



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

April 20, 1977

ATTORNEY GENERAL OPINION NO. 77- 133

Mr. William J. Daley
Labette County Attorney
45-E Box 991
Parsons, Kansas 67357

Re: Counties--Subdivision Regulation--Jurisdiction

Synopsis: If, after the city has adopted subdivision regulations applicable to the area within the three-mile radius around said city, the county determines to adopt subdivision regulations applicable to that area, city regulations continue in force until the county certifies to the city its resolution designating that area for the adoption of subdivision regulations, and until, thereafter, regulations are adopted by the joint committee for subdivision regulation appointed pursuant to K.S.A 12-705a, or a period of not exceeding six months has passed from the date of certification.

* * *

Dear Mr. Daley:

You inquire concerning the applicability of city and county subdivision regulations within the three-mile radius of the City of Parsons, Kansas. Enclosures with your letter indicate that city subdivision regulations were adopted by ordinance published in the Parsons Sun on November 2, 1968, which applied to property within a three-mile radius of the city. Thereafter, in September, 1970, Labette County adopted subdivision regulations which applied, likewise, to property outside the corporate limits of the City of Parsons but within the three-mile radius thereof.

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The question of the applicability of these respective regulations arose recently when a Parsons individual applied for and received approval of a subdivision plat by the Labette County board of county commissioners. Thereafter, the individual was notified by city officials that he must comply with subdivision regulations of the city. The proposed subdivision is slightly more than one mile outside the city, and within the three-mile radius thereof.

Under K.S.A. 12-705, a city may adopt subdivision regulations governing the incorporated area of the city and unincorporated territory lying outside of but within three (3) miles of the city limits. K.S.A. 12-705a provides in pertinent part that

"if at any time subsequent to the adoption of regulations governing the subdivision of land by the city planning commission, the board of county commissioners shall by resolution designate an area for such purposes which shall include lands lying within the area designated and governed by regulations of the city, the board of county commissioners shall certify a copy of such resolution to the governing body of the city and regulations governing the subdivision of land within the area designated by the city shall be adopted and administered in the manner hereinafter provided. Within sixty (60) days after the date of the certification of said resolution by the board of county commissioners . . . there shall be established by joint resolution . . . a joint committee for subdivision regulation"

This joint committee, composed of three members of the county planning commission, three members of the city planning commission, and one person appointed by those six members, shall thereafter have the authority otherwise provided by law for city and county planning commissions relating to the adoption and administration of subdivision regulations governing the area of joint designation. This section further provides thus:

"Regulations adopted by the . . . city and in effect at the time of the certification of such resolution by the board of county

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commissioners . . . shall remain in effect until new regulations shall have been adopted by the joint committee or for a period not exceeding six (6) months from and after the date of the certification of such resolution"

This section is designed to prevent the applicability of conflicting subdivision regulations to an area over which both the city and the county have subdivision jurisdiction. If a city has adopted regulations governing the area within its three-mile radius, and the county thereafter proposes to adopt subdivision regulations governing the same area, the county must first adopt a resolution making that designation, and certify that resolution to the governing body of the city. You advise that no joint committee for subdivision regulation has been established under this section. If the resolution of the board of county commissioners designating the area within the three-mile radius for subdivision purposes was not certified to the city governing body in 1970, as required by K.S.A. 12-705a, in the course of adoption of the county subdivision regulations, the city subdivision regulations continue to apply. Certification of the resolution by the county to the city is an important procedural step under this provision, for city regulations continue in force until new regulations have been adopted by the joint committee, or for a period of not to exceed six months after the date of certification of the resolution. If the resolution was not so certified, and no joint committee was created, the city regulations continue to apply, and the county acquired to separate and independent jurisdiction of subdivision of land in the three-mile area.

K.S.A. 19-2633, enacted in 1929 and unchanged since that time, provides that any person who wishes to subdivide any tract of land located more than one mile from the limits of an incorporated city may plat said tract and submit the plat to the board of county commissioners for approval. This section makes no provision whatever for resolution of possibly conflicting subdivision regulations sought to be applied by both the city and county, and indeed, seems entirely in conflict with K.S.A. 12-705a where a question of conflicting regulations is presented. To the extent of that conflict, it is my judgment that K.S.A. 19-2633 does not vest subdivision jurisdiction in the county over lands within the three-mile radius of a city when under the later statute, K.S.A. 12-705, that jurisdiction is lawfully vested in the city.

Thus, in my judgment, the subdivision regulations of the city continue to apply to the area within the three-mile radius if

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no resolution was certified by the county to the city in 1970
designating the area for county regulation.

Yours truly,

CURT T. SCHNEIDER
Attorney General

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