

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2083

By: Kirby

AS INTRODUCED

An Act relating to cities and towns; amending 11 O.S. 2001, Section 45-104, which relates to subdivision regulations; adding approval requirement before certain instruments are filed with the county clerk; providing for exemption statements; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 45-104, is amended to read as follows:

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

B. All plans, plats, or replats of land laid out in lots or blocks, and the streets, alleys, or other portions of the same, intended to be dedicated to public or private use, within the corporate limits of a municipality, shall first be submitted to the municipal planning commission for its approval or rejection. Before said plans, plats, or replats shall be entitled to be recorded in the office of the county clerk, they shall be approved by the

municipal governing body. It shall be unlawful to offer and cause to be recorded any such plan, plat, or replat in any public office unless the same shall bear thereon, by endorsement or otherwise, the approval of the municipal governing body. Any plat filed without the endorsed approval of the municipal governing body shall not import notice nor impose any obligation or duties on the municipality. The disapproval of any such plan, plat, or replat by the municipal governing body shall be deemed a refusal of the proposed dedication shown thereon.

C. The municipal planning commission may exercise jurisdiction over subdivision of land and adopt regulations governing the subdivision of land within its jurisdiction. Any such regulations, before they become effective, shall be approved by the municipal governing body and shall be published as provided by law for the publication of ordinances. Such regulations may include provisions as to the extent to which streets and other ways shall be graded and improved and to which water, sewer, and other utility mains, piping, or other facilities shall be installed as a condition precedent to the approval of the plat. The regulations may provide for a tentative approval of the plat before such installation. Any such tentative approval shall be revocable for failure to comply with commitments upon which the tentative approval was based and shall not be entered on the plat. In lieu of the completion of any improvements or utilities prior to the final approval of the plat, the commission may accept an adequate bond with surety, satisfactory to the commission, to secure for the municipality the actual construction and installation of the improvements or utilities at a time and according to specifications fixed by or in accordance with the regulations of the commission, and further conditioned that the developer will pay for all material and labor relating to the construction of the improvements. The municipality may enforce said bond by all appropriate legal and equitable remedies. Nothing in

this section shall be construed as granting to any municipality or planning commission the power to direct any public utility to extend its services to any particular area.

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

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

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

2. The property abutting upon the private roadway shall contain not less than two (2) acres; and

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

4. The private roadway shall not be dedicated to the public but reserved for future dedication and, until such future dedication,

shall be the private roadway of the owners of the abutting property;  
and

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

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

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

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

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

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

SECTION 2. This act shall become effective July 1, 2002.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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