decision,
2 ruling, judgment, or order of the board of adjustment may be taken
3 by any person or persons who were entitled, pursuant to Section 44-
4 108 of this title, to mailed notice of the public hearing before the
5 board of adjustment, by any person or persons whose property
6 interests are directly affected by such action, decision, ruling,
7 judgment, or order of the board of adjustment, or by the governing
8 body of the municipality to the district court in the county in
9 which the situs of the municipality is located.

10 B. The appeal shall be taken by filing with the municipal clerk
11 and with the clerk of the board of adjustment, within the time
12 limits which may be fixed by ordinance, a notice of appeal. The
13 notice shall specify the grounds for the appeal. No bond or deposit
14 for costs shall be required for such appeal.

15 C. Upon filing the notice of appeal, the board of adjustment
16 shall forthwith transmit to the court clerk the original, or
17 certified copies, of all papers constituting the record in the case,
18 together with the order, decision, or ruling of the board.

19 D. The appeal shall be heard and tried de novo in the district
20 court. All issues in any proceedings under this section shall have
21 preference over all other civil actions and proceedings.

22 E. 1. During the pendency of such an appeal, the effectiveness
23 of a decision of the board of adjustment shall not be suspended
24 unless a party applies to the district court for a stay pending the

1 district court's determination of the merits of the appeal. Notice
2 of such application shall be given by first class mail to all
3 parties, to the district court appeal, and to any applicant before
4 the board of adjustment. Upon filing of an application for stay in
5 the district court, all proceedings in furtherance of the action
6 appealed from shall be temporarily stayed pending the outcome of a
7 hearing regarding the stay, which shall be conducted within thirty
8 (30) days of application. The Court shall determine whether to
9 impose a stay by considering the following factors: ~~(i)~~

10 a. the likelihood of success on the merits by the party
11 seeking to impose the stay, ~~(ii)~~

12 b. irreparable harm to the property interests of the
13 party seeking to impose the stay if the stay is not
14 imposed, ~~(iii)~~

15 c. relative effect on the other interested parties, and
16 ~~(iv)~~

17 d. public policy concerns arising out of the imposition
18 of the stay.

19 2. If the court determines to impose a stay, the court shall
20 require a bond or other security and such other terms as it deems
21 proper to secure the rights of the parties and compensate for costs
22 of delay. A bond or other security shall be posted within ten (10)
23 business days of the court's determination; provided, that a
24 municipal governing body shall not be required to post a bond.

1 Subject to subsection A of Section 990.3 of Title 12 of the Oklahoma
2 Statutes, a stay pursuant to this subsection shall automatically
3 dissolve after a judgment, decree, or final order resolving the
4 merits of the appeal is filed with the court clerk. Notwithstanding
5 any provision of law to the contrary, stays in appeals from the
6 board of adjustment to the district court shall be obtained only as
7 set forth in this section.

8 F. The district court may reverse or affirm, wholly or partly,
9 or modify the decision brought up for review. Costs shall not be
10 allowed against the board of adjustment unless it shall appear to
11 the district court that the board acted with gross negligence or in
12 bad faith or with malice in making the decision appealed from. An
13 appeal shall lie from the action of the district court as in all
14 other civil actions. A party may obtain a stay of the enforcement
15 of the district court's judgment, decree, or final order as provided
16 by Section 990.4 of Title 12 of the Oklahoma Statutes.

17 G. In any municipality where the governing body does not serve
18 as the board of adjustment, the governing body may, except as
19 otherwise provided by that municipality's charter, provide that the
20 decisions of the board on matters within its jurisdiction are final
21 subject to judicial review or are final subject to appeal to the
22 governing body and the right of later judicial review or are
23 advisory to the governing body.

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1 SECTION 4. AMENDATORY 11 O.S. 2021, Section 45-104, is
2 amended to read as follows:

3 Section 45-104. A. Before final action may be taken by any
4 municipality or department thereof on the location, construction, or
5 design of any public building, statue, memorial, park, parkway,
6 boulevard, street, alley, playground, public ground, or bridge, or
7 the change in the location or grade of any street or alley, the
8 question shall be submitted to the planning commission for
9 investigation and report. Counties and school districts may be
10 exempted from the payment of a fee to obtain any license or permit
11 required by a zoning, building, or similar ordinance of a
12 municipality.

13 B. All plans, plats, or replats of land laid out in lots or
14 blocks, and the streets, alleys, or other portions of the same,
15 intended to be dedicated to public or private use, within the
16 corporate limits of a municipality, shall first be submitted to the
17 municipal planning commission for its approval or rejection. Before
18 ~~said~~ the plans, plats, or replats shall be entitled to be recorded
19 in the office of the county clerk, they shall be approved by the
20 municipal governing body. It shall be unlawful to offer and cause
21 to be recorded any such plan, plat, or replat in any public office
22 unless the same shall bear thereon, by endorsement or otherwise, the
23 approval of the municipal governing body. Any plat filed without
24 the endorsed approval of the municipal governing body shall not

1 import notice nor impose any obligation or duties on the
2 municipality. The disapproval of any such plan, plat, or replat by
3 the municipal governing body shall be deemed a refusal of the
4 proposed dedication shown thereon.

5 C. The municipal planning commission may exercise jurisdiction
6 over subdivision of land and adopt regulations governing the
7 subdivision of land within its jurisdiction. Any such regulations,
8 before they become effective, shall be approved by the municipal
9 governing body and shall be published as provided by law for the
10 publication of ordinances. Such regulations may include provisions
11 as to the extent to which streets and other ways shall be graded and
12 improved and to which water, sewer, and other utility mains, piping,
13 or other facilities shall be installed as a condition precedent to
14 the approval of the plat. The regulations may provide for a
15 tentative approval of the plat before such installation. Any such
16 tentative approval shall be revocable for failure to comply with
17 commitments upon which the tentative approval was based and shall
18 not be entered on the plat. In lieu of the completion of any
19 improvements or utilities prior to the final approval of the plat,
20 the commission may accept an adequate bond with surety, satisfactory
21 to the commission, to secure for the municipality the actual
22 construction and installation of the improvements or utilities at a
23 time and according to specifications fixed by or in accordance with
24 the regulations of the commission, and further conditioned that the

1 developer will pay for all material and labor relating to the
2 construction of the improvements. The municipality may enforce ~~said~~
3 such bond by all appropriate legal and equitable remedies. Nothing
4 in this section shall be construed as granting to any municipality
5 or planning commission the power to direct any public utility to
6 extend its services to any particular area.

7 D. Upon adoption of the regulations governing the subdivision
8 of land as provided in subsection C of this section, no plat or deed
9 or other instrument concerning the subdivision of land within the
10 corporate limits of a municipality shall be filed with the county
11 clerk until it has been approved by the municipal planning
12 commission of that municipality in accordance with the officially
13 adopted regulations of subdivisions of that commission. If such
14 approval is needed, the approval shall be endorsed on the face of
15 the plat, or in the case of a deed or other instrument, in the form
16 of a special subdivision certificate. If the adopted regulations
17 exempt a certain subdivision of land from the approval requirement,
18 the municipal planning commission shall provide to the county clerk
19 an exemption statement to accompany the deed or instrument to be
20 filed.

21 E. A municipality which contains large areas of rural land not
22 served by water and sewer facilities by the municipality shall
23 authorize the use of private roadways in either platted or unplatted
24 areas and shall issue building permits to property owners whose

1 property is abutting upon the private roadways, without complying
2 with standards as provided for dedicated streets, subject to the
3 following conditions:

4 1. The private roadway easement shall be at least fifty (50)
5 feet in width; ~~and~~

6 2. The property abutting upon the private roadway shall contain
7 not less than two (2) acres; provided, however, if the covenants of
8 the subdivision allow for ~~Evapotranspiration Absorption Systems~~
9 evapotranspiration absorption systems or an ~~Aerobic Wastewater~~
10 ~~Treatment System~~ aerobic wastewater treatment system, the property
11 abutting upon the private roadway may contain not less than one (1)
12 acre; ~~and~~

13 3. The property shall be more than one-fourth (1/4) mile from
14 sewer and water facilities furnished by the municipality; ~~and~~

15 4. The private roadway shall not be dedicated to the public but
16 reserved for future dedication and, until such future dedication,
17 shall be the private roadway of the owners of the abutting property;
18 ~~and~~

19 5. The private roadway shall be maintained by the owners of the
20 property within the subdivision; ~~and~~

21 6. The municipality shall have no responsibility for the
22 maintenance or repair of the private roadway; ~~and~~

23 7. If the property is platted, there shall be emblemized on
24 the face of the plat, clearly conspicuous, a notice that the streets

1 and drives have not been dedicated to the public and that the
2 streets shall be maintained by the private property owners within
3 the subdivision. ~~Said~~ Such streets shall always be open to police,
4 fire, and other official vehicles of all state, federal, county, and
5 municipal agencies; ~~and~~

6 8. Every deed shall clearly acknowledge that the roadway is
7 private and not maintained by the municipality; ~~and~~

8 9. Prior to the sale of any parcel of land in the subdivision,
9 a conspicuous sign shall be posted at the entrance to the
10 subdivision: "Private roadway not maintained by _____ (the
11 municipality)". At any time after the municipality permits the use
12 of ~~said~~ such private roadway, a petition of the owners of at least
13 sixty percent (60%) of the area of the land to improve and dedicate
14 the street shall bind all of the owners thereby to permanently
15 improve the street or roadway in compliance with the requirements of
16 the municipality; and

17 10. The planning commission may require the developer of such
18 property to reserve appropriate utility easements for water, sewer,
19 and any other utility installations as may be required for present
20 and future development.

21 F. Municipal platting decisions are quasi-judicial in nature.
22 The planning commission and the governing body of a municipality
23 shall have reasonable discretion to determine the compliance of
24 preliminary and final plats with the municipality's adopted

1 subdivision regulations and all applicable codes and ordinances. If
2 the planning commission and governing body determine the proposed
3 plat is in compliance with the adopted subdivision code, and meets
4 all applicable ordinances, and the governing body and planning
5 commission accept any proposed dedications, if applicable, the plat
6 shall be approved.

7 G. While comprehensive plans may be utilized as a guide in the
8 decision-making process, determinations shall be made using
9 applicable objective and relevant facts as to proposed plats as well
10 as utilizing processes, standards, and requirements outlined in the
11 municipal code. Compliance with comprehensive plans shall not be a
12 requirement for plat approval.

13 H. In the case of a preliminary or final plat denial, if
14 requested by the applicant at the meeting on the vote, the city
15 attorney or contracted counsel shall identify on the record the
16 basis for the denial, including at a minimum all of the applicable
17 objective and relevant facts upon which the denial is based.

18 I. The notice and hearing provisions in Sections 43-104 through
19 43-106 of this title, or as otherwise may be applicable, are
20 intended to provide members of the public with a right to be heard,
21 explain how they think their interests are affected, and bring to
22 the attention of the governing body objective and relevant facts.
23 However, decisions on land use applications shall not be based

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1 solely upon the presence, numbers, or magnitude of opposition or
2 protests in the absence of objective and relevant facts.

3 SECTION 5. This act shall become effective November 1, 2025.

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