



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

April 27, 1977

ATTORNEY GENERAL OPINION NO. 77- 140

Mr. Ronald Barta
Assistant City Attorney
111 1/2 North Santa Fe
Post Office Box 359
Salina, Kansas 67401

Re: Cities--Subdivision Regulation--Plats

Synopsis: K.S.A. 12-705b authorizes the City of Salina to require the platting of any area within a three-mile radius of the city limits prior to subdivision thereof, and the subdivision regulations of the city implement those statutory requirements.

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Dear Mr. Barta:

You inquire whether the City of Salina is authorized under K.S.A. 12-705b to require platting of land which is being subdivided in an area within a three-mile radius of the city. You indicate that both yourself and Mr. Lorson, Saline county attorney, have advised your respective governing bodies that the city does have such authority, but that several individuals have continued to question that authority.

K.S.A. 12-705 provides in pertinent part thus:

"The city planning commission of any city which has adopted a comprehensive plan may adopt and may amend regulations governing the subdivision of land located within

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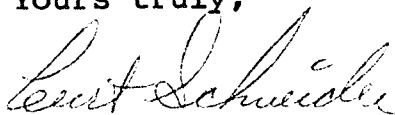
an area which shall be designated by resolution of the governing body of the city for this purpose. Such area shall include the incorporated area of the city and may include any unincorporated territory lying outside of but within three (3) miles of the nearest point on the city limits"

K.S.A. 12-705 provides that whenever subdivision regulations have been adopted, the owner or owners of any land in that area who subdivide such land shall cause a plat to be made and submitted to the city planning commission or to the joint committee for subdivision regulation, as the case may be. No building permit may be issued for construction of any structure upon any land within the area subject to subdivision regulations unless the subdivision has been approved as provided in the act. In addition, the register of deeds may not file a plat of the area or any part thereof unless it bears the endorsement of the planning commission or joint committee on subdivision regulation.

In addition, the subdivision regulations of the City of Salina, which you enclose with your letter, fully implement these requirements. Under section I(D), jurisdiction is asserted in the three-mile area outside the city. The regulations contain detailed specifications of the preliminary and final plats which are required to be submitted for approval. I can find no basis in either the cited statutes or in the regulations for any suggestion that the city has no authority to extend its subdivision regulations over the three-mile limit, for the city clearly has that authority. There appears to be no question as to any city-county conflict over the administration of subdivision regulations.

In sum, I cannot but agree fully with you that the city clearly does have statutory authority, which is implemented by the regulations enclosed with your letter, to require the platting of areas within the three-mile radius of the city limits prior to subdivision thereof.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj