

1 ENGROSSED HOUSE
2 BILL NO. 2089

By: Echols of the House

and

Paxton of the Senate

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7 [cities and towns - requirements for legislative
8 municipal procedures - power to interfere with
9 property owner rights by zoning and regulations -
10 denial of applications - notice and hearing - award
11 of reasonable costs in appeals proceedings -
12 requirements for preliminary or final plats and
13 subdivisions - determinations - effective date]
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17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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22 modified or repealed.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

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

6 1. The owners of twenty percent (20%) or more of the area of
7 the lots included in a proposed change~~r~~i or

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

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

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1 D. If the validity of a challenged zoning ordinance or zoning
2 decision is fairly debatable, in light of objective and relevant
3 facts, the legislative judgment of the municipality must stand.

4 E. Comprehensive plans may be utilized as a guide in the
5 decision making process, however determinations must be made in
6 light of objective and relevant facts as well as utilizing
7 processes and requirements outlined in the municipal code.

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

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

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

1 exempted from the payment of a fee to obtain any license or permit
2 required by a zoning, building, or similar ordinance of a
3 municipality.

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

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

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

22 D. Upon adoption of the regulations governing the subdivision
23 of land as provided in subsection C of this section, no plat or deed
24 or other instrument concerning the subdivision of land within the

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

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

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

21 2. The property abutting upon the private roadway shall contain
22 not less than two (2) acres; provided, however, if the covenants of
23 the subdivision allow for Evapotranspiration Absorption Systems or
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1 an Aerobic Wastewater Treatment System, the property abutting upon
2 the private roadway may contain not less than one (1) 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 streets shall always be open to police, fire,
18 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 private roadway, a petition of the owners of at least sixty
3 percent (60%) of the area of the land to improve and dedicate the
4 street shall bind all of the owners thereby to permanently improve
5 the street or roadway in compliance with the requirements of the
6 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 respective Planning Commission and City Council of a
13 municipality shall have reasonable discretion to determine the
14 compliance of preliminary and final plats with the municipality's
15 adopted subdivision regulations and all applicable codes and
16 ordinances. If the Council and Planning Commission determines the
17 proposed plat is in compliance with the adopted subdivision code,
18 and meets all applicable ordinances, and the Council and Planning
19 Commission accept any proposed dedications, if applicable, the plat
20 shall be approved.

21 G. Comprehensive plans may be utilized as a guide in the
22 decision making process, however determinations must be made in
23 light of applicable objective and relevant facts as to proposed
24 plats as well as utilizing processes, standards, and requirements

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

3 H. The notice and hearing provisions in Sections 43-104 through
4 43-106 of this title, or otherwise as 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 to 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 I. In the case of a preliminary or final plat denial, if
12 requested by the applicant at the meeting on the vote, each
13 dissenting governing body member shall identify on the record their
14 basis for the denial, including at a minimum all of the applicable
15 objective and relevant facts upon which the denial is based.

16 SECTION 3. This act shall become effective November 1, 2023.
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1 Passed the House of Representatives the 20th day of March, 2023.

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3 _____
4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the ____ day of _____, 2023.

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8 _____
9 Presiding Officer of the Senate