

1 ENGROSSED SENATE  
2 BILL NO. 647

3 By: Frix of the Senate

4 and

5 Stinson of the House

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

9  
10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. AMENDATORY 11 O.S. 2021, Section 43-105, is

12 amended to read as follows:

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15 modified, or repealed.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

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

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

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

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

15       D. The notice and hearing provisions in Sections 43-104 through  
16 43-106 of this title, or as otherwise may be applicable, are  
17 intended to provide members of the public with a right to be heard,  
18 explain how they think their interests are affected, and bring to  
19 the attention of the governing body objective and relevant facts.  
20       However, decisions on land use applications shall not be based  
21 solely upon the presence, numbers, or magnitude of opposition or  
22 protests in the absence of objective and relevant facts.

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

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

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

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

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

22      B. The appeal shall be taken by filing with the municipal clerk  
23 and with the clerk of the board of adjustment, within the time  
24 limits which may be fixed by ordinance, a notice of appeal. The

1 notice shall specify the grounds for the appeal. No bond or deposit  
2 for costs shall be required for such appeal.

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

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

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

22           a. the likelihood of success on the merits by the party  
23           seeking to impose the stay, (ii)

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

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

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

2. If the court determines to impose a stay, the court shall

9 require a bond or other security and such other terms as it deems  
10 proper to secure the rights of the parties and compensate for costs  
11 of delay. A bond or other security shall be posted within ten (10)  
12 business days of the court's determination; provided, that a  
13 municipal governing body shall not be required to post a bond.

14 Subject to subsection A of Section 990.3 of Title 12 of the Oklahoma  
15 Statutes, a stay pursuant to this subsection shall automatically  
16 dissolve after a judgment, decree, or final order resolving the  
17 merits of the appeal is filed with the court clerk. Notwithstanding  
18 any provision of law to the contrary, stays in appeals from the  
19 board of adjustment to the district court shall be obtained only as  
20 set forth in this section.

21 F. The district court may reverse or affirm, wholly or partly,  
22 or modify the decision brought up for review. Costs shall not be  
23 allowed against the board of adjustment unless it shall appear to  
24 the district court that the board acted with gross negligence or in

1 bad faith or with malice in making the decision appealed from. An  
2 appeal shall lie from the action of the district court as in all  
3 other civil actions. A party may obtain a stay of the enforcement  
4 of the district court's judgment, decree, or final order as provided  
5 by Section 990.4 of Title 12 of the Oklahoma Statutes.

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

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

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

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

17       C. The municipal planning commission may exercise jurisdiction  
18 over subdivision of land and adopt regulations governing the  
19 subdivision of land within its jurisdiction. Any such regulations,  
20 before they become effective, shall be approved by the municipal  
21 governing body and shall be published as provided by law for the  
22 publication of ordinances. Such regulations may include provisions  
23 as to the extent to which streets and other ways shall be graded and  
24 improved and to which water, sewer, and other utility mains, piping,

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

19       D. Upon adoption of the regulations governing the subdivision  
20 of land as provided in subsection C of this section, no plat or deed  
21 or other instrument concerning the subdivision of land within the  
22 corporate limits of a municipality shall be filed with the county  
23 clerk until it has been approved by the municipal planning  
24 commission of that municipality in accordance with the officially

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

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

16       1. The private roadway easement shall be at least fifty (50)  
17 feet in width; and

18       2. The property abutting upon the private roadway shall contain  
19 not less than two (2) acres; provided, however, if the covenants of  
20 the subdivision allow for ~~Evapotranspiration Absorption Systems~~  
21 evapotranspiration absorption systems or an ~~Aerobic Wastewater~~  
22 ~~Treatment System~~ aerobic wastewater treatment system, the property  
23 abutting upon the private roadway may contain not less than one (1)  
24 acre; and

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

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

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

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

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

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

20       9. Prior to the sale of any parcel of land in the subdivision,  
21 a conspicuous sign shall be posted at the entrance to the  
22 subdivision: "Private roadway not maintained by \_\_\_\_\_ (the  
23 municipality)". At any time after the municipality permits the use  
24 of ~~said~~ such private roadway, a petition of the owners of at least

1 sixty percent (60%) of the area of the land to improve and dedicate  
2 the street shall bind all of the owners thereby to permanently  
3 improve the street or roadway in compliance with the requirements of  
4 the municipality; and

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

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

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

19       G. While comprehensive plans may be utilized as a guide in the

20      decision-making process, determinations shall be made using  
21      applicable objective and relevant facts as to proposed plats as well  
22      as utilizing processes, standards, and requirements outlined in the  
23      municipal code. Compliance with comprehensive plans shall not be a  
24      requirement for plat approval.

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

I. The notice and hearing provisions in Sections 43-104 through

43-106 of this title, or as otherwise may be applicable, are

intended to provide members of the public with a right to be heard,

explain how they think their interests are affected, and bring to

the attention of the governing body objective and relevant facts.

However, decisions on land use applications shall not be based

solely upon the presence, numbers, or magnitude of opposition or

protests in the absence of objective and relevant facts.

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

Passed the Senate the 25th day of March, 2025.

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Presiding Officer of the Senate

Passed the House of Representatives the \_\_\_\_\_ day of \_\_\_\_\_,  
2025.

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Presiding Officer of the House  
of Representatives