

**KANE COUNTY**

**SUBDIVISION ORDINANCE**

**REVISIONS COMPLETED**

**MAY 2009**

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## **SUBDIVISION ORDINANCE REVISION LOG**

<b>CHAPTER(S) REVISED</b>	<b>DATE REVISED</b>
Chapter 1 – revision to 1-2 (4)	05/06/08
Chapter 2	03/23/09
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Chapter 6	01/26/09
Chapter 7	04/13/09
Chapter 8	05/13/09
Chapter 10	12/05/07

# CHAPTER 1. GENERAL PROVISIONS

## 1-1 Purpose

The purpose of this Ordinance is:

- 1) To promote the health, safety and general welfare of the residents of Kane County.
- 2) To promote the efficient and orderly growth of Kane County.
- 3) To provide policies, procedures, requirements and standards for the physical development of subdivisions of land, construction of buildings, and improvements within Kane County including, but not limited to, the construction and installation of roads, streets, curbs, gutters, drainage systems, water and sewer systems, design standards for public facilities and utilities, accesses to public rights-of-way, dedication of land and streets, the granting of easements or right-of-way, and to establish fees and other charges for the authorizing of a subdivision.

## 1-2 Scope of Ordinance

- 1) This Ordinance shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to November 16, 1982, except as provided in this section.
- 2) No lot within a subdivision created and recorded prior to November 16, 1982, or approved by the Kane County Land Use Authority and the Kane County Commission and recorded in the office of the Kane County Recorder under the provisions of this Ordinance, shall be further divided, rearranged or reduced in area, except as provided in this Ordinance. The boundaries of any lot shall not be altered in any manner, so as to create more lots than initially recorded, or any nonconforming lot, without first obtaining the approval of the Land Use Authority and the Kane County Commission as provided in this Ordinance.
- 3) No amendment to this Ordinance that imposes a greater burden or obligation than existed immediately prior to such amendment shall affect a subdivision created prior to the effective date of the amendment.
- 4) It is unlawful for any person, builder or developer to receive a building permit until all improvements, as specified in the Development Agreement and construction documents have been installed and accepted in writing by the Kane County Engineer. Improvements shall include, but are not

limited to: roads, water, fire suppression water, power, septic/sewer, drainage system, perimeter fencing and Wild Land Interface requirements. Owner and/or owner's agent, prior to sale of any portion of an approved subdivision, will advise the prospective buyer/builder that building permits will not be issued until all improvements have been completed.

1-3 Effect on Previous Ordinance.

The existing Subdivision Ordinance of Kane County, Utah is hereby superceded and amended to read as set forth herein; provided however, that this Ordinance shall be deemed a continuation of the previous Ordinance, and not a new enactment, insofar as the substance of revisions of the previous Ordinance is included, whether in the same or in different language.

1-4 Exceptions

Where unusual topographic or other exceptional conditions exist, the Kane County Commission may allow an applicant to vary from the requirements of this Ordinance after receiving the recommendation of the Land Use Authority, provided that such variances shall not substantially impair the intent of this Ordinance.

1-5 Definitions.

Unless the context requires otherwise, the following definitions shall be used in the interpretation and construction of this Ordinance. Words used in present tense include the future; singular numbers shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; the words "used" or "occupied" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used or occupied; the word "shall" is mandatory and not directory, and the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual; the word "lot" includes plot and parcel. Words used in this Ordinance but not defined herein shall have the meaning as defined in any other Ordinance adopted by the Kane County Commission.

- 1) Beginning of Construction. Grading or removal of any vegetation or earth from a site for construction of access routes or preparation for excavation of building pads or footings.
- 2) Frontage, Block. All property fronting on one side of the street between intersecting or intercepting streets or between a street and right-of-way, waterway, end of dead-end street, or political subdivision boundaries, measured along the street line. An intercepting street shall determine only one boundary of the frontage on the side of the street which it intersects.

- 3) Frontage, Lot. The lineal measurement of the front lot line.
- 4) Campground. A parcel designated and approved by the County for occupancy by tents, trailers, motor homes or campers on a temporary basis.
- 5) Grade.  
**Residential**  
Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection so as to not create a hazard. Lots shall be graded so as to drain surface water away from foundation walls. The grade away from foundation walls shall fall a minimum of six (6) inches within the first ten (10) feet.  
**Commercial**  
On graded sites, the top of any exterior foundation shall extend above the elevation of the street gutter at point of discharge or the inlet of an approved drainage device a minimum of twelve (12) inches plus two percent (2%). Alternate elevations are permitted subject to the approval of the Kane County Building Inspector, provided it can be demonstrated that required drainage to the point of discharge and away from the structure is provided at all locations on the site.
- 6) Irrigated Land. Parcels that have surface or underground water diverted continuously or intermittently upon them for the production of crops or pasture, through the utilization of man-made improvements.
- 7) General Plan. A long range policy plan prepared and adopted by the Kane County Commission to guide County growth.
- 8) Off-site Facilities. Improvements not on individual lots but generally within the boundaries of the subdivision which they serve.
- 9) Official Map. The official map or maps adopted by Kane County pursuant to the county zoning and planning enabling legislation.
- 10) On-site Facilities. Construction or placement of the dwelling and its appurtenant improvements on a lot.
- 11) Parcel of Land. Contiguous land owned by and recorded as the property of a person. Land in one ownership but physically divided by a public highway, road or street is considered contiguous under this definition.
- 12) Person. A firm, association, organization, partnership company or corporation or any legal entity entitled to own property as well as an individual.

- 13) Plot Plan. Plat of a lot, drawn to scale, showing such information as may be required by the Kane County Land Use Authority.
- 14) Protection Strip. A strip of land between the boundary of a subdivision and street within the subdivision, for the purpose of controlling the access to the street by property owners abutting the subdivision.
- 15) Streets.
- a. Street – a thoroughfare which has been dedicated and accepted by the County, which the County has acquired by prescriptive right or which the County owns, or offered for dedication on an approval final plat, or a thoroughfare of at least 28 feet in width which has been abandoned or made public by right of use and which affords access to abutting property, including highways, roads, lanes, avenues and boulevards.
  - b. Street, Major – a street, existing or proposed, which serves or is intended to serve as a major traffic way and is designated on the master street plan as a controlled-access highway, major street, parkway or other equivalent term to identify those streets comprising the basic structure of the street plan.
  - c. Street, Collector – a street, existing or proposed, which is the main means of access to the major street system.
  - d. Street, Minor – a street, existing or proposed, which is supplementary to a collector street and of limited continuity which serves or is intended to serve the local needs of a neighborhood.
  - e. Street, Marginal Access – a minor street which is parallel to and adjacent to a limited access major street and which provides access to abutting properties and protection from through traffic.
  - f. Street, Private – a thoroughfare within a subdivision which has been reserved by dedication unto the subdivider or lot owners to be used as private access to serve the lots platted within the subdivision and complying with the adopted street cross section standards of Kane County and maintained by the subdivider or other private agency.
- 16) Subdivider. Any person, developer, firm, corporation, partnership or association who causes land to be divided into a subdivision for himself or others.

- 17)
1. Subdivision. Any land that is divided, re-subdivided, or proposed to be divided into two or more lots, parcels, sites, units, plots or other divisions of land for the purpose, whether immediate or future, for offer, sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions.
  2. Subdivision includes the division or development of land whether by deed, survey, metes and bounds description, devise of testacy, lease, map, plat, or other recorded instrument.
  3. Subdivision does not include:
    - i. a bona fide division or partition of agricultural land for agricultural purposes.
    - ii. a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:
      - a. No new lot is created; and
      - b. the adjustment does not result in a violation of applicable zoning ordinances.
    - iii. a recorded document, executed by the owner of record, revising the legal description of more than one contiguous parcels of property into one legal description encompassing all such parcels of property; or
    - iv. a bona fide division or partition of land for the purpose of siting, on one or more of the resulting separate parcels.
      - a. an unmanned facility appurtenant to pipeline owned or operated by a gas corporation, interstate pipeline company, intrastate pipeline company; or
      - b. an unmanned telecommunications, microwave, fiber optic electrical, or other utility service regeneration, transformation, retransmission, or amplification facility.
  4. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable Land Use Ordinances.

- 18) Vicinity Plan. A map or drawing to scale showing the physical relationship of the proposed development to existing or proposed streets, buildings and utilities; other relevant information such as special terrain or surface drainage; and existing zoning classification of all land within 300 feet of the property proposed for development.
- 19) Zone Clearance. Assurance by the Land Use Authority that a proposed activity is in compliance with existing Zoning regulations.
- 20) Non-Public Water System. Any potable water system that is subject to the rules of the Southwest Utah Public Health Department, which is any potable water system that serves less than 15 lots or less than 25 people.
- 21) Public Water System. Any potable water system that is subject to the rules of the Utah Department of Environmental Quality, which is any potable water system that serves 15 or more lots of an average of 25 or more people at least 60 days per year.

## **CHAPTER 2. ENFORCEMENT, INSPECTIONS, AND FEES**

### 2-1 Enforcement

- 1) Subdivision Ordinance – Kane County Land Use Authority Administrator
- 2) Infrastructure – Kane County Engineer and Land Use Authority Administrator
- 3) Buildings, Structures and Wild Land Urban Interface – Kane County Building Official

### 2-2 Infrastructure Inspections

- 1) Pre-Construction Conference. Prior to starting any infrastructure construction, a pre-construction conference will be held. Attendees shall be: owner/developer, design engineer, utility companies, underground utility subcontractors, earth work subcontractor, paving contractor, county engineer and other appropriate parties.

Items to be discussed shall include: schedule, inspection procedure, reports, compliance with Kane County Standard Specifications and Drawing Details for Design and Construction.

- 2) The Kane County Engineer or his/her designated representative shall be charged with inspecting, in the course of construction, installation or repair, all culinary water lines, fire suppression lines, sewer lines and their excavations. If any such installation is covered before being inspected and approved, it shall be uncovered, at the contractor's expense, and inspected. Copies of all water, culinary and fire suppression lines pressure test reports as well as sewer line pressure test reports will be sent to the Kane County Land Use Authority Administrator's Office within five (5) working days of the test(s) being performed.
- 3) Inspection fees will be paid at time of preconstruction conference. Inspection fees will be as shown on Subdivision/PUD application.

### 2-3 Permits

- 1) No building permit shall be issued for the construction or alteration of any building or structure on any parcel of land which has been subdivided in violation of this ordinance.
- 2) No building permit shall be issued for the construction or alteration of any residential or commercial building or structure within a subdivision or planned unit development until the infrastructure is completed and approved by the Kane County Engineer. (REF: Sub Ord 5-7b)

- 3) No building permit shall be granted for the construction or alteration of any residential or commercial building or structure on any parcel of land unless:
- a. The parcel has a recorded means of access of at least 28 feet in width.
  - b. The applicant submits proof of, and provides onsite verification of, an adequate, approved water supply as follows:
    1. valid, legal right to hook up to an approved public or non- public water system;
    2. valid, legal, private onsite parcel with well right and well, approved for domestic use;
    3. in existing, recorded “dry subdivisions” only, water hauling will be allowed for a single recreational property that is seasonal in nature. A 2000 gallon tank that is certified for domestic use must be provided. Provide satisfactory proof of a water hauling contract or delivery system from a source approved for domestic use.
  - c. If the structure is not connected to a public or private sewer system, septic system approval will have to be obtained from the Southwest Utah Public Health Department.
  - d. The parcel and proposed improvements comply with all other provisions of the Kane County Land Use and Subdivision Ordinances.
  - e. The applicant acknowledges that the access to the parcel will not be maintained by Kane County unless the access has been dedicated to, and accepted by, Kane County.
  - f. The applicant acknowledges that no fire protection is provided or guaranteed by Kane County.
  - g. All Wild Land Urban Interface requirements are met.

## CHAPTER 3 – DEVELOPMENT MEETING(S)

### 3-1 Purpose:

Development meetings are designed to provide the developer/subdivider an informal review of the proposed project prior to filing an application for preliminary plat. The review is normally conducted by the Review Committee comprised of the Kane County Land Use Authority Administrator, Land Use Authority members, Kane County Engineer, Transportation Department, Kane County Building Official, Kane County Attorney and anyone else deemed necessary.

### 3-2 Presentation Requirements:

- 1) Developer/subdivider shall provide the following:
  - a. Plat map showing location of property
  - b. Proposed layout of the project, including number of lots, roads, acreage, easements and access
  - c. Current property zoning
  - d. Water and power availability
  - e. Type of sanitary waste system to be used
  - f. Brief description of area surrounding the proposed project
    1. Subdivisions
    2. BLM, Forest Service, Private, State
  - g. Location of existing County and or State roads in relationship to proposed project.

### 3-3 Review Committee:

- 1) Will respond to developer/subdivider's questions and provide guidance concerning the projects compliance or non-compliance with current Kane County General Plan, Land Use and Subdivision Ordinances.
- 2) Will advise developer/subdivider if project is ready to proceed to preliminary plat phase. If project is not ready to proceed, additional development meeting(s) can be scheduled.

### 3-4 Review Scheduling:

- 1) Development meeting reviews to be scheduled through the Kane County Land Use Authority Administrator.

## CHAPTER 4. PRELIMINARY PLAT

### 4-1 General Requirements

Copies of all required materials for Preliminary Plat review shall be submitted to the Kane County Land Use Authority Administrator by the developer/subdivider or their authorized representative a minimum of 21 days prior to the Kane County Land Use Authority's meeting date at which the Preliminary Plat is to be reviewed.

### 4-2 Required General Submission Items:            Administrative

- 1) One copy of Application for Subdivision and Planned Unit Development
- 2) Subdivisions and Planned Unit Development Deposit
- 3) Wildland Urban Interface Code Subdivision Fees
- 4) Agreement – Subdivision and Planned Unit Development
- 5) Statement of taxes and assessments paid
- 6) Certificate of Title Insurance
- 7) Articles of Incorporation (LLC, Partnership or Corp.)
- 8) Notarized Affidavit that applicant is the owner or authorized by the owner to make application for the proposed land to be subdivided
- 9) Signed Proposed Deed Restrictions
- 10) Development Agreement Draft
- 11) Engineers Cost Estimate
- 12) Soils and Maps Report
- 13) 2 Copies of On-Lot Disposal Report
- 14) Letters of Feasibility/Will Serve Letters (As Applicable)
  - a. Water System (Southwest Utah Public Health Department, Utah Department of Environmental Quality or Kane County Water Conservancy District, etc.

- b. Sewage Treatment from Southwest Utah Public Health Department or Utah Department of Environmental Quality
- c. Telephone
- d. Garkane Energy
- e. Solid Waste Disposal
- f. Access – Utah Department of Transportation and/or Kane County
- g. Other (as requested)

4-3 Submitted Drawing Requirements

- 1) 3 Copies of Preliminary Plat Map (24” x 36”)
- 2) The accuracy of location of alignments, boundaries and monuments shall be keyed to USGS monuments and certified by a registered land surveyor licensed to do such work in the State of Utah. The plat map shall be done in a professional manner with all of the requirements clearly shown. Poorly drawn, illegible or incomplete plat maps is sufficient cause for rejection.
- 3) The plat map shall be drawn to a scale not less than one inch equals 50 feet, if feasible, and shall indicate the basis of bearings, true north point, name of subdivision, name of county, township, range, section and quarter section, block and lot number of the proposed subdivision, keyed to USGS survey monuments.
- 4) Location and vicinity map (on plat)
- 5) Drawing requirements
  - a. Area map showing area + ½ mile
  - b. Traverse map of subdivision
  - c. Lot and Street Layout
  - d. Dimensions of all lots
  - e. Total acreage and legal description
  - f. Lots numbered consecutively
  - g. Location and names of existing and proposed easements
  - h. Existing and proposed street names
  - i. Drainage direction for existing and proposed streets
  - j. All fence lines
  - k. Heavily-wooded areas located
  - l. Site to be reserved or dedicated for public use
  - m. Sites listed to be used for non-single-family dwellings
  - n. Dedicated Public Space

- o. Signature Blocks
- 6) Overall Site Plan Requirements
- a. Future street layout for area not being subdivided (Phased Subdivisions and Planned Unit Development)
  - b. Water courses and proposed drainage systems
  - c. 100 year flood boundaries
  - d. Existing buildings, easements or utilities within 200 feet
  - e. Location and size of proposed utilities
  - f. Any other covenants, easements or restrictions
- 7) Summary Statement (On Plat)
- a. Total development area
  - b. Number of proposed dwelling units
  - c. Total number of square feet in non-residential floor space
  - d. Total number of off-street parking spaces
  - e. Amount of water per lot
  - f. Estimated gallons per day of sewage
  - g. Survey notes of perimeter survey

#### 4-4 Review Procedure

When the preliminary plat and all documentation has been received, reviewed and approved by the Land Use Authority Administrator and Kane County Engineer, it shall be placed on the Kane County Land Use Authority's agenda for review within 45 days.

- 1) See Preliminary Plat Review and Approval Flow Chart

#### 4-5 Land Use Authority Approval

- 1) The Kane County Land Use Authority shall approve only those preliminary plats which it finds have been developed in accordance with the standards and criteria specified in this ordinance and all other ordinances and laws of Kane County and

the State of Utah; including but not limited to, Land Use Ordinances, General Plan and Transportation Plan.

- 2) At a public meeting the Land Use Authority may approve, approve with conditions, table until additional information has been provided or disapprove the Preliminary Plat. In the event that the Kane County Land Use Authority disapproves a Preliminary Plat, it shall state, in writing, within 30 days to the developer/subdivider the reason for disapproval via certified mail, return receipt requested.

#### 4-6 Site Construction

- 1) **No infrastructure site work may be started, even with preliminary plat approval, until construction drawings are submitted and approved by the Kane County Engineer.**
- 2) Failure to comply will be punishable as a Class B Misdemeanor with a \$100/day fine until situation is rectified.

## CHAPTER 5. FINAL PLAT

### 5-1 General

- 1) A final plat may be submitted once all provisions of Chapter 4 (Preliminary Plat) have been met. The final plat of the subdivision or planned unit development may encompass all or part (see Phased Development) of the preliminary plat. The final plat shall be presented to the Kane County Land Use Authority for review within one year after preliminary plat approval, otherwise preliminary plat approval shall be withdrawn and re-application will be required.
- 2) The submitted final plat shall conform in all major respects to the preliminary plat as previously approved and or modified by the Kane County Land Use Authority.
- 3) The developer/subdivider has a maximum of two (2) years from date of recording of final plat to complete the infrastructure as described in the development agreement. If the developer/subdivider has not completed the infrastructure after two years, Kane County may make claim to whichever form of surety that has been provided in order to complete the infrastructure.

### 5-2 Phased Subdivision and Planned Unit Developments

- 1) The final platting of subdivisions and planned unit developments can be done in phases. Each phase shall consist of a minimum of 25 percent of the total number of lots in the subdivision or 25% of the area of a planned unit development.
- 2) When the infrastructure is 100 percent complete and operable and approved by the Kane County Engineer within the phase in progress, the developer/subdivider may submit the next phase of the development in accordance with the provisions of this ordinance.

### 5-3 Acceptance of Streets and other Public Land Dedication

Acceptance of dedication of proposed public lands or street right-of-way in an approved plat can be made only by the Kane County Commissioners. Plat approval will be deemed as acceptance of dedication unless streets and other public spaces are shown as “not intended for dedication.”

### 5-4 Required General Submission Items:

- 1) Administrative
  - a. Mylar copy of approved final plat (for signatures)
  - b. 4 copies of approved and signed final plat

- c. 4 copies of approved construction drawings and documents
- d. Storm Water Pollution Prevention Plan
- e. 4 copies of approved Wildland Urban Interface Site Plan
- f. 3 copies of executed development agreement
- g. 1 copy CC & R's
- h. Payment and performance bond, escrow deposit or letter of credit

## 2) Drawing Requirements

- a. Boundary bearings and distances data outside boundary
- b. Lots numbered consecutively
- c. Curve data: radius, angle, tangent, length
- d. Excluded parcels marked as such
- e. All streets to be named
- f. Bearings and distances of all streets
- g. Parcels not included marked NAPOTS
- h. Adjacent streets shown and dimensioned
- i. Adjacent fences shown
- j. All easements to be labeled and dimensioned
- k. All land with boundaries to be accounted for
- l. All dimensions to be to 0.01' and 0'000'00
- m. Location of perc test trenches
- n. Name of subdivision
- o. North arrow
- p. Basis of bearing
- q. Name and address of owners of record
- r. Total acreage of subdivision
- s. Total number of lots
- t. Legal description of entire subdivision
- u. Township, range, section and quarter section
- v. Graphic scale
- w. Required monuments
- x. County Engineer's signature block
- y. County Surveyor's signature block
- z. County Attorney's signature block
- aa. Land Use Authority's signature block
- bb. County Commission's signature block
- cc. Signature(s) of owner(s) (notarized) block
- dd. County Recorder's recording block
- ee. Lender's signature block (or "Consent to Plat" form)
- ff. Surveyor's Certificate

## 3) Digital Data Submittal

- a. Auto CAD.DWG File or GIS SHPE File

- 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.

5-5 Land Use Authority Review

- 1) After review and approval of the final plat drawing and receipt of required documents by the Administrator and County Engineer, the Kane County Land Use Authority will review the final plat, at a regularly scheduled, publicly noticed public meeting.
- 2) Within seven working days after review of the final plat, the Kane County Land Use Authority will forward a written notification of its review to the Kane County Commission.

5-6 County Commission Review

- 1) The Kane County Commission shall review the final plat within 30 days of notification of review by the Kane County Land Use Authority at a regularly scheduled public meeting. If the Kane County Commission determines that the final plat drawing and documentation meets with the Kane County Land Use Ordinance, Subdivision Ordinance and Standard Specifications and Drawing Details for Design and Construction, they may grant approval.

5-7 Final Plat Recording

- 1) The developer/subdivider or his agent shall record the approved final plat within ten working days of approval by the Kane County Commission. The Kane County Land Use Authority Administrator shall maintain custody of the final plat Mylar until all signatures have been obtained (with exception of the Recorder), at which time he will notify the developer/subdivider that the plat is ready to be recorded.
- 2) **NO BUILDING PERMITS WILL BE ISSUED UNTIL THE INFRASTRUCTURE IS COMPLETED, PER THE DEVELOPMENT AGREEMENT AND APPROVED BY THE KANE COUNTY ENGINEER IN WRITING.**

5-8 Final Plat Distribution

- 1) Mylar – Kane County Recorder
- 2) One signed copy – Land Use Authority Administrator
- 3) One signed copy – Kane County Engineer
- 4) One signed copy – Kane County Building Department
- 5) One signed copy – Developer/Subdivider

## 5-9 Vacating or Amending a Subdivision or Planned Unit Development Plat

- 1) General Requirements: Copies of all required materials for vacating or amending a subdivision or Planned Unit Development shall be submitted to the Kane County Land Use Authority Administrator by the owner(s) of the property or person having Power of Attorney to act in behalf of the owner, a minimum of 21 days prior to the Kane County Land Use Authority's meeting date at which the action is to be reviewed.
- 2) Submission Items
  - a. Application and fees
  - b. Notarized affidavit that applicant is owner or authorized by the owner to make application for proposed plat amendment or abandonment
  - c. Provide names and addresses of all property owners within said plat.
  - d. Three copies of plat map
    1. Amended Plat Map Requirements (Re: 5-4-2 a through ff.)
    2. Vacated Plat Map Requirement (Re: 5-4-2 a through ff.)
- 3) Land Use Authority Review
  - a. After review and approval of the abandonment or amended plat drawing and receipt of required documents by the Land Use Authority Administrator and County Engineer, the Kane County Land Use Authority will review the abandonment or amended plat at a regularly scheduled, publicly noticed public hearing within 45 days.
  - b. Within seven working days after review of the abandonment or amended plat, the Kane County Land Use Authority will forward a written notification of its review to the Kane County Commission.
- 4) County Commission Review
  - a. The Kane County Commission shall review the abandonment or amended plat within 30 days of notification of review by the Kane County Land Use Authority at a regularly scheduled public meeting. If the Kane County Commission determines that the plat drawing and documentation meets with the Kane County Land Use Ordinance, Subdivision Ordinance and Standard Specifications and Drawing Details for Design and Construction, they may grant approval.
- 5) Final Plat recording
  - a. The owner or his agent shall record the approved abandonment or amended plat within ten working days of approval by the Kane County

Commission. The Kane County Land Use Authority Administrator shall maintain custody of the amended plat Mylar until all signatures have been obtained (with exception of the Recorder), at which time he will notify the owner or agent that the plat is ready to be recorded.

6) Plat Distribution

- a. Mylar – Kane County Recorder
- b. One signed copy – Land use Authority Administrator
- c. One signed copy – Kane County Engineer
- d. One signed copy – Kane County Building Department
- e. One signed copy – Owner/Agent

## **CHAPTER 6. DEDICATION AND ACCEPTANCE OF STREETS AND PUBLIC IMPROVEMENTS**

### **6-1 Dedication of Subdivision Roads**

The subdivider shall dedicate the streets, easements and other public improvements to Kane County at the time the Final Plat is approved and recorded by the County. The subdivider shall notify the County in writing that all improvements are completed, at which time the Kane County Engineer will perform a final inspection of the roads. The dedication shall be deemed an offer by the subdivider which shall be irrevocable until one year after all of the improvements are completed. The County may, at its option, accept the offer of dedication only if it finds that the subdivider has constructed, installed and maintained the public improvements required by this Ordinance and that the improvements comply with the minimum standards and requirements of the Ordinance and the Kane County Specifications and Drawing Details for Design and Construction at the time of acceptance.

#### **6-1-1 Timeliness for Acting on Acceptance**

Unless the Kane County Land Use Authority Administrator extends the time for making a decision as to whether or not Kane County will accept dedicated public improvements, the dedication may be acted upon within one year following the completion of the public improvements in accordance with the Kane County Specifications and Drawing Details for Design and Construction, but in no event shall such approval occur without the approval of the Kane County Engineer. In the event the Kane County Engineer does not approve the dedicated public improvements, the subdivider shall be so advised in writing and of the reason for the non-approval.

### **6-2 Dedication of non-Subdivision Right-of-Ways**

The Kane County Commission, on recommendation from the Kane County Land Use Authority, may accept Master Transportation Plans for areas in Kane County. Once a Master Transportation Plan is in place for an area the property owner(s) within the Master Transportation Plan area may dedicate the planned road(s) to Kane County. Kane County Land Use Authority and Kane County Commission may accept the dedicated roads by the recording of a Road Dedication Plat.

#### **6-2-1 Required right-of-way widths**

Right-of-ways that are dedicated will be dedicated to the required width of the Master Transportation Plan. If the right-of-way is planned to be centered on the boundary line between two properties, both property owners will be required to dedicate their respective half of the right-of-way for the right-of-way to be

accepted. If both of the property owners do not agree to the dedication, one of the property owners may dedicate the right-of-way wholly on their property. The right-of-ways will be required to be dedicated to provide continuity with adjacent dedicated right-of-ways.

#### 6-2-2 Right-of-ways dividing a parcel

If a dedicated right-of-way extends through a parcel, dividing said parcel into two or more portions can be accomplished providing the division would not create a non-conforming parcel, in which case the parcel would remain undivided. The resulting parcels shall be conforming parcels within their respective zones. The parcel(s) resulting from the division which occurs as a consequence of dedicating the right-of-way(s) shall be exempt from the Kane County Subdivision Ordinance.

#### 6-2-3 Right-of-way improvements

Dedicated right-of-ways not located within a platted subdivision do not have to be improved at the time of dedication. A dedicated right-of-way will be required to be improved to the standards set forth by the Utah Wildland-Urban Interface Code (current edition) prior to a building permit being issued to any parcel required to be served by an all-weather surface right-of-way. The right-of-way will have to be improved to a minimum 28 feet wide improved all-weather travel surface, prior to a second building permit being issued on a parcel being served by the right-of-way. The owner will be required to submit all invoices associated with the cost of building the road to the County. Any building permits issued within 10 years of the date of completion of improvements of the right-of-way will require the property owner to pay a proportionate share of the road construction cost to the property owner who paid the original cost of improvements. The road will be required to be asphalted prior to a development of 5 acre density, or less, being approved or prior to a building permit being issued which will cause the Average Daily Traffic (ADT) to be above 400 trips per day or then current standard for Very-Low Volume Local Road as defined by the American Association of State Highway and Transportation Officials (AASHTO) Standards. The improvements may be completed with the development construction.

## CHAPTER 7. DESIGN STANDARDS

### 7-1 General Provisions

All subdivisions must comply with the following standards:

- 1) The design and development of subdivisions shall preserve insofar as possible the natural terrain, natural drainage, existing topsoil and trees.
- 2) Land subject to hazardous conditions such as, but not limited to slides, mud flows, rock falls, snow avalanches, possible mine subsidence, shallow water table, open quarries, floods, abandoned land fills, and polluted or non-potable water supply shall be identified and shall not be subdivided until the hazards have been eliminated or will be eliminated by the subdivision and construction plans.
- 3) The Kane County Standard Specifications and Drawing Details for Design and Construction.

### 7-2 Lots

- 1) All lots shown on the subdivision plan shall conform to the minimum requirements of the Kane County Zoning Ordinance for the zone in which the subdivision is located, and to the minimum requirements of the engineer and the Southwest Utah Health Department for sewage disposal. The minimum width for any building lot shall be as required by the Kane County Land Use Ordinance.
- 2) All lots shall abut a dedicated or private street. Streets shall be at least 28 foot travel width. In the event a lot abuts a public right-of-way created by use, the subdivider shall improve the right-of-way to the standards required by this Ordinance and the Standard Specifications and Drawing Details for Design and Construction.
- 3) Corner lots shall have extra width to allow for mandatory setbacks on both streets.
- 4) Side lot lines shall be at substantially right angles or radial to street lines. Where lot lines are not at right angles to the street lines, this shall be shown.
- 5) All remnants of lots less than minimum size left over after subdividing a larger tract shall be added to adjacent lots rather than allowed to remain lot remnants.

- 6) Where the land in a subdivision includes two or more parcels in separate ownership and the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be held in either single or joint ownership before approval of the final plan and such ownership shall be recorded in the office of the Kane County Recorder.
- 7) No single lot shall be divided by a municipal or county boundary.
- 8) A lot shall not be divided by a road, alley or other lot.
- 9) No wedge-shaped lot shall be less than 30 feet in width at the front property line, or the lot frontage required by the Zoning Ordinance, whichever is larger.
- 10) All residential lots in subdivisions shall front on a public street or on a private street or court approved by the Kane County Land Use Authority and the Kane County Commission, except as may be approved for Planned Unit Developments or other special dwellings.

#### 7-3 Streets

- 1) Minor streets shall be laid out to discourage through traffic.
- 2) Stub streets shall be provided where needed to connect to adjacent undeveloped land and new streets must be provided where needed to connect to existing stub streets in adjacent subdivision. Not more than three (3) lots shall front stub streets, except where a temporary cul-de-sac turnaround side is provided.
- 3) Intersections of minor streets with major streets shall be kept to the minimum.
- 4) Half Streets: no half-streets are permitted.
- 5) Dead-end streets, including stub streets, shall be permitted or required by the Kane County Engineer only to provide future access to adjoining property, except for dead-end street systems in cluster subdivisions, Planned Unit Developments, condominium developments, or similar special projects.
- 6) Permanent cul-de-sac streets serving no more than six lots, and not more than 800 feet long, whichever is more restrictive, may be permitted and shall be provided with a right-of-way at the turnaround of 55 ½ feet radius or more, and the outside curb or pavement edge radius shall be 48 feet or more.

- 7) No more than four streets shall enter an intersection.
- 8) Streets should intersect at 90 degrees. All others may be designed only with approval of the Kane County Engineer.
- 9) Two subordinate streets meeting a through street from opposite sides shall meet at the same point, or their centerlines shall be offset at least 200 feet.
- 10) Streets shall have the names of existing streets which are in alignment. There shall be no duplication of street names within the area. All street names shall be approved by the Kane County Building Official. Permanent signs shall be installed by developer at his expense at time of installation of other off-site improvements with locations approved by Kane County.
- 11) Where a residential subdivision abuts a major highway, frontage roads may be required.

#### 7-4 Curvature and Alignment

Ensure adequate sight distances. When street roadway lines deflect more than five degrees, connection shall be made by horizontal curves.

#### 7-5 Block and Cul-de-sac Standards

Block lengths shall be 1000 feet or less. Cul-de-sac shall be no longer than 800 feet.

#### 7-6 Pedestrian Cross-Walks

Pedestrian rights-of-way of not less than 10 feet in width may be required by the Kane County Engineer through blocks where needed for adequate pedestrian circulation. Walk improvements (paving) of not less than five feet in width shall be placed within the rights-of-way, as required by the Kane County Engineer.

#### 7-7 Easement Standards

- 1) Utility easements shall follow front lot lines wherever possible. (See Design Standards Drawing RD02)
- 2) Where front line easements are not possible, easements shall follow rear and side lot lines and shall have a minimum total width of 15 feet apportioned equally on abutting properties.
- 3) All easements shall be designed so as to provide efficient installation of utilities.

- 4) All power lines, telephone lines, and other normally overhead utility lines shall be placed underground by the subdivider unless the Kane County Engineer determines it is not feasible to do so. This determination would be based upon application by a subdivider, supported by recommendation of the County Engineer, and approved by the Kane County Land Use Authority and Kane County Commission.

#### 7-8 Exterior Perimeters

All exterior perimeters of subdivisions shall be fenced with a livestock fence appropriate for the area.

#### 7-9 Alleys

The Kane County Engineer may approve service access to the interior of blocks in certain instances, in which case alleys must be indicated on the plan and plat.

#### 7-10 Sanitary Sewage Disposal

- 1) Except as otherwise provided below, the subdivider shall provide, or have provided, an approved piped sanitary sewage system to the property line of every lot in the subdivision. The sewage system shall meet the minimum standards and requirements of the State Department of Environmental Quality. Certification of compliance shall be provided to the Kane County Land Use Authority by the subdivider.
- 2) All subdivisions, and all phases of subdivisions, proposing onsite wastewater disposal systems, which did not acquire onsite wastewater disposal feasibility approval before December 9, 1997, shall comply with the Southwest Utah Public Health Department's Wastewater Ordinance effective that date. Septic tanks and/or sealed vaults will be approved only when an existing sanitary sewer system is more than one-half mile from the boundary of the subdivision.
- 3) Where the Kane County General Plan or other plans indicate that construction or extension of sanitary sewers may serve the subdivision area within a reasonable time, the Kane County Land Use Authority may require the installation and capping of sanitary sewer mains and house connections by the subdivider. Whenever individual on-lot sanitary sewage disposal systems are proposed, they shall be installed at the time and principal building is constructed, and no building permit shall be issued until such installation is completed. In all other cases, sanitary sewage disposal facilities shall be provided for every lot or parcel by a complete community or public sanitary system.

7-11 Water Supply

All culinary water systems and plans, whether public or private, shall conform with county ordinances, including but not limited to this Ordinance and the Kane County Standard Specifications and Drawing Details for Design and Constructions, and shall be approved by the appropriate state and local authorities.

7-12 Sanitation Collection Sites

The subdivider shall provide a sufficient number of sites for the collection and removal of solid waste.

## CHAPTER 8. RURAL, MOUNTAIN AND DESERT SUBDIVISION

### 8-1 Scope.

The Kane County Land Use Authority and Kane County Commission may make special requirements for the regulation of subdivisions in rural, mountainous or desert areas for prevention or erosion, pollution and excessive costs to the public; protection of existing social, physical or economic values; and protection from fire and other hazards.

### 8-2 Application.

Before applying special requirements to rural, mountain or desert subdivisions that are more restrictive than those otherwise applicable by this Ordinance, the Kane County Land Use Authority Administrator shall cause copies of the proposed subdivision to be issued to the staff (i.e., Building Official, County Engineer, GIS/Transportation Department and any other entities deemed appropriate) for review and comment. Based on information supplied by the staff, the Kane County Land Use Authority shall make its recommendation to the Kane County Commission who shall determine what special requirements shall apply, if any.

### 8-3 Additional Provisions.

Notwithstanding any other provisions herein or with this Ordinance, the following requirements shall apply to all rural, mountain and desert subdivisions:

- 1) Any land within a subdivision having a slope greater than ten (10) percent shall be deemed to be land having a “steep slope”. Developer shall not be permitted to grade, excavate, fill or otherwise modify said land if slope is between ten (10) and forty (40) percent without first submitting a geological report for review and staff approval. In no case may a structure be erected on land with a slope of 40% or greater.

#### a. Geologic Report

1. A geologic report shall include maps and a report containing not less than the following information.
  - i. The site location and regional setting of the subject property
  - ii. A site specific geologic map which illustrates exposure to geological and natural hazards. The map shall illustrate the proposed site modifications relative to geological and

natural hazards and/or geotechnical limitations that may impact the site. Any corrective site modification actions necessary to mitigate or avoid hazards or limitations shall be clearly identified on the map.

- iii. Maps shall use scale of one (1) inch equaling one hundred (100) feet, with contour lines at five (5) foot intervals. Existing contours shall be shown by dashed lines and proposed contours shall be shown as solid lines. Boring logs, cross-sections, test trench logs, soil sample descriptions, and test results shall be included.
- iv. The County Engineer may require additional maps or additional detail on existing maps as reasonably necessary to evaluate actual or potential geologic hazards.

2) The report shall include:

- i. A description of the proposed grading, filling, excavation, or structure.
- ii. An analysis of the effects of the proposed grading, filling, excavation, or erection of a structure in relation to the geologic conditions shown in the geologic maps.
- iii. With regard to a structure, an analysis of the manner in which the same, as constructed, will be made reasonably safe for human habitation.
- iv. Any corrective or remedial action necessary to avoid a violation shall be described and analyzed in detail.
- v. A list, including title, author and date, or all prior studies or reports which are relied upon to make this report; and
- vi. The County Engineer may require additional information or analyses which are reasonably necessary to evaluate actual or potential geologic hazards. This includes submittal of geologic reports to the State Geologist for review and comment.

b. Engineer/Geologist Qualifications and Certificate

- 1. A letter report or a geologic report shall be approved and signed by one (1) of the following, whose primary area of expertise is required to address the particular issue.

- i. A geotechnical engineer who shall be a registered professional engineer in the State of Utah, qualified by training and experience in the application of the principles of soil mechanics to foundation investigation, slope stability, and site development; or
  - ii. An engineering geologist who shall be a graduate in geology or engineering geology from an accredited university with at least five (5) years of professional geologic experience of which at least three (3) full years shall be in the field of engineering geology.
2. A letter report or a geologic report shall contain the following certificate:

CERTIFICATE

I hereby certify that I am a geotechnical engineer or an engineering geologist, as those terms are defined in Section 8-3 of the Kane County Subdivision Ordinance. I have examined the letter report/geologic report to which this certificate is attached and the information and conclusions contained therein are, without any reasonable reservation not stated therein, accurate and complete. All procedures and tests used in said letter report/geologic report meet minimum applicable professional standards.  
Signature

- 3. In addition to any applicable private civil remedies, it shall be unlawful to knowingly make a false, untrue, or incomplete statement in a letter report or a geologic report or to sign the certificate described above knowing the same to be materially false or not true.
  - 4. In general, it shall be the responsibility of a qualified engineering geologist to perform fault studies and landslide investigations, while it shall be the responsibility of a qualified geotechnical engineer to prepare soils and foundation studies, particularly addressing such issues as expansive and collapsible soils, liquefaction evaluations and engineering aspects of landslide studies.
- 2) Required storm water runoff collection facilities shall be so designed as to divert surface water away from cut faces or sloping surfaces of a fill.
  - 3) Natural drainage shall be rip rapped or otherwise stabilized below drainage and culvert discharge points to the satisfaction of the Kane County Engineer.
  - 4) Sediment catchment ponds shall be constructed downstream from each subdivision, unless sediment retention facilities are provided within the subdivision.

- 5) No subdivision design or plan shall be approved which constitutes the creation of hazardous conditions relating to flooding, pollution, fire, geologic hazards or damage or danger to environmental values.

## **CHAPTER 9. CONSTRUCTION STANDARDS**

Construction standards and building codes, including the Kane County Standard Specifications and Drawing Details for Design and Construction adopted by Kane County, shall be followed by the subdivider, developer and contractor.

## **CHAPTER 10. FINANCIAL RESPONSIBILITY**

### **10-1 Guarantee**

Before approval of the final plat, the developer/subdivider shall guarantee the installation of the required subdivision improvements by one of the methods as described in Sections 10-2, 10-3 or 10-4. The guarantee method employed shall be approved by the Kane County Commission in the Development Agreement.

### **10-2 Payment and Performance Bonds**

The developer/subdivider shall furnish payment and performance bonds in an amount equal to 125% of the engineer's estimated cost of improvements as approved by the Kane County Engineer. The additional inflation percentage shall be determined in the Development Agreement and added to the 125% figure.

### **10-3 Escrow Deposit**

The developer/subdivider shall deposit in an interest bearing escrow account an amount of money equal to 125% of the engineer's estimated cost of improvements as approved by the County Engineer. The additional inflation percentage shall be determined in the Development Agreement and added to the 125% figure. The escrow account shall be used solely for securing the subdivisions improvements. The escrow account holder to be approved by Kane County prior to deposit being made.

### **10-4 Irrevocable Letter of Credit**

The developer/subdivider shall file with Kane Count an irrevocable letter of credit from a duly chartered state or national bank or savings and loan institution in an amount equal to 125% of the engineer's estimated cost of improvements as approved by the Kane County Engineer. The additional inflation percentage shall be determined in the Development Agreement and added to the 125% figure.

### **10-5 Default**

In the event the developer/subdivider fails to complete the required improvements as stipulated in the Development Agreement, within two years after final plat acceptance, Kane County shall pursue action against whichever method of guarantee was provided (10-2, 10-3, or 10-4) to complete the improvements as described.

#### 10-6 Improvement Guarantee

The developer/subdivider shall guarantee that all improvements provided, installed and as stipulated in the Development Agreement, shall remain free of defects for a period of one year from date of acceptance by the County. Identifying the necessity for repairs and/or maintenance of the installed work rests with the County Engineer, or designate, and whose decision upon the matter shall be final and binding upon the developer/subdivider. Should the County Engineer find that repairs or maintenance is necessary, and upon written notice, the developer/subdivider shall have a maximum of 30 days to effect the required repairs or maintenance work.

Should the developer/subdivider fail to or refuse to effect said repairs or maintenance, the County shall have such work done at the developer/subdivider's expense.

#### 10-7 Covenant

The developer/subdivider shall, as part of the executed Development Agreement, not sell, lease or convey any of the subdivided property to anyone unless he/she/they, as a condition thereto, satisfy at least one of the foregoing requirements of 10-2, 10-3, or 10-4. The agreement shall specifically provide that it shall be deemed to be a covenant running with the land to secure the installation of the improvements required together with payment of all costs, including reasonable attorney fees which may be incurred by Kane County in the enforcement of any of the terms and provisions of the agreement.

#### 10-8 Acceptance and Release of Surety

- 1) Request for conditional acceptance of the subdivision improvements and reduction in surety must be in writing from the developer/subdivider to the Land Use Authority Administrator. When installation of the subdivision improvements are seventy-five percent complete (75%), fifty percent (50%) of the estimated cost of the improvements will be released after inspection and written verification by the County Engineer. After final completion of all work, an additional forty percent (40%) of the estimated cost will be released after inspection and written verification by the County Engineer. This leaves ten percent (10%) of the estimated cost plus the additional twenty-five percent (25%) of the estimated cost to be held for one year from final completion and acceptance of the improvements.
- 2) Final inspection by the Kane County Engineer shall be made one year after all improvement work has been completed. Any and all defects must be repaired and maintenance must be completed prior to final approval.

- 3) Upon written approval by the Kane County Engineer, the Land Use Administrator shall, in writing, accept all improvements and release remaining surety.

## **CHAPTER 11. PENALTY**

A violation of this Ordinance is a class B misdemeanor, and each day that a violation exists may be charged as a separate violation.

## **CHAPTER 12.        VALIDITY**

If any section, sub-section, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such holding shall not affect the validity of the remaining portion of this Ordinance.