

ENROLLED HOUSE  
BILL NO. 1911

By: Peters of the House

and

Crain of the Senate

An Act relating to cities and towns; amending 11 O.S. 2001, Section 40-105.1, which relates to the Neighborhood Redevelopment Act; removing certain notice requirement; removing municipal governing body approval of certain program plan; amending 11 O.S. 2001, Section 44-104, which relates to board of adjustment; adding certain power for board of adjustment; providing method of enforcement; requiring appeals of certain decisions to district courts; 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 40-105.1, is amended to read as follows:

Section 40-105.1 A. Following adoption of the ordinance described in Section 40-104 of this title, the redevelopment trust named in such ordinance shall thereafter develop a comprehensive approach to remedy those blighted conditions which were found to exist within the redevelopment district. This comprehensive approach shall consist of one or more program plans designed to address the blighted conditions within such redevelopment district. Before the adoption of a program plan requiring the acquisition of land, the redevelopment trust shall provide to the city a feasibility study, which study shall show that the benefits derived from the program plan will exceed the costs and that the income therefrom will be sufficient to pay for the program plan.

B. Prior to the adoption of a program plan, a redevelopment trust shall adopt a resolution relating to the proposed program plan, which resolution shall:

1. State that a public hearing will be held to consider the adoption of a program plan, and fix the date, hour and place of such public hearing;

2. Describe the geographic boundaries of the area to which such program plan relates; and

3. State that the program plan, including a summary of any feasibility study, relocation assistance plan, financial guarantees of a prospective developer, if applicable, and a description and map

of the area to be redeveloped are available for inspection during regular office hours in the office of the city clerk.

C. The date fixed for the public hearing shall be not less than ten (10) days nor more than thirty (30) days following the date of the adoption of the resolution fixing the date of such hearing. The resolution shall be published in a newspaper of general circulation within such city or town as a legal, public notice once each week for two (2) consecutive weeks, the last publication to be not more than two (2) weeks preceding the date fixed for public hearing. ~~A summary of the program plan shall be mailed by certified mail to each owner and occupant of land within the proposed redevelopment district not more than ten (10) days following the date of the adoption of the resolution. A statement shall be included in the summary of the program plan that the program plan is available for inspection and copying during regular office hours in the office of the city clerk.~~

D. Following the hearing, the trustees of the redevelopment trust may, by resolution, adopt the program plan as originally proposed, or may adopt the program plan with such amendments as deemed appropriate by the trustees of the redevelopment trust. Thereafter, any substantial changes to a program plan, as adopted, shall be subject to public hearing following publication of notice thereof at least twice in a newspaper of general circulation within such city or town.

E. ~~After the adoption of a program plan, or any substantial change to a program plan, the governing body of such municipality, upon a finding by the planning commission that the program plan, or any substantial change to the program plan is consistent with the general comprehensive plan for the development of the city, may approve the program plan, or any substantial change to the program plan, as being consistent with the comprehensive general plan for the development of the city. Thereafter~~ Following the adoption of a program plan, a redevelopment trust may undertake specific redevelopment projects; provided, that:

1. Such projects are undertaken pursuant to a project plan which clearly sets forth the actions being taken by the redevelopment trust with regard to a specific parcel or lot;

2. Such projects are undertaken within the period of time specified in the program plan; and

3. The terms and conditions relating to such projects are consistent with the terms and conditions of the program plan.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 44-104, is amended to read as follows:

Section 44-104. A. The board of adjustment shall have the power to:

1. Hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance;

2. Hear and decide special exceptions to the zoning ordinance to allow a use, or a specifically designated element associated with

a use, which is not permitted by right in a particular district because of potential adverse effect, but which if controlled in the particular instance as to its relationship to the neighborhood and to the general welfare, may be permitted by the board of adjustment, where specifically authorized by the zoning ordinance, and in accordance with the substantive and procedural standards of the zoning ordinance;

3. Hear and decide proposals for accessory elements associated with an allowed building use, where appropriate general performance and design standards have been established which promote greater economic value and provide a harmonious relationship with adjoining land uses by ordinance or by administrative rule or regulation. Such proposals and performance or design standards may include, but are not limited to, such accessory elements as sound, building material, runoff, lighting, visual screening, landscaping and vehicular considerations;

4. Authorize in specific cases a variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by the zoning ordinance when such cases are shown not to be contrary to the public interest if, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done; provided, however, the board shall have no power to authorize variances as to use except as provided by paragraph 4 5 of this section; and

~~4.~~ 5. Hear and decide oil and/or gas applications or appeals unless prohibited throughout a municipality by municipal ordinance. The board of adjustment shall be required to make the findings prescribed by Section 44-107 of this title in order to grant a variance as to use with respect to any such application or appeal.

Decisions under this section may be enforced by voiding the approval if the standards specified in the approval are not met.

Exceptions and/or variances may be allowed by the board of adjustment only after notice and hearing as provided in Section 44-108 of this title. The record of the meeting at which the variance or special exception was granted shall show that each element of a variance or special exception was established at the public hearing on the question, otherwise said variance or special exception shall be voidable on appeal to the district court.

B. All appeals of final decisions made by the board of adjustment shall be made to the district court only.

SECTION 3. This act shall become effective July 1, 2005.

SECTION 4. 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.

Passed the House of Representatives the 20th day of May, 2005.

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Presiding Officer of the House of  
Representatives

Passed the Senate the 24th day of May, 2005.

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Presiding Officer of the Senate