

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 647 By: Frix of the Senate
3 and
4 Stinson of the House
5
6 [cities and towns - legislative municipal procedures
7 - challenge to actions - zoning decisions - appeals -
8 preliminary or final plats and subdivisions -
9 determinations - notice and hearing - reasonable
10 costs - effective date]
11
12 AMENDMENT NO. 1. Strike the stricken title, enacting clause, and
13 entire bill and insert:
14 "[cities and towns - regulations - restrictions -
15 boundaries - requirements - legislative municipal
16 procedures - municipal governing body - municipal
17 zoning decisions - appeals - board of adjustment -
18 internal citations - public improvements - plats -
19 planning commission review - subdivision
20 regulations - determinations - basis - notice -
21 hearing - reasonable costs - effective date]
22
23
24 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

3 Section 43-105. A. Regulations, restrictions, and district
4 boundaries of municipalities may be amended, supplemented, changed,
5 modified, or repealed. The requirements of Section 43-104 of this
6 title on public hearings and notice shall apply to all proposed
7 amendments or changes to regulations, restrictions, or district
8 boundaries.

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

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

14 2. ~~the owners of fifty~~ Fifty percent (50%) or more of the area
15 of the lots within a ~~three hundred (300) foot~~ three-hundred-foot
16 radius of the exterior boundary of the territory included in a
17 proposed change~~r~~, and

18 then the proposed change or amendment shall not become effective
19 except by the favorable vote of three-fourths (3/4) of all the
20 members of the municipal governing body where there are more than
21 seven members in the governing body, and by three-fifths (3/5)
22 favorable vote where there are seven or ~~less~~ fewer members in the
23 governing body.

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

5 D. The notice and hearing provisions in Sections 43-104 through
6 43-106 of this title, or as otherwise may be applicable, are
7 intended to provide members of the public with a right to be heard,
8 explain how they think their interests are affected, and bring to
9 the attention of the governing body objective and relevant facts.
10 Information presented from the public that is neither objective or
11 relevant shall not be determinative in land use application
12 proceedings.

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

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

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

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

3 Section 44-110. A. An appeal from any action, decision,
4 ruling, judgment, or order of the board of adjustment may be taken
5 by any person or persons who were entitled, pursuant to Section 44-
6 108 of this title, to mailed notice of the public hearing before the
7 board of adjustment, by any person or persons whose property
8 interests are directly affected by such action, decision, ruling,
9 judgment, or order of the board of adjustment, or by the governing
10 body of the municipality to the district court in the county in
11 which the situs of the municipality is located.

12 B. The appeal shall be taken by filing with the municipal clerk
13 and with the clerk of the board of adjustment, within the time
14 limits which may be fixed by ordinance, a notice of appeal. The
15 notice shall specify the grounds for the appeal. No bond or deposit
16 for costs shall be required for such appeal.

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

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

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

13 a. the likelihood of success on the merits by the party
14 seeking to impose the stay, ~~(ii)~~

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

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

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

22 2. If the court determines to impose a stay, the court shall
23 require a bond or other security and such other terms as it deems
24 proper to secure the rights of the parties and compensate for costs

1 of delay. A bond or other security shall be posted within ten (10)
2 business days of the court's determination; provided, that a
3 municipal governing body shall not be required to post a bond.
4 Subject to subsection A of Section 990.3 of Title 12 of the Oklahoma
5 Statutes, a stay pursuant to this subsection shall automatically
6 dissolve after a judgment, decree, or final order resolving the
7 merits of the appeal is filed with the court clerk. Notwithstanding
8 any provision of law to the contrary, stays in appeals from the
9 board of adjustment to the district court shall be obtained only as
10 set forth in this section.

11 F. The district court may reverse or affirm, wholly or partly,
12 or modify the decision brought up for review. Costs shall not be
13 allowed against the board of adjustment unless it shall appear to
14 the district court that the board acted with gross negligence or in
15 bad faith or with malice in making the decision appealed from. An
16 appeal shall lie from the action of the district court as in all
17 other civil actions. A party may obtain a stay of the enforcement
18 of the district court's judgment, decree, or final order as provided
19 by Section 990.4 of Title 12 of the Oklahoma Statutes.

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

22 Section 45-104. A. Before final action may be taken by any
23 municipality or department thereof on the location, construction, or
24 design of any public building, statue, memorial, park, parkway,

1 boulevard, street, alley, playground, public ground, or bridge, or
2 the change in the location or grade of any street or alley, the
3 question shall be submitted to the planning commission for
4 investigation and report. Counties and school districts may be
5 exempted from the payment of a fee to obtain any license or permit
6 required by a zoning, building, or similar ordinance of a
7 municipality.

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

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

1 or planning commission the power to direct any public utility to
2 extend its services to any particular area.

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

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

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

3 2. The property abutting upon the private roadway shall contain
4 not less than two (2) acres; provided, however, if the covenants of
5 the subdivision allow for ~~Evapotranspiration Absorption Systems~~
6 evapotranspiration absorption systems or an ~~Aerobic Wastewater~~
7 ~~Treatment System~~ aerobic wastewater treatment system, the property
8 abutting upon the private roadway may contain not less than one (1)
9 acre; ~~and~~

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

12 4. The private roadway shall not be dedicated to the public but
13 reserved for future dedication and, until such future dedication,
14 shall be the private roadway of the owners of the abutting property;
15 ~~and~~

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

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

20 7. If the property is platted, there shall be emblemized on
21 the face of the plat, clearly conspicuous, a notice that the streets
22 and drives have not been dedicated to the public and that the
23 streets shall be maintained by the private property owners within
24 the subdivision. ~~Said~~ Such streets shall always be open to police,

1 fire, and other official vehicles of all state, federal, county, and
2 municipal agencies; ~~and~~

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

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

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

18 F. Municipal platting decisions are quasi-judicial in nature.
19 The planning commission and the governing body of a municipality
20 shall have reasonable discretion to determine the compliance of
21 preliminary and final plats with the municipality's adopted
22 subdivision regulations and all applicable codes and ordinances. If
23 the planning commission and governing body determine the proposed
24 plat is in compliance with the adopted subdivision code, and meets

1 all applicable ordinances, and the governing body and planning
2 commission accept any proposed dedications, if applicable, the plat
3 shall be approved.

4 G. While comprehensive plans may be utilized as a guide in the
5 decision-making process, determinations shall be made using
6 applicable objective and relevant facts as to proposed plats as well
7 as utilizing processes, standards, and requirements outlined in the
8 municipal code. Compliance with comprehensive plans shall not be a
9 requirement for plat approval.

10 H. In the case of a preliminary or final plat denial, if
11 requested by the applicant at the meeting on the vote, the city
12 shall identify on the record, or in the minutes of the meeting, the
13 basis for the denial, including at a minimum all of the applicable
14 objective and relevant facts upon which the denial is based.

15 I. 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 Information presented from the public that is neither objective or
21 relevant shall not be determinative in land use application
22 proceedings.

23 SECTION 5. This act shall become effective November 1, 2025."
24

1 Passed the House of Representatives the 7th day of May, 2025.

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4 Presiding Officer of the House of
Representatives
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6 Passed the Senate the ____ day of _____, 2025.
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9 Presiding Officer of the Senate
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1 ENGROSSED SENATE
2 BILL NO. 647

By: Frix of the Senate

3 and

4 Stinson of the House

5
6 [cities and towns - legislative municipal procedures
7 - challenge to actions - zoning decisions - appeals -
8 preliminary or final plats and subdivisions -
9 determinations - notice and hearing - reasonable
10 costs - effective date]

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

12 SECTION 6. AMENDATORY 11 O.S. 2021, Section 43-105, is
13 amended to read as follows:

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

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

23 1. ~~the owners of twenty~~ Twenty percent (20%) or more of the
24 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 7. 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 8. 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)~~

- 1 b. irreparable harm to the property interests of the
2 party seeking to impose the stay if the stay is not
3 imposed, ~~(iii)~~
4 c. relative effect on the other interested parties, and
5 ~~(iv)~~
6 d. public policy concerns arising out of the imposition
7 of the stay.

8 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 9. 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 emblemized 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 10. This act shall become effective November 1, 2025.

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

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2025.

Presiding Officer of the House
of Representatives

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