

Harvey County Subdivision Regulations

Article 1. Authority, Adoption & Application of Regulations

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Section 1.01 **TITLE AND AUTHORITY.**

- A. **TITLE.** This chapter shall be known as the subdivision regulations of the Harvey County Unified Development Code (UDC).
- B. **AUTHORITY.** This resolution is adopted under authority of K.S.A. 12-741 et. seq. as amended.

Section 1.02 **PURPOSE AND GOALS.**

- A. **PURPOSE.** These regulations are designed to assure that the subdivision and development of land is developed according to standards that are compatible with the standards of the adjacent cities, and help to influence the health, safety, economy, livability, sustainability, and amenities of an area. The purpose of the subdivision regulations is to:
 1. Provide for the harmonious and orderly development of Harvey County in accordance with the currently adopted comprehensive plan.
 2. Ensure adequate traffic circulation through coordinated street systems with relation to major thoroughfares and adjoining subdivisions.
 3. Provide safe and convenient vehicular and pedestrian traffic movements appropriate to the various uses of land and buildings throughout the county, and to provide for proper location and width of streets and building lines.
 4. Achieve individual property lots of reasonable utility and livability.
 5. Ensure that public facilities and services are available concurrent with development and will have sufficient capacity to serve the proposed subdivision.
 6. Provide for the conservation and protection of natural resources, and prevent the pollution of air, streams, and ponds.
 7. Ensure compatibility between adjacent and neighboring subdivisions to promote harmony in the relationships and transitions between subdivisions and between new development and existing development.
 8. Ensure that each subdivision provides that all building sites are safe from damage by the 100-year floodplain where the 100-year flood line has been designated or from damage by the regulatory flood, where the Federal Insurance Administrator has designated the regulatory flood elevation.
 9. Insure the conveyance of land by accurate legal description.
 10. Establish standards of design and procedures for subdivisions and resubdivisions to further the orderly layout and use of land.

11. Provide off-site and on-site public improvements.
12. Provide for the reservation or dedication of lands for open spaces.
13. Provide for the recreational facilities, which may include, but are not limited to the dedication of land area for park purposes.
14. Provide for any other services, facilities and improvements deemed appropriate.

Section 1.03 **JURISDICTION AND APPLICATION OF THESE REGULATIONS**

- A. These subdivision regulations shall apply to all subdivisions of land within the unincorporated portions of Harvey County, Kansas.
- B. After the effective date of these regulations, land shall not be split, divided into lots or parcels, auctioned, or conveyed for development purposes except as provided by these regulations, unless exempted. It shall be unlawful for any person to sell or otherwise convey land for the purpose of laying out any subdivisions, suburban lots, building lots, tracts or parcels or any owner of any land to establish any street, alley, park or other property intended for public use or to offer for development purposes any land without reference to a valid, recorded plat or approved certificate of survey. The Register of Deeds of Harvey County, Kansas shall not record any plat that does not bear the endorsement of the Harvey County Regional Planning Commission; acceptance of any dedications or public improvements by the Board of County Commissioners; and a certificate by the county's designated review surveyor.
- C. No building permit shall be issued for any parcel or plat of land that was created by subdivision after the effective date of these regulations that is not in conformity with the provisions of these subdivision regulations.
- D. EXEMPTIONS. These regulations shall not apply in the following instances or transactions.
 - a. The split, division, or transfer of land is for a valid agricultural purpose.
 - b. The land is owned or held in trust for the United States Government, the State of Kansas, Harvey County, or railroad right-of-way.
 - c. The lot, tract, or parcel has been previously subdivided and is proposed to be split into no more than two lots or tracts.
 - d. The division of any tract or parcel containing 40 acres/quarter of a quarter may be divided one time for creation of a home site after the date of adoption of this regulation. The smaller parcels shall not be less than 5 acres without rural water or 3 acres with rural water, including road right of way. The parcel created shall meet all the zoning and environmental set back requirements for a parcel of its size, without variance. A survey must be provided and filed with the Registrar of Deeds. This includes all divisions made for mortgage purposes. It also includes parcels that have been divided since the May 4, 1987 date. Provided they meet all the criteria above. Supporting evidence will need to be provided.
 - e. A subdivision of any land used exclusively for cemetery purposes and associated accessory uses.
 - f. The vacation of land used (i.e., right-of-way, alley or easement) for public use.
 - g. A "lot of record" that was legally created prior to the effective date of this resolution.
 - h. A transaction between owners of adjoining land that involves only a change in the boundary and does not create an additional lot or a substandard lot as required by the zoning property development regulations.
 - i. A lot split for property zoned industrial.

Section 1.04 **RULES FOR INTERPRETATION.**

It shall be the responsibility of the Zoning Administrator to interpret and administrate the rules and regulations contained in this Chapter.

- A. **OVERLAPPING REGULATIONS.** Where the conditions imposed by any provision of this resolution (UDC) on the use of land, buildings, or structures are more restrictive than comparable conditions imposed by any other laws, resolutions, rules or regulations of any kind, the restrictions of these regulations shall govern.
- B. **PRIVATE AGREEMENTS.** The provisions of this resolution (UDC) are not intended to annul or otherwise interfere with any easement, covenant or private legal agreement, except that when the regulations of this resolution are more restrictive, or impose higher standards than private agreements, the regulations of this resolution shall govern.
- C. **UNLAWFUL PLAT.** A subdivision of land, which was not lawful at the time of the adoption of these regulations, shall not become or be made lawful solely by reason of adoption of these regulations.
SEVERABILITY. Should any section, provision, or particular application of this resolution be adjudged invalid by a court of competent jurisdiction, it is the intent of this resolution that such judgment shall not affect the validity of the remainder of this resolution, and such shall remain in full force and effect.
WORD USAGE. Words used in the plural in this resolution are intended to include the singular and words used in the singular shall include the plural, unless clearly indicated otherwise. The word "shall" is mandatory. The word use, occupy, or occupied as applied to any land or building shall be construed to include the words intended, arranged, or designed to be used or occupied.
PERSONS. The word person includes the words: persons, association, agent, corporation, partnership, and company.

Section 1.05 **ENFORCEMENT AND PENALTIES.**

- A. The violation provisions set forth in Chapter One, Section 1.08 of this resolution shall govern the enforcement remedies and penalties for this chapter. The following are violations of this chapter.
 1. **Subdividing Without Approval.** When any subdivision, development, use, construction, or other activity of any nature upon the land and improvements subject to the jurisdiction of Harvey County is commenced without the required permits, approvals, and certificates of authorization required by this UDC resolution.
 2. **Subdividing Inconsistent with Approval.** When any subdivision, development, use, construction, or other activity of any nature is inconsistent with the terms and conditions of any permit, approval, and certificates of authorization required of this UDC resolution.
 3. **Violating Condition.** Where, by act or omission, any term, condition or qualification placed by the county upon a required plat, permit, certificate, or other form of authorization granted by the county to allow the use, development, or other activity is violated.
 4. **Reducing Lots and Other Areas.** When any lot area is reduced or diminished, unless permitted by variance, so that the yards or open spaces shall be smaller than required by Chapter One of this resolution.
 5. **Selling Land in Violation.** Where land in a subdivision is sold without complying with all the requirements of this chapter and of conditions imposed on any plat, including the requirements to complete all public improvements.

Section 1.06 **VARIANCES AND WAIVER OF CONDITIONS.**

- A. **VARIANCES.** The Harvey County Regional Planning Commission may grant variances from the provisions of these subdivision regulations where there exists a hardship or practical difficulty that would prevent strict compliance with these rules or regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal. The Harvey County Regional Planning Commission shall consider variances as a separate agenda item prior to action on a preliminary or final plat. The

applicant and any other interested person shall be given an opportunity to be heard with respect to the proposed variance request. The Harvey County Regional Planning Commission shall not approve a variance unless it shall make findings that all of the following apply:

1. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property.
2. The conditions upon which the request is based are unique to the property in question.
3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.
4. The proposed variance request is in harmony with the intended purposes of these regulations as identified in Section 1.02.

Section 1.07 **VESTING.**

- A. **RESIDENTIAL DEVELOPMENT RIGHTS.** The right to construct any dwelling unit shall vest at the time the final plat is recorded and the first valid permit is issued. If construction is not commenced within five (5) years of the date a final plat is recorded, such rights shall expire and require re-approval of the plat.

Section 1.08 **VACATION OR REPLAT OF PLATS.**

The vacation or replat of plat shall be accomplished in accordance with K.S.A. 12-512(b). Section 1.09 **FEES.** The subdivider shall pay all fees associated with the filing of an application for a subdivision.

- A. A subdivision review fee must be paid prior to any consideration by the county staff of a preliminary plat, lot split, final plat, or replat.
- B. The Board of County Commissioners shall adopt by resolution the fee schedule for filing applications under these regulations.
- C. Any other incidental costs associated with legal publication and recordings of documents and plats shall be the responsibility of the applicant.

Section 1.10 **AMENDMENTS.**

These regulations may be amended from time to time after the Harvey County Regional Planning Commission has held a public hearing on the proposed amendment. A notice of such public hearing shall be published in the official county newspaper as provided by law. The Harvey County Regional Planning Commission may, after such public hearing, adopt such amendment, but such amendment shall not become effective until approved and published by the Board of County Commissioners in accordance with state law.

Section 1.11 **EFFECTIVE DATE.**

These regulations shall be effective after their adoption by the Harvey County Regional Planning Commission and approval by the Board of County Commissioners.