

3 Senate Bill No. 1231

4 SENATE BILL NO. 1231 - By: SNYDER of the Senate and REYNOLDS of the
5 House.

6 An Act relating to cities and towns; amending 11 O.S. 2001,
7 Section 45-104, as amended by Section 1, Chapter 274, O.S.L.
8 2002 (11 O.S. Supp. 2003, Section 45-104), which relates to
9 public improvements and plats; modifying acreage
10 requirements in certain circumstances; providing an
11 effective date; and declaring an emergency.

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

13 SECTION 1. AMENDATORY 11 O.S. 2001, Section 45-104, as
14 amended by Section 1, Chapter 274, O.S.L. 2002 (11 O.S. Supp. 2003,
15 Section 45-104), is amended to read as follows:

16 Section 45-104. A. Before final action may be taken by any
17 municipality or department thereof on the location, construction, or
18 design of any public building, statue, memorial, park, parkway,
19 boulevard, street, alley, playground, public ground, or bridge, or
20 the change in the location or grade of any street or alley, the
21 question shall be submitted to the planning commission for
22 investigation and report. Counties and school districts may be
23 exempted from the payment of a fee to obtain any license or permit
24 required by a zoning, building, or similar ordinance of a
25 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 plans, plats, or replats shall be entitled to be recorded in
7 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

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

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

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

1 subdivision: "Private roadway not maintained by _____ (the
2 municipality)". At any time after the municipality permits the use
3 of said private roadway, a petition of the owners of at least sixty
4 percent (60%) of the area of the land to improve and dedicate the
5 street shall bind all of the owners thereby to permanently improve
6 the street or roadway in compliance with the requirements of the
7 municipality; and

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

12 SECTION 2. This act shall become effective July 1, 2004.

13 SECTION 3. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

17 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 2-9-04 -
18 DO PASS, As Coauthored.