

1 **SENATE FLOOR VERSION**

2 February 25, 2025

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 647

6 By: Frix

7 [cities and towns - legislative municipal procedures
8 - challenge to actions - zoning decisions - appeals -
9 preliminary or final plats and subdivisions -
10 determinations - notice and hearing - reasonable
11 costs - effective date]

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

13 SECTION 1. AMENDATORY 11 O.S. 2021, Section 43-105, is
14 amended to read as follows:

15 Section 43-105. A. Regulations, restrictions, and district
16 boundaries of municipalities may be amended, supplemented, changed,
17 modified, or repealed. The requirements of Section 43-104 of this
18 title on public hearings and notice shall apply to all proposed
19 amendments or changes to regulations, restrictions, or district
20 boundaries.

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

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

3 2. ~~the owners of fifty~~ Fifty percent (50%) or more of the area
4 of the lots within a ~~three hundred (300) foot~~ three-hundred-foot
5 radius of the exterior boundary of the territory included in a
6 proposed change~~,~~,
7 then the proposed change or amendment shall not become effective
8 except by the favorable vote of three-fourths (3/4) of all the
9 members of the municipal governing body where there are more than
10 seven members in the governing body, and by three-fifths (3/5)
11 favorable vote where there are seven or ~~less~~ fewer members in the
12 governing body.

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

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

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

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

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

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

15 Section 44-110. A. An appeal from any action, decision,
16 ruling, judgment, or order of the board of adjustment may be taken
17 by any person or persons who were entitled, pursuant to Section 44-
18 108 of this title, to mailed notice of the public hearing before the
19 board of adjustment, by any person or persons whose property
20 interests are directly affected by such action, decision, ruling,
21 judgment, or order of the board of adjustment, or by the governing
22 body of the municipality to the district court in the county in
23 which the situs of the municipality is located.

24

1 B. The appeal shall be taken by filing with the municipal clerk
2 and with the clerk of the board of adjustment, within the time
3 limits which may be fixed by ordinance, a notice of appeal. The
4 notice shall specify the grounds for the appeal. No bond or deposit
5 for costs shall be required for such appeal.

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

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

13 E. 1. During the pendency of such an appeal, the effectiveness
14 of a decision of the board of adjustment shall not be suspended
15 unless a party applies to the district court for a stay pending the
16 district court's determination of the merits of the appeal. Notice
17 of such application shall be given by first class mail to all
18 parties, to the district court appeal, and to any applicant before
19 the board of adjustment. Upon filing of an application for stay in
20 the district court, all proceedings in furtherance of the action
21 appealed from shall be temporarily stayed pending the outcome of a
22 hearing regarding the stay, which shall be conducted within thirty
23 (30) days of application. The Court shall determine whether to
24 impose a stay by considering the following factors: ~~(i)~~

- 1 a. the likelihood of success on the merits by the party
2 seeking to impose the stay, ~~(ii)~~
- 3 b. irreparable harm to the property interests of the
4 party seeking to impose the stay if the stay is not
5 imposed, ~~(iii)~~
- 6 c. relative effect on the other interested parties, and
7 ~~(iv)~~
- 8 d. public policy concerns arising out of the imposition
9 of the stay.

10 2. If the court determines to impose a stay, the court shall
11 require a bond or other security and such other terms as it deems
12 proper to secure the rights of the parties and compensate for costs
13 of delay. A bond or other security shall be posted within ten (10)
14 business days of the court's determination; provided, that a
15 municipal governing body shall not be required to post a bond.
16 Subject to subsection A of Section 990.3 of Title 12 of the Oklahoma
17 Statutes, a stay pursuant to this subsection shall automatically
18 dissolve after a judgment, decree, or final order resolving the
19 merits of the appeal is filed with the court clerk. Notwithstanding
20 any provision of law to the contrary, stays in appeals from the
21 board of adjustment to the district court shall be obtained only as
22 set forth in this section.

23 F. The district court may reverse or affirm, wholly or partly,
24 or modify the decision brought up for review. Costs shall not be

1 allowed against the board of adjustment unless it shall appear to
2 the district court that the board acted with gross negligence or in
3 bad faith or with malice in making the decision appealed from. An
4 appeal shall lie from the action of the district court as in all
5 other civil actions. A party may obtain a stay of the enforcement
6 of the district court's judgment, decree, or final order as provided
7 by Section 990.4 of Title 12 of the Oklahoma Statutes.

8 G. In any municipality where the governing body does not serve
9 as the board of adjustment, the governing body may, except as
10 otherwise provided by that municipality's charter, provide that the
11 decisions of the board on matters within its jurisdiction are final
12 subject to judicial review or are final subject to appeal to the
13 governing body and the right of later judicial review or are
14 advisory to the governing body.

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

17 Section 45-104. A. Before final action may be taken by any
18 municipality or department thereof on the location, construction, or
19 design of any public building, statue, memorial, park, parkway,
20 boulevard, street, alley, playground, public ground, or bridge, or
21 the change in the location or grade of any street or alley, the
22 question shall be submitted to the planning commission for
23 investigation and report. Counties and school districts may be
24 exempted from the payment of a fee to obtain any license or permit

1 required by a zoning, building, or similar ordinance of a
2 municipality.

3 B. All plans, plats, or replats of land laid out in lots or
4 blocks, and the streets, alleys, or other portions of the same,
5 intended to be dedicated to public or private use, within the
6 corporate limits of a municipality, shall first be submitted to the
7 municipal planning commission for its approval or rejection. Before
8 ~~said~~ the plans, plats, or replats shall be entitled to be recorded
9 in the office of the county clerk, they shall be approved by the
10 municipal governing body. It shall be unlawful to offer and cause
11 to be recorded any such plan, plat, or replat in any public office
12 unless the same shall bear thereon, by endorsement or otherwise, the
13 approval of the municipal governing body. Any plat filed without
14 the endorsed approval of the municipal governing body shall not
15 import notice nor impose any obligation or duties on the
16 municipality. The disapproval of any such plan, plat, or replat by
17 the municipal governing body shall be deemed a refusal of the
18 proposed dedication shown thereon.

19 C. The municipal planning commission may exercise jurisdiction
20 over subdivision of land and adopt regulations governing the
21 subdivision of land within its jurisdiction. Any such regulations,
22 before they become effective, shall be approved by the municipal
23 governing body and shall be published as provided by law for the
24 publication of ordinances. Such regulations may include provisions

1 as to the extent to which streets and other ways shall be graded and
2 improved and to which water, sewer, and other utility mains, piping,
3 or other facilities shall be installed as a condition precedent to
4 the approval of the plat. The regulations may provide for a
5 tentative approval of the plat before such installation. Any such
6 tentative approval shall be revocable for failure to comply with
7 commitments upon which the tentative approval was based and shall
8 not be entered on the plat. In lieu of the completion of any
9 improvements or utilities prior to the final approval of the plat,
10 the commission may accept an adequate bond with surety, satisfactory
11 to the commission, to secure for the municipality the actual
12 construction and installation of the improvements or utilities at a
13 time and according to specifications fixed by or in accordance with
14 the regulations of the commission, and further conditioned that the
15 developer will pay for all material and labor relating to the
16 construction of the improvements. The municipality may enforce ~~said~~
17 such bond by all appropriate legal and equitable remedies. Nothing
18 in this section shall be construed as granting to any municipality
19 or planning commission the power to direct any public utility to
20 extend its services to any particular area.

21 D. Upon adoption of the regulations governing the subdivision
22 of land as provided in subsection C of this section, no plat or deed
23 or other instrument concerning the subdivision of land within the
24 corporate limits of a municipality shall be filed with the county

1 clerk until it has been approved by the municipal planning
2 commission of that municipality in accordance with the officially
3 adopted regulations of subdivisions of that commission. If such
4 approval is needed, the approval shall be endorsed on the face of
5 the plat, or in the case of a deed or other instrument, in the form
6 of a special subdivision certificate. If the adopted regulations
7 exempt a certain subdivision of land from the approval requirement,
8 the municipal planning commission shall provide to the county clerk
9 an exemption statement to accompany the deed or instrument to be
10 filed.

11 E. A municipality which contains large areas of rural land not
12 served by water and sewer facilities by the municipality shall
13 authorize the use of private roadways in either platted or unplatted
14 areas and shall issue building permits to property owners whose
15 property is abutting upon the private roadways, without complying
16 with standards as provided for dedicated streets, subject to the
17 following conditions:

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

20 2. The property abutting upon the private roadway shall contain
21 not less than two (2) acres; provided, however, if the covenants of
22 the subdivision allow for ~~Evapotranspiration Absorption Systems~~
23 evapotranspiration absorption systems or an ~~Aerobic Wastewater~~
24 ~~Treatment System~~ aerobic wastewater treatment system, the property

1 abutting upon the private roadway may contain not less than one (1)
2 acre; ~~and~~

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

5 4. The private roadway shall not be dedicated to the public but
6 reserved for future dedication and, until such future dedication,
7 shall be the private roadway of the owners of the abutting property;
8 ~~and~~

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

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

13 7. If the property is platted, there shall be emblemized on
14 the face of the plat, clearly conspicuous, a notice that the streets
15 and drives have not been dedicated to the public and that the
16 streets shall be maintained by the private property owners within
17 the subdivision. ~~Said~~ Such streets shall always be open to police,
18 fire, and other official vehicles of all state, federal, county, and
19 municipal agencies; ~~and~~

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

22 9. Prior to the sale of any parcel of land in the subdivision,
23 a conspicuous sign shall be posted at the entrance to the
24 subdivision: "Private roadway not maintained by _____ (the

1 municipality)". At any time after the municipality permits the use
2 of ~~said~~ such private roadway, a petition of the owners of at least
3 sixty percent (60%) of the area of the land to improve and dedicate
4 the street shall bind all of the owners thereby to permanently
5 improve the street or roadway in compliance with the requirements of
6 the municipality; and

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

11 F. Municipal platting decisions are quasi-judicial in nature.

12 The planning commission and the governing body of a municipality
13 shall have reasonable discretion to determine the compliance of
14 preliminary and final plats with the municipality's adopted
15 subdivision regulations and all applicable codes and ordinances. If
16 the planning commission and governing body determine the proposed
17 plat is in compliance with the adopted subdivision code, and meets
18 all applicable ordinances, and the governing body and planning
19 commission accept any proposed dedications, if applicable, the plat
20 shall be approved.

21 G. While comprehensive plans may be utilized as a guide in the
22 decision-making process, determinations shall be made using
23 applicable objective and relevant facts as to proposed plats as well
24 as utilizing processes, standards, and requirements outlined in the

1 municipal code. Compliance with comprehensive plans shall not be a
2 requirement for plat approval.

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

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

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

17 COMMITTEE REPORT BY: COMMITTEE ON LOCAL AND COUNTY GOVERNMENT
18 February 25, 2025 - DO PASS AS AMENDED BY CS

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