

Simple Subdivision of Rural Land

Prepared by the Harrison County Engineering Department

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Early in the Spring of 2008, the Harrison County Utility Authority was created. The Utility Authority's Rules and Regulations establish the minimum property size that can be created where a well and septic system will be used. What follows is an explanation of how these regulations affect people doing a simple subdivision of land. The Harrison County Engineering Department is obliged to observe the limitations placed by the new regulatory agency created by action of the legislature.

This document should be regarded as a guide. It represents a brief unofficial combining of the Utility Authority Rules and Regulations and the Harrison County Official Land Development Regulations. For a more precise interpretation, an interested party should refer to both ordinances.

Definitions:

Floodway: That portion of a river or creek designated on the National Flood Insurance Program maps (FIRM) required for the conveyance of flood waters.

Subdivision: The act of creating two or more smaller parcels of land from one larger original parcel. A subdivision of land does not occur until a deed or subdivision plat is recorded at the Chancery Clerk's Office.

Unreduced : Means that the minimum frontage width may not be reduced until the prescribed minimum buildable width has been reached.

Wetland: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

The Basic Rules:

Every stand alone parcel of land created by the subdivision process must have at least thirty-five (35) feet of unreduced road frontage on a County maintained paved road. Easements are not acceptable.

In calculating the minimum size of a qualifying parcel of land, that portion of a property contained in a designated floodway (or velocity zone), that portion that could be identified as wetlands, or that portion covered a body of water (lake,

pond, bayou, or creek) cannot be used in calculating the minimum size of a qualifying parcel of land.

Other Supporting Rules:

1) Where three (3) or fewer parcels are created, the minimum qualifying size of a parcel on which there will be a well and septic tank is one (1) acre. In calculating the qualifying size of a parcel of land, the land included in a designated floodway, the land that can be designated as wetland by an appropriate agency, and the land covered by a permanent body of water must be subtracted from the overall size in the determination of the qualifying one (1) acre. For example, it may take several acres of property, after subtracting portions of wetland and/or a pond, to meet the qualifying one (1) acre size.

It is to the advantage of the person subdividing a property, prior to proceeding, to check with the Harrison County Zoning Department. There are several zoning district that require more than one or two acres of land.

2) If more than three (3) parcels are created that will individually be served by a well and septic tank, the minimum qualifying size for any of the lots created is two (2) acres. As in Subsection 1 above, land in a floodway, land that can be designated as wetland, or land covered by a body of water must be excluded from determining the qualifying size of individual parcels.

3) Parcels smaller than one (1) acre may only be created when served by public water and sewer. For lot sizes and minimum configuration dimensions of such development please consult the Harrison County Official Land Development Regulations, Type I and Type II development. Permission will need to be granted by the Harrison County Board of Supervisors in order to create such a lot.

4) According to the Harrison County Land Development Regulations, the creation of qualifying parcels of land one (1) acre and larger, that do not involve the construction of a new road, do not require the permission of the Harrison County Board of Supervisors. This rule does not provide an exemption to the qualifying size requirement in #2 and #3 immediately above.

5) Properties that will use a septic tank as the means of waste disposal must meet minimum standards of the Health Department. In a response to the recent approval of the Harrison County Utility Authority Rules and Regulations, the Health Department adjusted its basic requirements. Only standard subsurface disposal systems are allowed. Shallow absorption, spray and similar alternative systems are not allowed due to their high rate of failure.

An applicant should bear in mind that It is possible that the Health Department may require an increase in the parcel size due to the soil unsuitability. The one (1) acre minimum qualifying parcel size contained in the Harrison County Land Development Regulations and in the Utility Authority Rules

and Regulation is separate from the duties under which the Health Department operates. By State Law, the Health Department has a duty to ensure the safe and sanitary disposal of wastes. If more land is required, the Health Department can refrain from approving a system until more land is provided. A building permit cannot be issued without approval.

6) An easement to reach a landlocked property, as the primary method of access, may not be created without formal permission from the Harrison County Board of Supervisors. See the section below titled "Access by Primary Easement".

7) The sale/transfer of land between two adjacent land owners that will be incorporated into the receiving parcel and does not cause either original property to become non-compliant with the language of the Land Development Regulations is permitted, and doesn't require approval regardless of the size. However, it should be kept in mind that such an action may violate other rules that may be contained in the Harrison County Zoning Ordinance, the Harrison County Utility Authority regulations, and the Health Department regulations.

8) All newly created parcels of land not served by franchised water must have a property width at the building setback line of at least one hundred (100) feet and a minimum parcel depth of one hundred (100) feet.

9) Lots of record (existing properties) that are accessed by a primary easement may not be subdivided. If subdivision on an easement is the only alternative, the next section, "Access by Primary Easement", provides a possible remedy.

10) Lots that have already been platted by the Harrison County Board of Supervisors are required to be re-platted by the Board before they may be re-subdivided.

The applicant should be aware that, if a well and septic system are being or to be used, the Health Department may not allow a formerly platted subdivision lot to be divided to create two or more smaller lots. Check with the Health Department before proceeding with a survey. Where water and sewer connections are available, the onsite disposal question does not apply. The Health Department is not involved. You only need approval of the Harrison County Board of Supervisors.

Access by Primary Easement:

In cases where it is not possible to create a thirty-five (35) foot connecting link between the body of an interior parcel of land and the County maintained paved road, a citizen has the right to ask the Harrison County Board of Supervisors for relief based on a "hardship". In asking for hardship relief, it should be remembered that the applicant is asking the same governmental body that created the prohibition for an exemption. The rule was created for public

safety concern. It should be understandable that the Board may be hesitant to grant permission for something that is contrary to the public welfare.

A few words are in order concerning the County's duty to promote public safety. When the Code Administration issues a building permit, the County government is assuming that the applicant's property can be served by essential emergency response equipment (fire truck, ambulance, etc.). Viewed in its simplicity, an easement provides access to one person's property across the property of another. When a locking gate is placed between the road and the landlocked property or a backhoe digs a trench across the road leading to a landlocked homestead, there arises an immediate public safety concern for the County, and a perhaps lengthy court battle for the easement holder. Easements should be thought of as a last resort.

The second concern regarding the use of an easement is the condition and quality of the driving surface. Daily traffic tends to place wear and tear on what needs to be a reliable driving surface capable of supporting a fire truck or ambulance under all weather conditions.

Approaching the Engineering Department:

If you have a question regarding the correct approach to take in subdividing a parcel or parcels of land, you may contact the Engineering Department at 832-4891 for an appointment, or see our Secretary in the Engineering Office for an appointment. You should have the following items on your person on the day you come to talk:

- 1) All the recorded deeds to the property covering the last ten (10) years.
- 2) If the property is accessed by an easement, bring a recorded copy of the easement(s).
- 3) Bring any surveyor's drawings that you may have.
- 4) A basic sketch (drawn to scale would be nice) of how you plan to divide your property.
- 5) The Tax Parcel Number of the parent property. This can be found on the yellow tax receipt from the Tax Assessors Office.

NOTE: This document was prepared on April 24, 2008. Updated information may be available in a more current revision. Contact the Engineering Office.