

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1496

By: Tedford

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5
6 AS INTRODUCED

7 An Act relating to cities and towns; amending 11 O.S.
8 2021, Section 44-110, which relates to appeals from
9 the board of adjustment; permitting certain
10 municipalities to provide that decisions of the board
11 are final subject to judicial review or appeal to the
12 council; and providing an effective date.

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

13 SECTION 1. 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 by
17 any person or persons who were entitled, pursuant to Section 44-108
18 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.

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. During the pendency of such an appeal, the effectiveness of
14 a decision of the board of adjustment shall not be suspended unless
15 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) the

1 likelihood of success on the merits by the party seeking to impose
2 the stay, (ii) irreparable harm to the property interests of the
3 party seeking to impose the stay if the stay is not imposed, (iii)
4 relative effect on the other interested parties, and (iv) public
5 policy concerns arising out of the imposition of the stay. If the
6 court determines to impose a stay, the court shall require a bond or
7 other security and such other terms as it deems proper to secure the
8 rights of the parties and compensate for costs of delay. A bond or
9 other security shall be posted within ten (10) business days of the
10 court's determination; provided, that a municipal governing body
11 shall not be required to post a bond. Subject to subsection A of
12 Section 990.3 of Title 12 of the Oklahoma Statutes, a stay pursuant
13 to this subsection shall automatically dissolve after a judgment,
14 decree or final order resolving the merits of the appeal is filed
15 with the court clerk. Notwithstanding any provision of law to the
16 contrary, stays in appeals from the board of adjustment to the
17 district court shall be obtained only as set forth in this section.

18 F. The district court may reverse or affirm, wholly or partly,
19 or modify the decision brought up for review. Costs shall not be
20 allowed against the board of adjustment unless it shall appear to
21 the district court that the board acted with gross negligence or in
22 bad faith or with malice in making the decision appealed from. An
23 appeal shall lie from the action of the district court as in all
24 other civil actions. A party may obtain a stay of the enforcement

1 of the district court's judgment, decree or final order as provided
2 by Section 990.4 of Title 12 of the Oklahoma Statutes.

3 G. In any municipality where the council does not serve as the
4 board, the governing body may, except as otherwise provided by
5 charter, provide that the decisions of the board on matters within
6 its jurisdiction are final subject to judicial review or are final
7 subject to appeal to the council and the right of later judicial
8 review or are advisory to the council.

9 SECTION 2. This act shall become effective November 1, 2025.

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