

HOUSE BILL No. 2186

By Committee on Local Government

2-7

1 AN ACT concerning planning and zoning; dealing with certain
2 easements; amending K.S.A. 19-2961 and K.S.A. 2010 Supp. 12-752
3 and repealing the existing sections; also repealing K.S.A. 19-2633.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2010 Supp. 12-752 is hereby amended to read as
7 follows: 12-752. (a) The owner or owners of any land located within an
8 area governed by regulations subdividing the same into lots and blocks or
9 tracts or parcels, for the purpose of laying out any subdivisions, suburban
10 lots, building lots, tracts or parcels or any owner of any land establishing
11 any street, alley, park or other property intended for public use or for the
12 use of purchasers or owners of lots, tracts or parcels of land fronting
13 thereon or adjacent thereto, shall have a plat drawn as may be required by
14 the subdivision regulations. Such plat shall accurately describe the
15 subdivision, lots, tracts or parcels of land giving the location and
16 dimensions thereof and the location and dimensions of all streets, alleys,
17 parks or other properties intended to be dedicated to public use or for the
18 use of purchasers or owners of lots, tracts or parcels of land fronting
19 thereon or adjacent thereto. All plats shall be verified by the owner or
20 owners thereof. All such plats shall be submitted to the planning
21 commission or to the joint committee for subdivision regulation.

22 (b) The planning commission or the joint committee shall determine
23 if the plat conforms to the provisions of the subdivision regulations. If
24 such determination is not made within 60 days after the first meeting of
25 such commission or committee following the date of the submission of
26 the plat to the secretary thereof, such plat shall be deemed to have been
27 approved and a certificate shall be issued by the secretary of the planning
28 commission or joint committee upon demand. If the planning commission
29 or joint committee finds that the plat does not conform to the
30 requirements of the subdivision regulations, the planning commission or
31 joint committee shall notify the owner or owners of such fact. Such notice
32 shall be in writing and shall specify in detail the reasons the plat does not
33 conform to the requirements of the subdivision regulations. If the plat
34 conforms to the requirements of such regulations, there shall be endorsed
35 thereon the fact that the plat has been submitted to and approved by the
36 planning commission or joint committee.

1 (c) The governing body shall accept or refuse the dedication of land
2 for public purposes within 30 days after the first meeting of the governing
3 body following the date of the submission of the plat to the clerk thereof.
4 The governing body may defer action for an additional 30 days for the
5 purpose of allowing for modifications to comply with the requirements
6 established by the governing body. No additional filing fees shall be
7 assessed during that period. If the governing body defers or refuses such
8 dedication, it shall notify the owner or owners of the land and the
9 planning commission or joint committee of such fact. Such notice shall be
10 in writing and if the deferral or refusal of the dedication of land is based
11 upon noncompliance with the requirements established by the governing
12 body, the notice shall specify in detail the nature of such noncompliance.

13 (d) The governing body may establish a scale of reasonable fees to
14 be paid to the secretary of the planning commission or joint committee by
15 the applicant for approval for each plat filed with the planning
16 commission or joint committee.

17 (e) No building or zoning permit shall be issued for the use or
18 construction of any structure upon any lot, tract or parcel of land located
19 within the area governed by the subdivision regulations that has been
20 subdivided, resubdivided or replatted after the date of the adoption of
21 such regulations by the governing body or governing bodies but which
22 has not been approved in the manner provided by this act.

23 (f) Any regulations adopted by a governing body with reference to
24 subdividing lots shall provide for the issuance of building permits on
25 platted lots divided into not more than two tracts without having to replat
26 such lots. Such regulations also may authorize and establish conditions
27 for the issuance of building permits on lots divided into three or more
28 tracts without having to replat such lots. Such regulations shall provide
29 that lots zoned for industrial purposes may be divided into two or more
30 tracts without replatting such lot. Such regulations shall contain a
31 procedure for issuance of building or zoning permits on divided lots
32 which shall take into account the need for adequate street rights-of-way,
33 easements, improvement of public facilities, and zoning regulations if in
34 existence.

35 (g) The regulations shall provide for a procedure which specifies a
36 time limit within which action shall be taken, and shall further provide,
37 where applicable, for the final decision on the issuance of such building
38 permit to be made by the governing body, except as may be provided by
39 law.

40 (h) The register of deeds shall not file any plat until such plat shall
41 bear the endorsement hereinbefore provided and the land dedicated for
42 public purposes has been accepted by the governing body.

43 (i) *For any subdivision approved by the planning commission or the*

1 *joint committee as provided herein which contains a blanket easement,*
2 *the easement shall be unenforceable where there is no reasonably defined*
3 *or expressed use and the recorded description of the easement does not*
4 *include a definite and specific description of the easement, unless the*
5 *entity holding the easement, upon written request by the property owner;*
6 *provides the property owner and records in a timely manner a*
7 *reasonable, definite and specific description of the easement appropriate*
8 *for its use.*

9 Sec. 2. K.S.A. 19-2961 is hereby amended to read as follows: 19-
10 2961. (a) The board of county commissioners, after the adoption of a
11 comprehensive plan, may provide for the adoption, or amendment, of
12 regulations governing the subdivision of land located within the
13 unincorporated portion of the county in the manner, and for the purposes,
14 provided by this act. Such regulations may provide for the harmonious
15 development of the county, including the proper location and width of
16 streets, and for building lines, open spaces, safety and recreational
17 facilities, flood protection and floodplain regulations and for the
18 avoidance of congestion of population, including minimum width, depth
19 and area of lots and compatibility of design. Such regulations also may
20 provide for the reservation or dedication of land for open space for either
21 public recreational use or for the future use of the owners or occupants of
22 subdivisions in order to insure a reasonable balance of use or design and
23 to avoid the overcrowding of land. Such reservation or dedication shall be
24 determined by the geometric design of the streets, lots, blocks or other
25 natural features of the subdivision but such reservation or dedication shall
26 not exceed 10% of the tract being subdivided, exclusive of streets, alleys,
27 easements or other public ways. No owner of a tract being subdivided
28 shall be prevented from offering more than 10% of such tract for such
29 reservation or dedication nor shall the board of county commissioners be
30 prevented from accepting such offering.

31 The subdivision regulations, as a condition to the approval of any plat,
32 also may require and fix the extent to which and the manner in which
33 streets shall be improved and water, sewer, drainage and other utility
34 mains and piping or connections or other physical improvements shall be
35 installed. Such regulations may provide that in lieu of the completion of
36 such work or improvements prior to the final approval of the plat, the
37 board of county commissioners may accept a completion bond, cashier's
38 check, escrow account or other like security in an amount to be fixed by
39 the board of county commissioners and conditioned upon the actual
40 completion of such work or improvements within a specified period, in
41 accordance with such regulations, and the board of county commissioners
42 may enforce such bond, check or other like security by all equitable and
43 legal remedies. In addition, the board of county commissioners may

1 require a maintenance bond, cashier's check, escrow account or other like
2 security in a reasonable amount to be in force for a period of one year
3 following final county approval of such work or improvements.

4 (b) Before the board of county commissioners creates any
5 regulations governing the subdivision of land located in the
6 unincorporated portion of the county, the board shall require the planning
7 commission to recommend to the board of county commissioners the
8 regulations or restrictions.

9 The notice, hearing and voting procedures for adoption of the
10 subdivision regulations shall be the same as that required for adoption of
11 the comprehensive plan as provided by K.S.A. 19-2958, *and amendments*
12 *thereto*.

13 After adoption of the subdivision resolution, the regulations,
14 restrictions or requirements contained therein may from time to time be
15 supplemented, changed or generally revised by amendment. A proposal
16 for such amendment may be initiated by the board of county
17 commissioners, the planning commission, any zoning board or upon
18 application of the owner of property affected.

19 The board of county commissioners may establish reasonable fees to
20 be paid in advance by the owner of any property at the time of making
21 application for any amendment.

22 All such proposed amendments to the subdivision resolution shall first
23 be submitted to the planning commission for recommendation. All notice,
24 hearing and voting procedures for consideration of proposed amendments
25 to the subdivision resolution shall be the same as that required for
26 amendments, extensions or additions to the comprehensive plan as
27 provided by K.S.A. 19-2958, *and amendments thereto*.

28 (c) Whenever any such regulations governing the subdivision of
29 land under the provisions of this act are adopted, the owner or owners of
30 any land located within the area governed by such regulations who: (1)
31 Subdivides the same into lots and blocks or tracts or parcels, for the
32 purpose of laying out any subdivisions, suburban lots, building lots, tracts
33 or parcels; or (2) establishes any street, alley, park or public way intended
34 to be dedicated for public use or for the use of purchasers or owners of
35 lots, tracts or parcels of land fronting thereon or adjacent thereto, shall
36 cause a plat to be made which shall accurately describe the subdivision,
37 lots, tracts or parcels of land giving the location and dimensions thereof,
38 or the location and dimensions of all streets, alleys, parks or other
39 properties intended to be dedicated to public use or for the use of
40 purchasers or owners of lots, tracts or parcels of land fronting thereon or
41 adjacent thereto, and every such plat shall be duly acknowledged by the
42 owner or owners thereof.

43 All such plats shall be submitted to the zoning board for that township

1 in which such land is located for its consideration and, within 60 days
2 thereafter, unless the regulations provide otherwise, its recommendation
3 shall be submitted to the board of county commissioners for its official
4 consideration and action. No such plat or replat or dedication of street,
5 alley, park or public way shall be effective until filed with the register of
6 deeds of such county as provided by law and no such plat, replat or
7 dedication shall be filed with the register of deeds until such plat or replat
8 or dedication shall have endorsed thereon the fact that it has been
9 submitted to the zoning board and approved by the board of county
10 commissioners, and that any land dedicated for public purposes has been
11 accepted by the board of county commissioners.

12 The board of county commissioners may establish a scale of
13 reasonable fees to be paid in advance to the secretary of the zoning board
14 by the applicant for each plat filed with the zoning board.

15 No building authorization shall be granted for the construction of any
16 structure upon any lot, tract or parcel of land located within the area
17 governed by the subdivision regulations that has been subdivided,
18 resubdivided or replatted after the date of the adoption of such regulations
19 by the board of county commissioners but which has not been approved
20 in the manner provided by this act. Any regulations adopted by the board
21 of county commissioners with reference to subdividing lots shall provide
22 for the issuance of building permits on lots divided into not more than
23 two tracts without having to replat such lot, provided that the resulting
24 tracts shall not again be divided without replatting, except as may
25 otherwise be provided. Such regulations shall contain procedures for
26 issuance of building permits on such divided lots which take into account
27 zoning regulations, the need for adequate street rights-of-way, easements
28 and improvement of public facilities, shall provide for a procedure which
29 shall specify a time limit within which action shall be taken and also may
30 provide for the final decision on the issuance of such building permit to
31 be made by the board of county commissioners, except as may be
32 provided by law.

33 Any regulations adopted by the board of county commissioners may
34 provide additional or alternative review methods if a proposed plat is
35 located in two or more townships.

36 (d) The board of county commissioners is hereby authorized to name
37 or rename streets and to number and renumber business and residence
38 addresses in the unincorporated portion of the county.

39 (e) *For any subdivision submitted as provided herein which contains*
40 *a blanket easement, the easement shall be unenforceable where there is*
41 *no reasonably defined or expressed use and the recorded description of*
42 *the easement does not include a definite and specific description of the*
43 *easement, unless the entity holding the easement, upon written request by*

1 *the property owner, provides the property owner and records in a timely*
2 *manner a reasonable, definite and specific description of the easement*
3 *appropriate for its use.*

4 *New Sec. 3. For any subdivision which contains a blanket*
5 *easement, the easement shall be unenforceable where there is no*
6 *reasonably defined or expressed use and the recorded description of the*
7 *easement does not include a definite and specific description of the*
8 *easement, unless the entity holding the easement, upon written request by*
9 *the property owner, provides the property owner and records in a timely*
10 *manner a reasonable, definite and specific description of the easement*
11 *appropriate for its use.*

12 *Sec. 4. K.S.A. 19-2633 and 19-2961 and K.S.A. 2010 Supp. 12-752*
13 *are hereby repealed.*

14 *Sec. 5. This act shall take effect and be in force from and after its*
15 *publication in the statute book.*