

**SUBDIVISION REGULATIONS FOR LAWRENCE AND
THE UNINCORPORATED AREAS OF DOUGLAS COUNTY, KS**

Amending Article 8, Sections 20-804 and 20-806
OF CHAPTER 20 OF THE CODE OF THE CITY OF LAWRENCE, KANSAS

These Sections are labeled as Sections 11-104 and 11-106
Of CHAPTER 11 OF THE CODE OF DOUGLAS COUNTY, KANSAS



City of Lawrence



Douglas County

Incorporated By Reference Pursuant to K.S.A. 12-3009, *et seq.*, K.S.A. 12-3301 *et seq.*, and
the Home Rule Authority of the City

Passed by the Governing Body of the City of Lawrence, Kansas

Ordinance No. 9318

First Reading: December ____, 2016

Second Reading: December ____, 2016

Adopted by the Governing Body of Douglas County, Kansas

Resolution No. _____

Date: December ____, 2016

Date of Publication: _____

(a) Purpose

The purpose of this Section is to allow an administrative approval procedure for divisions of land to accommodate rural residential development on land [Parcels](#) that are located within the [Urban Growth Areas](#) of cities in Douglas County. The procedure contemplates that forethought and design considerations will be employed to identify the future [Urban Density](#) residential development of the land [Parcel](#) prior to any division occurring, and that based on these considerations, 3 acre or larger [Residential Development Parcels](#) may be created when they allow for future divisions through a 'Build Out Plan' of the [Residential Development Parcels](#), at some future time, to create [Urban Blocks](#) and connective [Street](#) networks in accordance with the Design Standards in the [Subdivision Regulations](#) for the city associated with the [Urban Growth Area](#). These regulations will result in [Residential Development Parcels](#) that retain their rural character for the immediate future, but will also allow for more efficient transition to [Urban Density](#) development as subsequent circumstances dictate. The clustering of development [Parcels](#) within the [Urban Growth Areas](#) on [Parcels](#) that contain at least 20 acres is intended to mitigate the strain on [Infrastructure](#) and public services and to anticipate future development patterns for the remainder of the property after annexation.

(b) Applicability

- (1) The division of a [Parcel](#) of land that contains at least 20 acres in area, and that is located in Service Areas 2-4, of Lawrence's [Urban Growth Area](#) or in another City's [Urban Growth Area](#), may be approved according to the [Cluster Development](#) provisions of this Section.
 - (i) For purposes of determining compliance with the 20 acre minimum [Parcel](#) area, an entire half of a quarter-quarter section (e.g. West ½ of the Southeast ¼ of the Southeast ¼) shall be deemed to be a 20 acre [Parcel](#).
 - (ii) In calculating the size of a [Parcel](#), the [Parcel](#) size shall be deemed to include ½ of the adjoining [Road Right\(s\)-of-Way](#) if this inclusion is necessary for the [Parcel](#) to conform to the applicable minimum [Parcel](#) size.

(c) Immediate Development Acreage and Future Development Acreage

Lands divided pursuant to this Section shall be developed as a [Cluster Development](#) and shall be identified as either the Immediate Development Area or the Future Development Area in accordance with the following requirements.

- (1) Immediate Development Area.

The Immediate Development Area of a [Cluster Development](#) shall not exceed 60% of the total acreage of the proposed development included in the [Certificate of Survey](#). The Immediate Development Area may further be divided into [Residential Development Parcels](#) (RDPs) subject to the requirements of this Section. [Residential Development Parcels](#) shall be located only in the Immediate Development Area. Individual [Residential Development Parcels](#) shall only take [Access](#) from a [Cross Access Easement](#) and shall be laid out in a manner that minimizes adverse impacts to the Future Development Area. Development of the Immediate Development Area, to the greatest extent practicable, shall conform to the following requirements:

- (i) Minimum [Parcel](#) Acreage and dimensional standards
[Residential Development Parcels](#) shall be laid-out and designed to comply with all applicable zoning district regulations listed in the County [Zoning Regulations](#). The minimum [Residential Development Parcel](#) size shall be 3 acres.
- (ii) Location of Residential Development Parcels
Within the [Cluster Development](#), each [Residential Development Parcel](#) shall be designed and developed in accordance with the requirements in this sub-section:
 - a. Clustered to take [Access](#) from [Cross Access Easements](#) to minimize [Access](#) points to the adjacent public [Right\(s\)-of-Way](#).
 - 1. [Cross Access Easements](#) shall be established by a separate legal instrument, acceptable to the legal counsel of the nearby city and the [Easement](#) shall be filed recorded at the Register of Deeds as a [Restrictive Covenant](#) of the [Cluster Development](#) that prohibits development of the Future Development Area until, upon annexation, the [Cross Access Easement](#) is dedicated to the annexing city as public [Road Right-of-Way](#).
 - 2. The [Cross Access Easements](#) shall be written so that, upon annexation by a city, the [Cross Access Easement](#) shall be in acceptable form and dimensions to be dedicated to the City as public [Road Right\(s\)-of-Way](#), to allow for construction of [Streets](#) within the [Cross Access Easements](#) to meet the then current city [Street](#) standards.
 - b. Planned and laid out to allow for future [Subdivision](#) of the [Residential Development Parcel](#) s into [Platted Lots](#) at an [Urban Density](#) commensurate with the zoning and [Subdivision Regulations](#) of the annexing city.
- (iii) Utility – Water
All [Residential Development Parcels](#) shall obtain [Publicly Treated Water](#) delivered through a water meter.
- (iv) Utility – Wastewater
All [Residential Development Parcels](#) shall have an [On-Site Sewage Management System](#) approved by the Director of Lawrence/Douglas County Health Department or a connection to a wastewater disposal system approved by the Kansas Department of Health and Environment.
- (v) County Health Code Restriction in [Floodplain](#)
[On-Site Sewage Management Systems](#) shall be located outside the FEMA designated regulatory [Floodplain](#).
- (vi) Building Envelopes
The buildable area for each [Residential Development Parcel](#) within the Immediate Development Area shall be defined by [Building Envelopes](#) and structure placement is governed by the setbacks established in the Douglas County [Zoning Regulations](#).
 - a. [Residential Development Parcels](#) shall be planned and arranged to allow for the future [Subdivision](#) of these [Parcels](#) into [Urban Streets](#) and [Blocks](#)

that conform to the development regulations of the city associated with the [Urban Growth Area](#).

- b. The buildable area for each [Residential Development Parcel](#) shall be defined by [Building Envelopes](#) which accommodate the future [Block](#) layout and exclude lands which have been identified for protection as Environmentally Sensitive Lands.
- c. The [Building Envelopes](#) for each RDP shall be shown on the [Certificate of Survey](#).

(vii) Access

- a. When the [Cluster Development](#) is located within the Lawrence [Urban Growth Area](#) or in the [Urban Growth Area](#) of another city, the development shall have direct [Access](#) to a [Road](#) that meets or exceeds the [County's Rock Road Standard](#).
- b. When established as part of a [Cluster Development](#) in Lawrence's UGA, the service drive constructed within the [Cross Access Easement](#) shall be constructed, at a minimum, to meet the [County's Rock Road Standard](#), and the minimum width of traveled-way plus shoulder shall be 20 feet.
 - 1. As an alternative, when a [Cross Access Easement](#) provides [Access](#) to only one or two RDPs in the Immediate Development Area, a waiver from this construction standard may be permitted if approved by the County Engineer and when provisions for future improvement to [Road](#) standards are included in the [Restrictive Covenants](#).
- c. Only one [Access](#) point shall be allowed for the entire development unless a separate [Access](#) point is necessary to allow [Access](#) to prevent intrusion or damage to the Environmentally Sensitive Lands being conserved and protected.

(viii) Steep Slopes

The [Building Envelopes](#) of [Residential Development Parcels](#) shall not contain any slopes greater than 15%.

(ix) Minimum Road Right(s)-of-Way

- a. If the [Cluster Development](#) is located adjacent to public [Road Right-of-Way](#) that does not meet the minimum width standards of Section 20-810(e)(5), approval of the application for division pursuant to this Section 20-804 shall be subject to a condition that the [Subdivider](#) dedicate, by separate instrument to the County, ½ the additional land necessary to bring the [Road\(s\)](#) adjoining the [Cluster Development](#) to the required [Right-of-Way](#) standard based on the [Road's](#) classification established in the [County's Access Management Standards](#).
- b. All necessary [Dedications](#) shall be by separate instrument, satisfactory to the County Counselor, and recorded with the Register of Deeds.
- c. No final action may be taken on the [Certificate of Survey](#) until this additional [Road Right-of-Way](#) has been dedicated.

(x) Minimum Frontage and Entrance Spacing Requirements

- a. The [Cluster Development](#) must meet the minimum [Frontage](#) and Entrance Spacing Requirements established in the [County's Access Management Standards](#). The [Frontage](#) and Entrance Spacing Requirements are based on the classification of the [Road](#) upon which the [Cross Access Easement](#) is proposed to take [Access](#).
- b. Minimum RDP [Frontage](#) on the [Cross Access Easement](#) is not subject to the [Frontage](#) requirements in Section 12-318 of the Douglas County [Zoning Regulations](#).

(xi) Drainage [Easements](#)

If any portion of the [Residential Development Parcel](#) lies in a FEMA designated regulatory [Floodplain](#), or if drainage [Channels](#) or [Swales](#) exist on the [Residential Development Parcel](#) that carry runoff from adjacent property or [Public Street/Roads](#), the FEMA designated regulatory [Floodplain](#) or drainage [Channel](#) or [Swale](#) shall be protected by grant of an [Easement](#), or other similar device, evidenced by separate legal instrument, as may be required by the [Planning Director](#) and acceptable to the County Counselor.

(xii) Restrictive Covenants

Property in the Immediate Development Area shall be subject to a [Restrictive Covenant](#) as set forth in Section 20-804(d).

(2) Future Development Area

The Future Development Area shall meet the requirements set forth in this sub-section:

(i) Minimum Requirement.

A minimum of 40% of the total [Cluster Development](#) shall be designated as Future Development Area. To the extent practical, the Future Development Area should be one contiguous area of land for future planning purposes.

(3) Conservation of Natural Resources

No matter where located within the boundaries of the [Certificate of Survey](#), land that is or contains Environmentally Sensitive Lands identified in Section 20-810(k), to the greatest extent reasonably practicable, shall be conserved and protected through the recording with the Register of Deeds of either a [Temporary Set Aside Agreement](#) or a permanent [Conservation Easement](#).

(i) Temporary Set Aside Agreement

- a. A [Temporary Set Aside Agreement](#) shall prohibit development, while the lands are located within the [Urban Growth Area](#) that would significantly impair or interfere with the environmental, geographical or historical characteristics of the identified natural resources.

- b. The [Temporary Set Aside Agreement](#) shall be provided to the City and County by separate legal instrument, satisfactory to the County Counselor and City Manager or other appropriate city official.
- c. The City will have regulatory authority over the [Temporary Set Aside Agreement](#) only after the property has been annexed into the City.
- d. Within 2 years of the date of annexation into the City, the [Temporary Set Aside Agreement](#) will expire unless further action is taken by either the City or the property [Owner](#) to secure its continuance.

(i) Conservation Easement

- a. A permanent [Conservation Easement](#) may be established by an [Owner](#) that desires a more permanent and perpetual method of protecting and conserving natural resources. The areas of land that a permanent [Conservation Easement](#) may cover include those lands identified in Section 20-810(k), or similar sensitive lands.
- b. A permanent [Conservation Easement](#) shall be established to retain the environmental, geographical or historical characteristics of the land.
- c. It shall be conveyed to a public or nonprofit organization that protects and preserves lands of ecological, scenic, historic, agricultural, or recreational significance.
- d. A permanent [Conservation Easement](#) created for protecting natural resources may or may not be sufficient to meet the requirements for re-evaluation by the county for land appraisal and taxation purposes.

(4) Restriction on Subsequent Divisions

Any further division for development purpose is prohibited until annexation or until an amended [Certificate of Survey](#) is approved and filed recorded with the Register of Deeds.

(5) Restrictive Covenant

The Immediate and Future Development Areas shall be subject to a [Restrictive Covenant](#) as set forth in Section 20-804(d).

(d) Restrictive Covenant

The Immediate Development Area and Future Development Area each shall be restricted by a separate instrument, satisfactory to the County Counselor, which shall:

- (1) Incorporate by reference and have attached as an exhibit the [Build Out Plan](#);
- (2) Require future division of the [Residential Development Parcel](#) s to conform to the [Build Out Plan](#) or the [Subdivision Regulations](#) in place at that time;
- (3) For the Immediate Development Area, limit each [Residential Development Parcel](#) to one principal [Dwelling](#), [one accessory dwelling unit](#), and accessory buildings until annexation into a city and municipal water and Sanitary Sewer service are extended to the property;
- (4) For the Future Development Area, any further division for development purposes is prohibited until annexation or until an amended [Certificate of Survey](#) is approved and recorded with the Register of Deeds;
- (5) Restrict the location of structures within the Immediate Development Area to [Building Envelopes](#) that have been created to allow for the future [Subdivision](#) of the Immediate Development Area into [Blocks](#) of an [Urban Density](#) that avoids interference with planned future [Street/Roads](#), [Easements](#) and setbacks;
- (6) Be binding upon the [Owner](#) and all of its successors and assigns, and shall constitute a covenant running with the land, expiring at the time the subject property is annexed by a city; and
- (7) Be in a recordable form and be recorded with the Register of Deeds.

(e) Notice to Nearby Property Owners

- (1) Written notice of the proposed division for rural residential purposes shall be mailed to the [Owner](#) of record of all property within ¼ mile of the subject property. The notice shall be sent by the applicant by regular mail, postage pre-paid. The mailing addresses for property [Owners](#) within the ¼ mile notification area shall be obtained from the Douglas County Clerk. The applicant shall submit a Certificate of Mailing, at the time of submission of the [Certificate of Survey](#) application. A [Certificate of Survey](#) application shall be considered incomplete without an executed Certificate of Mailing. The notice shall provide:
 - (i) A brief description of the location of the property proposed for division;
 - (ii) The projected date a [Certificate of Survey](#) application will be submitted to the Lawrence/Douglas County Planning Office;
 - (iii) A contact telephone number and address for the property [Owner](#) proposing the division for rural residential purposes; and,
 - (iv) The letter shall include the following statement and information:

Notice of Proposal to divide land located at [road address or general description such as; ½ mile north of the intersection of x road and y road, on the east side] for rural residential development purposes.
This letter is being sent to the Owner of property adjoining and within ¼ mile of the boundaries of the property proposed for division for rural residential Cluster Development. The purpose of this letter is to provide general information to the recipient and/or Owner of property of a proposed or potential change in land use.

- (2) The failure of a property [Owner](#) within the ¼ mile mailing distance to receive the written notice will not affect the validity of the application for a [Certificate of Survey](#).

(f) Cluster Developments – After Annexation

- (1) Upon Annexation, development shall occur in accordance with the [Build Out Plan](#) or an approved plan meeting the [Subdivision Regulations](#) in place at the time. If, however, the appropriate city's plans or regulations for the area covered by the [Build Out Plan](#) recommend a different type of land use or scale of development, the property shall be [Platted](#) to conform to the city's current plans and regulations.
- (2) Upon Annexation, all future divisions of land in the Immediate Development Area or Future Development Area shall be made in accordance with Section 20-809, [Major Subdivisions](#) for the City of Lawrence, or in accordance with the applicable procedures set forth in the annexing city's [Subdivision Regulations](#).

(g) Application

Any person having legal or equitable interest in property that meets the criteria required by this Section may file, with the [Planning Director](#), an application for a division of land in conformance with this Section. The completed application must:

- (1) Satisfy the requirements of Section 20-801;
- (2) Be submitted with an approved application form supplied by the Planning Department;
- (3) Be submitted in both print and electronic format; and,
- (4) Shall be accompanied by the application materials listed in 20-807(d).

(h) Administrative Review and Consideration Procedures

The [Planning Director](#) shall review all applications for [Cluster Developments](#) pursuant to this Section in accordance with the [Certificate of Survey](#) administrative review procedures set forth in Section 20-807.

(a) Purpose

Horizon 2020, the Comprehensive Land Use Plan, strongly encourages that residential development be located in the Lawrence [Urban Growth Area](#) or within the [Urban Growth Areas](#) of the other incorporated cities in the County. Horizon 2020 also recognizes the need for suitable residential development in the [Rural Area](#) of Douglas County.

(b) Definitions

When used in this Section 20-806, the following terms have the following meanings:

- (1) [Original Tract](#) – shall be composed of a [Parcel](#) or a combination of all adjacent [Parcels](#) under a single [Ownership](#) [not separated by public [Right\(s\)-of-Way](#)] that share common boundary lines or two separate [Ownerships](#) that share a common boundary line, for the purpose of creating one [Parent Parcel](#).
- (2) [Parent Parcel](#) – an area of 20 acres or more surveyed solely for the purpose of creating one or more [Residential Development Parcels](#).
- (3) [Residential Development Parcel](#) – a [Parcel](#) created from the [Parent Parcel](#) through the administrative [Certificate of Survey](#) process to make the new land division eligible for a residential building permit.
- (4) [Rural Area](#) – the area of Unincorporated Douglas County lying outside the [Urban Growth Areas](#) of Lawrence, Baldwin City, Eudora and Lecompton.

(c) Applicability

[Residential Development Parcels](#) may be created within the [Rural Area](#) according to the following requirements:

- (1) The [Owner](#) of the land must identify a [Tract](#) of land, which shall be a minimum of 20 acres and take [Access](#) to a [Full Maintenance Road](#), in accordance with this Section. The [Tract](#) containing the area for the proposed [Residential Development Parcel\(s\)](#) shall be known as the “[Parent Parcel](#)”. The land from which the [Parent Parcel](#) is identified shall be known as the “[Original Tract](#)”.
 - (i) For purposes of determining compliance with the 20 acre minimum [Tract](#) area, entire half of a quarter-quarter section (e.g. West ½ of the Southeast ¼ of the Southeast ¼) shall be deemed to be a 20 acre [Tract](#).
 - (ii) In calculating the size of a [Tract](#), the [Tract](#) size shall be deemed to include ½ of the adjoining [Road Right\(s\)-of-Way](#) or [Easements](#) if such inclusion is necessary for the [Tract](#) to conform to the applicable minimum [Tract](#) size.

(d) **Residential Development Parcel (RDP)**

- (1) Up to 3 **Residential Development Parcels** (RDP) may be created by dividing a **Parent Parcel**, depending on the classification of the **Full Maintenance Roads** bounding the property.
 - (i) Up to 2 RDPs may be created by dividing the **Parent Parcel** if the **Parent Parcel** is bounded on only 1 side by a **Road** or the **Parent Parcel** is bounded on 2 or more sides by **Roads** and any of the **Roads** are classified as other than Local **Roads**.
 - (ii) Up to 3 RDPs may be created if the **Parent Parcel** is bounded on 2 or more sides by Local **Roads**.
- (2) **Residential Development Parcels** can be created through the **Certificate of Survey** process only when the **Planning Director** finds: the property is being divided for single-family residential purposes *(limited to a maximum of one principal dwelling and one accessory dwelling unit for each Residential Development Parcel)*; the division does not involve or result in the creation of any minimum maintenance or Full Maintenance new **Roads** or **Road Rights-of-Way** or **Easements**; and, the division is made in accordance with the following requirements:
 - (i) Minimum **Residential Development Parcel** Area and dimensional standards

Residential Development Parcels shall be laid-out and designed to comply with all applicable zoning district regulations listed in the County **Zoning Regulations**. Each **Residential Development Parcel** shall have the minimum area required in Section 12-318 in the County **Zoning Regulations**. The minimum **Parcel** area shall also meet the County Sanitary Code minimum requirements for residential development that has an **On-Site Sewage Management System**;
 - (ii) Development **Access**

Each **Residential Development Parcel** shall have direct **Access** to a **Full Maintenance Road**;
 - (iii) County Health Code Requirements
 - a. The applicant has provided evidence that each **Residential Development Parcel** will satisfy all applicable health and sanitation requirements of the Lawrence/Douglas County Health Department;
 - b. **On-Site Sewage Management Systems** shall be located outside the FEMA designated regulatory **Floodplain**.
 - (iv) Grouping Divisions

When a **Parent Parcel** has previously been identified and filed of record from an **Original Tract**, any subsequent **Parent Parcel** identified from that **Original Tract** shall, where practicable, be located with one boundary line adjacent to the previously created **Parent Parcel** to

encourage the grouping of [Residential Development Parcels](#) to facilitate the efficient provision of [Infrastructure](#) and other public services.

(v) Minimum [Frontage](#) and Entrance Spacing Requirements.

Each [Residential Development Parcel](#) must meet the minimum [Frontage](#) and Entrance Spacing Requirements established in the [County's Access Management Standards](#). The [Frontage](#) and Entrance Spacing Requirements are based on the classification of the [Road](#) upon which the [Residential Development Parcel](#) is proposed to take [Access](#).

(vi) Minimum [Road Right\(s\)-of-Way](#)

- a. If the [Original Tract/Parent Parcel](#) Division is located adjacent to public [Road Right\(s\)-of-Way](#) that does not meet the minimum width standards of Section 20-810(e)(5), approval of the application for division of land pursuant to this Section 20-806 will be subject to the condition that the [Owner](#) dedicate, by separate instrument to the County, ½ the additional land necessary to bring the [Road\(s\)](#) adjoining [Original Tract/Parent Parcel](#) to the required [Right-of-Way](#) standard based on the [Road's](#) classification established in the [County's Access Management Standards](#).
- b. All necessary [Dedications](#) shall be by separate instrument, satisfactory to the County Counselor, and recorded at the Register of Deeds.
- c. No final action may be taken on the [Certificate of Survey](#) until this additional [Road Right-of-Way](#) has been dedicated.

(vii) [Building Envelope](#)

- a. When a [Residential Development Parcel](#) includes lands identified for Protection of Environmentally Sensitive Lands in Section 20-810(k), a [Building Envelope](#) is required to be shown on the [Parcel](#) and it shall not include the areas and sites identified for resource preservation.
- b. A [Building Envelope](#) is not required on a [Residential Development Parcel](#) that does not include lands within the categories identified for resource preservation in Section 20-810(k); however, structure placement is governed by the setbacks established in the Douglas County [Zoning Regulations](#).

(viii) [Conservation Easement](#)

- a. A permanent [Conservation Easement](#) may be established by an [Owner](#) that desires a more permanent and perpetual method of protecting and conserving natural resources. The areas of land

that a permanent [Conservation Easement](#) may cover include those lands identified in Section 20-810(k), or similar sensitive lands.

- b. A permanent [Conservation Easement](#) shall be established to retain the environmental, geographical or historical characteristics of the land.
 - c. It shall be conveyed to a public or nonprofit organization that protects and preserves lands of ecological, scenic, historic, agricultural, or recreational significance.
 - d. A permanent [Conservation Easement](#) created for protecting natural resources may or may not be sufficient to meet the requirements for re-evaluation by the county for land appraisal and taxation purposes.
- (3) With respect to any division made according to this Section, the subsequent [Residential Development Parcels](#) shall be considered [Parcels](#) but shall not be considered [Platted Lots](#) created through a Major or [Minor Subdivision/Replat](#) process. Each [Residential Development Parcel](#) shall be eligible for the issuance of building permits for one single-family [Dwelling](#), *one single-family accessory dwelling unit*, and *other* permitted accessory uses, buildings and structures. Use for any other purpose (other than agricultural use), construction of more than one single-family *principal Dwelling, or one single-family accessory dwelling unit* or further division of the [Residential Development Parcel](#) shall be prohibited. Development for any other use will require review through the [Major Subdivision](#) process.