

SENATE BILL No. 144

By Committee on Federal and State Affairs

1-29

9 AN ACT concerning planning and zoning; dealing with certain ease-
10 ments; amending K.S.A. 19-2633 and 19-2961 and K.S.A. 2008 Supp.
11 12-752 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 2008 Supp. 12-752 is hereby amended to read as
15 follows: 12-752. (a) The owner or owners of any land located within an
16 area governed by regulations subdividing the same into lots and blocks
17 or tracts or parcels, for the purpose of laying out any subdivisions, sub-
18 urban lots, building lots, tracts or parcels or any owner of any land estab-
19 lishing any street, alley, park or other property intended for public use or
20 for the use of purchasers or owners of lots, tracts or parcels of land front-
21 ing thereon or adjacent thereto, shall have a plat drawn as may be re-
22 quired by the subdivision regulations. Such plat shall accurately describe
23 the subdivision, lots, tracts or parcels of land giving the location and di-
24 mensions thereof and the location and dimensions of all streets, alleys,
25 parks or other properties intended to be dedicated to public use or for
26 the use of purchasers or owners of lots, tracts or parcels of land fronting
27 thereon or adjacent thereto. All plats shall be verified by the owner or
28 owners thereof. All such plats shall be submitted to the planning com-
29 mission or to the joint committee for subdivision regulation.

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

1 planning commission or joint committee.

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

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

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

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

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

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

1 (i) *For any subdivision approved by the planning commission or the*
2 *joint committee as provided herein which contains a blanket easement,*
3 *the easement shall be void as against public policy and wholly unenfor-*
4 *ceable where there is no reasonably defined or expressed use and the*
5 *recorded description of the easement does not include a definite and spe-*
6 *cific description of the easement, unless the entity holding the easement,*
7 *upon written request by the property owner, provides the property owner*
8 *and records in a timely manner a reasonable, definite and specific de-*
9 *scription of the easement appropriate for its use.*

10 Sec. 2. K.S.A. 19-2633 is hereby amended to read as follows: 19-
11 2633. Any person, partnership or corporation owning land outside the
12 limits of any incorporated city, said land being located more than one
13 mile from the limits of any incorporated city, desiring to subdivide any
14 such tract of land, may plat the same and submit the plat thereof, together
15 with an abstract of title to the land so platted, to the board of county
16 commissioners of the county in which such land is situated. The plat shall
17 contain a description of the land as subdivided, giving the name of said
18 subdivision, and the restrictions to which the land or separate tracts
19 thereof are subject.

20 *For any subdivision submitted as provided herein which contains a*
21 *blanket easement, the easement shall be void as against public policy and*
22 *wholly unenforceable where there is no reasonably defined or expressed*
23 *use and the recorded description of the easement does not include a def-*
24 *inite and specific description of the easement, unless the entity holding*
25 *the easement, upon written request by the property owner, provides the*
26 *property owner and records in a timely manner a reasonable, definite and*
27 *specific description of the easement appropriate for its use.*

28 When said plat is approved by the board of county commissioners of
29 the proper county, the same shall be filed with the register of deeds of
30 said county, and after the filing of said plat with the register of deeds the
31 various tracts or parcels of land therein may be conveyed by the descrip-
32 tion designated in said plat, and said land and tracts shall be subject to
33 the restrictions contained in the plat filed with the register of deeds, as
34 above provided, and the instrument conveying such tracts or parcel of
35 land shall contain the recital subject to existing restrictions contained in
36 the plat of such land now on file in the office of the register of deeds.

37 Sec. 3. K.S.A. 19-2961 is hereby amended to read as follows: 19-
38 2961. (a) The board of county commissioners, after the adoption of a
39 comprehensive plan, may provide for the adoption, or amendment, of
40 regulations governing the subdivision of land located within the unincor-
41 porated portion of the county in the manner, and for the purposes, pro-
42 vided by this act. Such regulations may provide for the harmonious de-
43 velopment of the county, including the proper location and width of

1 streets, and for building lines, open spaces, safety and recreational facil-
2 ities, flood protection and floodplain regulations and for the avoidance of
3 congestion of population, including minimum width, depth and area of
4 lots and compatibility of design. Such regulations also may provide for
5 the reservation or dedication of land for open space for either public
6 recreational use or for the future use of the owners or occupants of sub-
7 divisions in order to insure a reasonable balance of use or design and to
8 avoid the overcrowding of land. Such reservation or dedication shall be
9 determined by the geometric design of the streets, lots, blocks or other
10 natural features of the subdivision but such reservation or dedication shall
11 not exceed 10% of the tract being subdivided, exclusive of streets, alleys,
12 easements or other public ways. No owner of a tract being subdivided
13 shall be prevented from offering more than 10% of such tract for such
14 reservation or dedication nor shall the board of county commissioners be
15 prevented from accepting such offering.

16 The subdivision regulations, as a condition to the approval of any plat,
17 also may require and fix the extent to which and the manner in which
18 streets shall be improved and water, sewer, drainage and other utility
19 mains and piping or connections or other physical improvements shall be
20 installed. Such regulations may provide that in lieu of the completion of
21 such work or improvements prior to the final approval of the plat, the
22 board of county commissioners may accept a completion bond, cashier's
23 check, escrow account or other like security in an amount to be fixed by
24 the board of county commissioners and conditioned upon the actual com-
25 pletion of such work or improvements within a specified period, in ac-
26 cordance with such regulations, and the board of county commissioners
27 may enforce such bond, check or other like security by all equitable and
28 legal remedies. In addition, the board of county commissioners may re-
29 quire a maintenance bond, cashier's check, escrow account or other like
30 security in a reasonable amount to be in force for a period of one year
31 following final county approval of such work or improvements.

32 (b) Before the board of county commissioners creates any regulations
33 governing the subdivision of land located in the unincorporated portion
34 of the county, the board shall require the planning commission to rec-
35 ommend to the board of county commissioners the regulations or
36 restrictions.

37 The notice, hearing and voting procedures for adoption of the subdivi-
38 sion regulations shall be the same as that required for adoption of the
39 comprehensive plan as provided by K.S.A. 19-2958.

40 After adoption of the subdivision resolution, the regulations, restric-
41 tions or requirements contained therein may from time to time be sup-
42 plemented, changed or generally revised by amendment. A proposal for
43 such amendment may be initiated by the board of county commissioners,

1 the planning commission, any zoning board or upon application of the
2 owner of property affected.

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

6 All such proposed amendments to the subdivision resolution shall first
7 be submitted to the planning commission for recommendation. All notice,
8 hearing and voting procedures for consideration of proposed amend-
9 ments to the subdivision resolution shall be the same as that required for
10 amendments, extensions or additions to the comprehensive plan as pro-
11 vided by K.S.A. 19-2958.

12 (c) Whenever any such regulations governing the subdivision of land
13 under the provisions of this act are adopted, the owner or owners of any
14 land located within the area governed by such regulations who: (1) sub-
15 divides the same into lots and blocks or tracts or parcels, for the purpose
16 of laying out any subdivisions, suburban lots, building lots, tracts or par-
17 cels or (2) establishes any street, alley, park or public way intended to be
18 dedicated for public use or for the use of purchasers or owners of lots,
19 tracts or parcels of land fronting thereon or adjacent thereto, shall cause
20 a plat to be made which shall accurately describe the subdivision, lots,
21 tracts or parcels of land giving the location and dimensions thereof, or
22 the location and dimensions of all streets, alleys, parks or other properties
23 intended to be dedicated to public use or for the use of purchasers or
24 owners of lots, tracts or parcels of land fronting thereon or adjacent
25 thereto, and every such plat shall be duly acknowledged by the owner or
26 owners thereof.

27 All such plats shall be submitted to the zoning board for that township
28 in which such land is located for its consideration and, within 60 days
29 thereafter, unless the regulations provide otherwise, its recommendation
30 shall be submitted to the board of county commissioners for its official
31 consideration and action. No such plat or replat or dedication of street,
32 alley, park or public way shall be effective until filed with the register of
33 deeds of such county as provided by law and no such plat, replat or
34 dedication shall be filed with the register of deeds until such plat or replat
35 or dedication shall have endorsed thereon the fact that it has been sub-
36 mitted to the zoning board and approved by the board of county com-
37 missioners, and that any land dedicated for public purposes has been
38 accepted by the board of county commissioners.

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

42 No building authorization shall be granted for the construction of any
43 structure upon any lot, tract or parcel of land located within the area

1 governed by the subdivision regulations that has been subdivided, resub-
2 divided or replatted after the date of the adoption of such regulations by
3 the board of county commissioners but which has not been approved in
4 the manner provided by this act. Any regulations adopted by the board
5 of county commissioners with reference to subdividing lots shall provide
6 for the issuance of building permits on lots divided into not more than
7 two tracts without having to replat such lot, provided that the resulting
8 tracts shall not again be divided without replatting, except as may oth-
9 erwise be provided. Such regulations shall contain procedures for issua-
10 nce of building permits on such divided lots which take into account
11 zoning regulations, the need for adequate street rights-of-way, easements
12 and improvement of public facilities, shall provide for a procedure which
13 shall specify a time limit within which action shall be taken and also may
14 provide for the final decision on the issuance of such building permit to
15 be made by the board of county commissioners, except as may be pro-
16 vided by law.

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

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

23 (e) *For any subdivision submitted as provided herein which contains*
24 *a blanket easement, the easement shall be void as against public policy*
25 *and wholly unenforceable where there is no reasonably defined or ex-*
26 *pressed use and the recorded description of the easement does not include*
27 *a definite and specific description of the easement, unless the entity hold-*
28 *ing the easement, upon written request by the property owner, provides*
29 *the property owner and records in a timely manner a reasonable, definite*
30 *and specific description of the easement appropriate for its use.*

31 Sec. 4. K.S.A. 19-2633 and 19-2961 and K.S.A. 2008 Supp. 12-752
32 are hereby repealed.

33 Sec. 5. This act shall take effect and be in force from and after its
34 publication in the statute book.