Land Use Authority

180 West 300 North
Kanab, Utah 84741
Phone (435) 644-4966
Or 435-644-4901
Fax (435) 644-4963
planning@kane.utah.gov

PROCEDURES FOR APPROVAL OF A RURAL UNIMPROVED SUBDIVISION

The following is the procedure to obtain approval for a Rural Unimproved Subdivision under Kane County Land Use Ordinance 9-21K.

1. Obtain a Record of Survey Map completed by a licensed surveyor that complies with Kane County Land Use Ordinance 9-21K-2 (1).
2. a. Auto CAD.DWG file or GIS SHPE file, submitted by surveyor;
   b. File to contain all parcel lines and reference monuments;
   c. Data file to be GEO referenced to Utah State Plane South Grid Coordinate System or ground Coordinate System including ground scale factor. (Kane County Land Use Ordinance page 21-21, 3).
3. If the proposed subdivision has a water and/or sewer system, or has plans for a water and/or sewer system, obtain a letter of approval from the Culinary Water Authority and/or Sanitary Sewer Authority.
4. Sign and notarize the "Agreement of Understanding" (attached below)
5. Obtain a letter from the County Assessor stating whether the proposed subdivision qualifies as Land in Agricultural Use. (FAA) (attached below)
6. If the proposed subdivision qualifies as Land In Agricultural Use (FAA) sign and notarize the "FAA Non-Compliance Notice" (attached below)
7. Submit an application (attached below) and pay a fee of $500.00 to the Land Use Administrator with the following documentation:
   a. (2) Copies of Record of Survey Map
   b. (13) Copies of 11" X 17" Record of Survey Maps for Planning Commission
   c. Letter of Approval from the Culinary Water Authority (if applicable)
   d. Letter of Approval from the Sanitary Sewer Authority (if applicable)
   e. Signed "Agreement of Understanding"
   f. Letter from County Assessor regarding FAA status
   g. Signed "FAA Non-Compliance Notice" (if applicable)
   h. Water and Sewer System Declaration and Acknowledgment letter
   i. Lien Holders Statement signed
   j. Tax statement for current year
8. The Land Use Administrator will conduct a review of the application and submit the Record of Survey Map to the County Engineer for review. You will be notified of any problems with the application.
9. Submit application no later than 21 days prior to the monthly Planning Commission

meeting. After the application has been approved by the Land Use Administrator and the County Engineer it will be scheduled on the next regular meeting of the County Land Use Authority for final review and approval. It is highly recommended that the applicant or their authorized agent be present at the Land Use Authority meeting. Telephonic appearance is acceptable if prior arrangements are made.

10. Once approved the Land Use Authority will issue a letter of written approval which will authorize you to record the record of survey map in the County Recorder's Office.
11. Has a name for each newly created access road or easement distinct from other road or easement names located in Kane County for address purposes, designated on the record of survey.

Fee: _____
Paid: _____

APPLICATION FOR RURAL UNIMPROVED SUBDIVISION

Owner/Applicant_____
Phone_____
Address_____ Fax: _____
City _____ State _____ Zip _____
E-Mail _____

Registered Engineer or
Surveyor_____
Address _____ Fax _____
City _____ State _____ Zip _____
Email _____

Name of Subdivision:
_____
Location and Legal Description:
_____
_____
_____

Number of Lots _____ Minimum Lot Size _____

Attached Documents:
Record of Survey Map: Y N Agreement of Understanding: Y N
Culinary Water Authority Approval: Y N N/A* Sanitary Sewer Authority Approval: Y N N/A*
Land In Agricultural Use (FAA) Status Letter: Y N FAA Non-Compliance Notice: Y N N/A+

(*Must show documentation that no system exists or is planned)
(+Not required for if land is not Land In Agricultural Use, FAA)

Additional Comments:
_____
_____

I HEREBY CERTIFY THE ABOVE INFORMATION TO BE TRUE AND ACCURATE

Signature: _____
Printed Name: _____

Land Use Administrator Use Only:
Existing Zone_____ Zone Change Required: Y N
General Plan Compliance: Y N Previously Divided under Article K: Y N
Land Use Ordinance Compliance: Y N

Engineer Review:
Record of Survey Map: Approved Denied Easements: Approved Denied

Planning Commission Action: Approved Denied

Planning Commission Chairman _____
Date : _____

AGREEMENT OF UNDERSTANDING

STATE OF UTAH)
:ss
COUNTY OF KANE)

I, _____, the applicant of a rural unimproved subdivision named _____, hereby agree and take notice that under Kane County Land Use Ordinance 9-21K-2(2) in unincorporated areas of the County, dedicated roads will not be accepted, paved or maintained by the County, until the subdivision complies with Articles A through J of Chapter 21 of the Kane County Land Use Ordinance.

Date: _____

Signature: _____
Printed Name: _____

SUBSCRIBED AND SWORN TO before me on _____.

_____
NOTARY PUBLIC

FAA NON-COMPLIANCE NOTICE

STATE OF UTAH)
:ss
COUNTY OF KANE)

I, _____, the applicant of a rural unimproved subdivision named _____, hereby state and affirm that this proposed subdivision currently qualifies for land in agricultural use under Utah State Code 59-2-502 (FAA) and is only used for agricultural purposes as defined by the above mentioned statute. I further state and affirm that the proposed subdivision is not used and will not be used for any non-agricultural purpose as defined by the above mentioned statute. I agree and take notice that under Kane County Land Use Ordinance 9-21K-2(4), after my application for subdivision is approved, if the

land is later used for a non-agricultural purpose, as defined under Utah State Code 59-2-502, the county may, in its own discretion, require the subdivision to comply with Articles A-J of Chapter 21 of the Kane County Land Use Ordinance.

Date: _____

Signature: _____

Printed Name: _____

SUBSCRIBED AND SWORN TO before me on _____.

_____

NOTARY PUBLIC

Kane County Assessor

180 West 300 North, Kanab, UT 84741
(435)644-4926

Date:_____

Land Use Authority
180 West 300 North
Kanab, UT 84741

Re: Parcel(s)
_____

On the date of this letter, I, Linda M. Little, Kane County Assessor, certify that the above referenced parcels:

_____ Qualify and are taxes in accordance with the Farmland Assessment Act (FAA).

Pursuant to Utah Tax Code 59-2-50(8) land will require a new application when:

1. The land has a change in ownership
2. The legal description of the land changes

_____ Did not qualify and are not taxed in accordance with the Farmland Assessment Act (FAA)

Please contact the Kane County Assessor if you have any questions regarding this matter.

Sincerely,

Linda M. Little
Kane County Assessor

Rural Unimproved Subdivision
Water and Sewer System Declaration and Acknowledgement

The following letter needs to be filled out and signed if no **water and/or sewer system exists** in the proposed rural unimproved subdivision and there are no current plans for future water and/or sewer systems.

Name of the Subdivision: _____

Applicant: _____

Owner must initial all items below.

_____ 1. The Applicant declares that no water system exists in the above proposed Rural Unimproved Subdivision and that there are no current plans for a future water system for the Rural Unimproved Subdivision.

_____ 2. The Applicant declares that no sewer system exists in the above proposed Rural Unimproved Subdivision and that there are no current plans for a future sewer system for the Rural Unimproved Subdivision.

_____ 3. The Applicant acknowledges that lots in the above proposed Rural Unimproved Subdivision will **not** be able to obtain a building permit until a water system and sewer system have been approved and installed in accordance with State law and County Ordinance.

_____ 4. The Applicant acknowledges that at no point will Kane County be liable or take responsibility for the lack of a water or sewer system or any other infrastructure or future improvements.

Signature: _____ Date: _____

SUBSCRIBED AND SWORN TO before me this ____day of _____, 2014.

_____

Notary Public

Lien Holder Statement

Property Owner's Name: _____

Date: _____ Address: _____

City: _____ State: _____ Zip Code: _____

Home Phone: _____ Cell or other Phone:_____

Location and Legal Description of Subdivision

Plat:_____

The above described lots are Owned by the above; free and Clear.

_____ _____

Signature of Owner / Trustee: Signature of Owner / Trustee:

Or:

The above described lots are encumbered by a Lien / Mortgage.

Lien Holder information:

Name of Person / Bank:

_____

Address:

_____

Signature of Owner / Trustee:_____

Signature of Owner / Trustee: _____

ARTICLE K: RURAL UNIMPROVED SUBDIVISIONS

SECTION:

9-21K-1: Intent
9-21K-2: Rural Unimproved Subdivision Application
9-21K-3: Approval

9-21K-1: Intent.

Kane County desires to create a simplified, less restrictive process for the dividing of land located within the unincorporated areas of Kane County when the project is small and the main purpose and general intent of the division is not property development. This simplified process does not require all of the same improvements and regulations that are required under this chapter when applying for the division of land and approval of a subdivision plat. Under Utah State Code and Kane County Ordinance almost any division of land is defined as a subdivision even though the common and ordinary use of the word subdivision refers to denser residential areas that include roads, utilities, and other improvements.. Although proof of intent is not a requirement of this Article, when the intent of an applicant is to develop the property into a subdivision as the term is normally used, this article should not be used.

Furthermore, for decades many individuals have subdivided their property without first complying with State law and County ordinance in effect at the time of the illegal subdivision. Many individuals may desire to use this Article to bring their land into compliance. If an applicant under this Article otherwise complies with the requirements of this Article, they may obtain approval for a Rural Unimproved Subdivision if, and only if, the application includes all portions of the original land (sometimes referred to as parent parcel) as it legally existed prior to being subdivided illegally, and the application is joined by all of the current property owners.

9-21K-2: Rural Unimproved Subdivision Application.

Notwithstanding articles A-J of this chapter, the Land Use Authority may approve an application for a Rural Unimproved Subdivision, if the following criteria and requirements are met:

1) The applicant shall complete, sign, and submit an official application together with any other required documentation, the form of the application having been prepared by the Land Use Administrator, and pay the associated fee.

2) The proposed subdivision:

   a. has a name that is distinct from all other recorded subdivisions in the county recorder's office;
   b. is for 10 lots or less, all of which are at least 10 acres as a conforming aliquot parts parcel or less than 10 acres, but not less than 9.5 acres if necessary to compensate for the curvature of the earth or the convergence of township lines as recognized in the Public Land Survey System, or because of previous survey errors;
   c. is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes;
   d. has been approved by the culinary water authority and the sanitary sewer authority, if a culinary water system or sewer system is included in the plans of the subdivision. (Note: under Kane County Ordinance and Utah State Code a building permit will not be issued for lots that do not first contain an approved culinary water and sewer system);
   e. is located in a zoned area;
   f. conforms to all applicable land use ordinances or has properly received a variance from requirements of an otherwise conflicting and applicable land use ordinance; and
   g. is graphically illustrated on a record of survey map completed by a licensed surveyor who certifies that he or she is a licensed surveyor and has verified all measurements and placed monuments as represented on the map. The record of survey map must be signed by the applicant and the surveyor;
   h. provides each newly created lot with 1) a vesting of the utility and access easements and other rights of access that the parent parcel holds at the time of the subdivision application; 2) a 50-foot wide recorded access and utility easement across the parent parcel that is necessary to connect the new parcel to any public right-of-way to which the parent parcel has access; and 3) a recorded utility easement across the parent parcel necessary to allow each newly created lot access to the same utilities

currently available to the parent parcel or planned, at the time of the proposed subdivision, to be available to the parent parcel in the future.

i. has a name for each existing and newly created access road or easement distinct from other road or easement names located in Kane County for address purposes, designated on the record of survey.

2) The applicant shall submit an agreement of understanding with the Kane County Commission that in unincorporated areas of the County, dedicated roads will not be accepted, paved or maintained by the County, until the subdivision complies with Articles A through J of this chapter.

3) The proposed subdivision does not include land previously divided under this article.

4) If the applicant so desires a plat may be submitted instead of the record of survey map. The form of the plat must conform with all the requirements of this chapter.

5) The application is signed and submitted by each and every property owner of the land included in the application.

6) If any land contained in the application is the result of land that was previously divided without first complying with State law and County ordinances, the application must include all of the lots or parcels that together represent the entire original parent parcel before it was subdivided illegally.

7) If the proposed subdivision contains agricultural land that qualifies as land in agricultural use as defined by Utah State Code § 59-2-502 (FAA) the applicant must also submit:

a. a signed statement that the land is not used and will not be used for any non-agricultural purpose;
b. a signed notice that the County may require the parcel to comply with Articles A-J of this chapter if it is later used for a non-agricultural purpose.

9-21K-3: Approval.

1) If an applicant meets the requirements of Section two (2) the Land Use Authority after hearing the application in a public meeting shall recommend approval of the application to the County Commission or deny the application.

2) If recommended for approval the application shall be forwarded to the County Commission for final approval.

3) Upon final approval of the County Commission, the appropriate official of the County Commission and the Land Use Authority shall sign the plat or issue a letter of written approval in the case of a record of survey.

4) A Platted Unimproved Subdivision with a recorded approved plat or a letter of written approval recorded with a record of survey shall be considered in compliance with this ordinance as of the date of recording.

5) A building permit shall not be denied on the basis that a lot or parcel is part of a Platted Unimproved Subdivision, approved under this Article.

6) A lot or parcel approved under this Article shall not be restricted from being sold or offered for sale under 9-21A-6 and 9-21B-4.

7) A Plat may not be recorded without all the appropriate signatures and a record of survey map may not be recorded without the letter of written approval.

ARTICLE L: MINOR SUBDIVISIONS

SECTION:

9-21L-1: Minor Subdivision Exemption
9-21L-2: Utah State Code § 17-27a-605(4)

9-21L-1: Minor Subdivision Exemption.

Kane County adopts Utah State Code § 17-27a-605(4). A subdivision of land that qualifies as a minor subdivision under Section 4 does not have to meet the requirements of Articles A-J of this chapter. An applicant that desires to create a minor subdivision lot must file application with the Kane County Land Use Authority certifying that the requirements of Utah State Code § 17-27a-605(4) have been completed. If the applicant meets all the requirements of said subsection, the Land Use Authority Administrator will approve the subdivision after an administrative review.

9-21L-2: Utah State Code §17-27-1-605(4).

For convenience, Utah State Code § 17-27a-605(4) is repeated herein, in its entirety.

(4) (a) As used in this Subsection (4):

(i) "Divided land" means land that:

(A) is described as the land to be divided in a notice under Subsection (4)(b)(ii); and

(B) has been divided by a minor subdivision.

(ii) "Land to be divided" means land that is proposed to be divided by a minor subdivision.

(iii) "Minor subdivision" means a division of at least 100 contiguous acres of agricultural land in a county of the third, fourth, fifth or sixth class to create one new lot that after the division is separate from the remainder of the original 100 or more contiguous acres of agricultural land.

(iv) "Minor subdivision" lot means a lot created by a minor subdivision.

(b) Notwithstanding Sections 17-27a-603 and 17-27a604, an owner of at least 100 contiguous acres of agricultural land may make a minor subdivision by submitting for recording in the office of the recorder of the county in which the land to be divided is located:

(i) a recordable deed containing the legal description of the minor subdivision lot; and

(ii) a notice:

(A) Indicating that the owner of the land to be divided is making a minor subdivision;

(B) Referring specifically to this section as the authority for making the minor subdivision; and

(C) Containing the legal description of:

(I) The land to be divided; and

(II)The minor subdivision lot.

(c) A minor subdivision lot:

(i) may not be less than once acre in size;

(ii) may not be within 1,000 feet of another minor subdivision lot; and

(iii) is not subject to the subdivision ordinance of the county in which the minor subdivision lot is located;

(d) Land to be divided by a minor subdivision may not include divided land;

(e) A County:

(i) may not deny a building permit to an owner of a minor subdivision lot based on;

(A) the lots status as a minor subdivision lot; or

(B) the absence of standards described in Subsection (4) (e) (ii); and

(ii) may, in connection with the issuance of a building permit, subject a minor

subdivision lot to reasonable health, safety, and access standards that the county has established and made public.