



Land Use Authority

76 North Main Street, Kanab, Utah 84741

(435) 644-4966 or (435) 644-4364

planning@kanab.utah.gov

Planned Unit Development Subdivision Application Fee \$1000 + \$4000 Engineering Deposit

Developer/Engineer **must** request a development meeting
prior to submitting application.

***In the event additional engineering costs are accrued by the County related to a specific project, the project applicant will be responsible for all additional engineering fees.**

(KCLUO 9-1-14)

Name of PUD Subdivision: _____ Number of Lots: _____ Acreage: _____

Project Location: _____ Minimum Lot Size: _____

Open Space Acres: _____ % Open Space: _____ Overall Density: _____

Owner of Property: _____

Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Email Address: _____

Applicant Name: _____

Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Email Address: _____

Engineer Name: _____

Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Email Address: _____

I affirm that I am the owner of the property described above:

Signature of Property Owner

***If acting on behalf of the property owner, please include a Power of Attorney.**

Planning Commission Recommends:

Approval

Denial

Signature - Planning Commission Chair

Date

**AGREEMENT
SUBDIVISION or PLANNED UNIT DEVELOPMENT**

This Agreement is made by and between

_____ and/or _____
Developer Engineer
Hereafter known as "subdivider" and Kane County.

The subdivider hereby acknowledges receipt of a copy of the Kane County Land Use Ordinance and Standard Specifications and Drawing Details for Design and Construction. (Hereafter "Kane County Land Use Ordinance"). Subdivider hereby acknowledges that he or she has read, or that an authorized agent of the subdivider has read, understands and will fully and completely comply with the provisions and requirements contained in the Kane County Land Use Ordinance.

Dated this _____ day of _____ 20____

_____ and/or _____
Developer Signature Engineer Signature

Printed Name Printed Name

NOTARY STATEMENT

State of Utah) §
County of _____)

On this _____ day of _____, in the year 20____, before me, _____ a notary, personally appeared _____, proved on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged (he/she/they) executed the same.

Witness my hand and official seal. _____

CHAPTER 20

PLANNED UNIT DEVELOPMENT

PLEASE NOTE: AS OF FEBRUARY 22, 2022 KANE COUNTY WILL NO LONGER ACCEPT NEW LOTS DESIGNATED WITH THE R-½ ZONE. THE R-½ ZONE REGULATIONS WILL REMAIN IN VARIOUS PARTS OF THIS CHAPTER FOR ADMINISTRATIVE PURPOSES ONLY.

SECTION:

9-20-1: Purpose

9-20-2: Planned Unit Development Process

9-20-3: Rezone approval process

9-20-4: Conceptual Development Plan

9-20-5: Conceptual Development Plan Requirements Checklist

9-20-6: Preliminary Plat Submittal Items

9-20-7: Plan Change Modifications

9-20-8: Residential–Single Lot Development Standards

9-20-9: Multiple-Residential Development Standards

9-20-10: Review by Land Use Authority

9-20-11: Scope of Land Use Authority Action

9-20-12: Construction Limitations

9-20-1: PURPOSE:

A "Planned Unit Development" means an integrated plan for development of residential, commercial, multi-residential, or combinations of such uses, in which one or more of the regulations, other than use regulations, is waived or varied to allow flexibility and initiative, when planned and developed as a unit. The overlay is to encourage the efficient use of land and resources, greater efficiency in public and utility services, preservation of open space, use of alternative transportation and innovation in the planning process for all types of development. The PUD "overlay" allows variation from standard lot configuration patterns in order to reduce disturbance of sensitive lands, promote land use compatibility and facilitate creative site planning. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

Intent: The overlay zone is to provide flexibility in site design in order to:

- A. Encourage imaginative design and the creation of permanent open space.
- B. Encourage affordable housing to be integrated in new developments.
- C. Encourage the conservation of natural site features, wildlife habitat, and sensitive lands.
- D. Combine and coordinate architectural styles, building forms, and structural/visual relationship within an environment that allows mixing of residential types and other land uses in an innovative and functionally efficient manner.

- E. Encourage land development that, to the greatest extent possible, preserves open space areas and respects natural topographic and geologic conditions.
- F. Encourage the development of street, pedestrian and bicycle paths that contribute to a system of fully connected routes and local trails.
- G. Promote a more efficient utilization of land than what might be obtained through other development procedures (clustering).
- H. Facilitate the economical and adequate provision of public services.
- I. Provide for adequate on and off street parking.
- J. Provide unique and unusual land uses to be planned for and located in a manner that ensures harmony with the surrounding community.
- K. Ensure that development occurs at proper locations, away from environmentally sensitive areas, and on land physically suited to construction.

9-20-2: PLANNED UNIT DEVELOPMENT PROCESS:

Planned unit developments may be approved by the Kane County Land Use Authority in PUD overlay zones. An application for a PUD overlay zone change to develop property under the provisions of this article shall be filed for a zone change on the standard PUD zone change form provided by the County. The zones are Planned Unit Development Residential 1, 2, and 5, Planned Unit Development Light Commercial, Commercial 1 and 2 and Planned Unit Development Multi-Residential. The overall density shall coincide with the density of the existing zone. At the time of the zone change application a conceptual development site plan shall be submitted with the zone change request. Compliance with the regulations of this title in no way excuses the developer from the applicable requirements of the subdivision ordinance or the Kane County Standard Specifications and Drawing Details for Design and Construction; except as modifications thereof are specifically authorized in the approval of the application for the planned unit development. No exceptions shall be approved that are less restrictive than applicable State and local ordinances or regulations. An applicant shall secure and follow the provisions outlined in the Land Use Authority's procedures for a planned unit development.

All conceptual development plans shall go through a development committee review prior to the review of the conceptual development plan by the Planning Commission. The planning staff shall contact the Kane County land use development committee and other affected agencies for review purposes. Staff shall hold such meetings with the applicant as are deemed necessary for proper review.

9-20-3: REZONE APPROVAL PROCESS:

- A. Application for a PUD Zone Change: Any person(s) desiring to develop property under the provisions of this article shall first file an application for a PUD overlay zone change on the standard form provided by the County.
- B. Conceptual Development Plan: The zone change application shall include a conceptual development plan, and supporting materials which describe the proposed

land uses, density and the proposal's relationship to the County's general plan, as well as all requirements herein [9-20-4](#).

C. Public Hearing By Planning Commission, With Review And Recommendation: The Planning Commission will schedule a public hearing to consider the proposed PUD zone change and shall review the conceptual development plan, supporting materials and staff comments for compliance with applicable general plan policies. The Planning Commission shall also make recommendations concerning the PUD zone change request which will be forwarded to the Commissioners.

D. Public Meeting By Commissioner's: The County Commissioners will receive the recommendations of the Planning Commission and schedule a public meeting for official action on the zone change request. Published notice must be given as set forth in this title prior to the meeting. (Utah State Code 17-27a-503)

E. Decision of County Commission: The Commission may approve, modify or deny the PUD zone change request.

F. Overlay Designation: The Planned Unit Development Overlay designation shall be shown on the Official Zoning Map in parentheses as a prefix to the zone designation with which it is combined. For example, if the Planned Unit Development Overlay is being combined with the Residential R-1, R-2 or R-5 zone, it would be designated on the Official Zoning Map as "PUD R-1, PUD R-2 or PUD R-5". For commercial or multi-residential it will be "PUD M-R, PUD L-C, PUD C-1, PUD C-2".

G. The assigned PUD zone will allow the permitted uses consistent in the Residential, Multi- Residential and Commercial zones for the Planned Unit Development Overlay with the appropriate permitted or conditional uses set forth therein. Any conditional use shall be subject to the issuance of a conditional use permit as set forth in this Title.

H. Multiple Family Dwellings: Multiple-Family Dwellings require the PUD M-R zoning, as defined in this Ordinance, and shall be a permitted use in a Planned Unit Development Overlay provided that the Multiple-Residential Dwellings be located within the interior of the development and not around the perimeter. The overall density in a particular planned unit development project shall not exceed the density permitted by the underlying zone in which the project is situated.

I. Accessory Uses: Accessory uses located in a common main building may be permitted. Accessory uses may include recreational facilities and structures, day care centers, personal services, and RV parking.

J. Commercial Uses: Any commercial use shown in Chapter 7 of this Title may be permitted within a planned unit development provided such use is: 1. Specifically authorized after receiving a commercial zone change approval and approved pursuant to the provisions of this Chapter; 2. Designed as an integral element of the planned unit

development, including building and landscaping design which is consistent with design elements of the development.

K. Application for the development shall be filed by the sole owner or jointly filed by all owners of the property.

L. Variations from Development Standards of an underlying zone in this title may be approved as part of a Conceptual Development Plan for the Planned Unit Development Overlay pursuant to the provisions of this chapter. A variation from the setback requirements set forth in zones may be approved if the County Commission, after receiving a recommendation from the Planning Commission, finds such variation meets the approval criteria set forth. Any such variation shall be explicitly noted in the Development Agreement. Variations from the development standards set forth in this Chapter are intended to be rare and shall be approved by at least four (4) planning commission members which shall bear the burden of persuasion with regard to any request for a variation. Such burden shall include, but not be limited to, demonstrating that: A proposed project which includes a variation is the result of a substantial amount of advance planning; Any adverse conditions which may result from the variation will be mitigated; and the variation will result in a substantial benefit not only to persons who will live or work within the project, but also to the County and its residents generally.

M. Development Agreement: A Development Agreement shall be prepared and approved in conjunction with approval of the Planned Unit Development Overlay Zoning and Conceptual Development Plan. The purpose of the Development Agreement is to describe how the developer and the County will address items not expressly set forth in this code.

N. Approval Criteria: The Planned Unit Development Overlay may only be approved if the Commission, after receiving a recommendation from the Planning Commission, finds that the proposed Planned Unit Development Overlay: 1. Does not conflict with any applicable policy of the Kane County General Plan; 2. Meets the spirit and intent, as set forth in this Chapter; 3. Will allow integrated planning and design of the property; 4. Meets the use limitations and other requirements of the zone with which the Planned Unit Development Overlay is combined; 5. The capability to start construction within one (1) year of final plan approval.

O. Imposition of Conditions: In order to make findings necessary to approve a Planned Unit Development Overlay, conditions of approval may be imposed on a conceptual development site plan to assure the planned unit development will: 1. Accomplish the purpose of this Chapter; 2. Be developed as one integrated land use rather than as an aggregation of individual and unrelated buildings and uses; and 3.

Meet the requirements of the zone in which the proposed development is located except as such requirements are modified by this Chapter.

9-20-4: CONCEPTUAL DEVELOPMENT PLAN:

A. All requests shall be accompanied by a colored conceptual development plan and written text for the entire property proposed to be developed.

B. Conceptual Development Plan, to include the following information:

1. Show general location of proposed land uses, including residential areas, multi-residential, commercial areas and open space.

2. Include proposed locations for civic spaces such as churches, schools, fire stations, etc.

3. Show adjoining properties and uses.

4. Include tables showing the number of acres in the proposed development and a land use summary.

5. Show general locations of proposed interior collector and/or major arterial streets, and points of connection to existing roads and how the proposed project roads will integrate with County Ordinances.

6. Show typical proposed lot configuration, building clusters, setbacks, road rights-of-way, and road cross-sections.

7. Include a phased development plan if applicable.

8. Development Agreement.

9. Parcel Map(s), from the County Recorder's office showing the subject property and all property located within the minimum radius defined by ordinance.

10. Traffic Impact Analysis, as determined by the County Engineer and/or UDOT.

9-20-5: CONCEPTUAL DEVELOPMENT PLAN REQUIREMENTS CHECKLIST:

A. Dwelling Unit and Land Use Density. The density in terms of dwelling units per gross acre of land shall be indicated;

B. Architectural drawings and sketches outlining the general design and character of the proposed uses and the physical relationship of the uses. Where feasible, lowest height and least density of buildings and uses shall be arranged around the boundaries of the development;

C. Width, yard, height, and overall density and coverage regulations shall be in accordance with the underlying zone;

D. Promote a clustering development pattern in the interest of preserving rural character.

E. Twenty percent (20%) of the developable land within the PUD shall be preserved as open space for the benefit of residents of the development and the community.

F. Preservation, maintenance and ownership of required open spaces within the development shall be accomplished by:

1. Dedication of the land as public park or parkway system in perpetuity; or
2. Granting to the County Commission a permanent, open space easement on and over the said private open spaces to guarantee that the open spaces remain perpetually in recreational uses, with ownership and maintenance being the responsibility of an owners' association established with articles of association and bylaws which are satisfactory to the commission.

G. Complying with the provisions of the condominium ownership act [1](#) , Utah State Code 57-8, which provides for the payment of common expenses for the upkeep of the common areas and facilities.

H. Landscaping, fencing and screening related to the several uses within the site and as a means of integrating the proposed development into its surroundings shall be planned and presented to the land use authority for approval, together with other required plans for the development.

I. The size, location, design and nature of signs, if any, and the intensity and direction of area floodlighting shall be detailed in the application.

J. Topography at contour intervals of two feet (2') shall be submitted unless waived by the planning staff.

K. Geotechnical Report: A geotechnical report identifying any possible flood, slope, faulting, soils or other related hazards on the site shall be submitted with the application.

L. Utilities Underground: All utilities shall be underground unless otherwise approved by the Planning Commission. Transformer equipment shall be screened from the streets and from adjacent properties. Contact local utility companies to determine service requirements to the proposed project. Show existing utility easements, proposed major utility easement corridors, points of service to major land use areas, and points to outside service connections.

M. Refuse Storage Areas: Refuse storage areas shall be screened so that materials stored within these areas shall not be visible from access streets, freeways and

adjacent properties. Storage or refuse areas shall not be located within required building setbacks nor within utility easements.

N. Lighting Plan: The plans submitted shall include a general lighting plan indicating location of lights to be installed on site in compliance with 9-10-14 of this title.

O. Turning Space: Safe and convenient turning space shall be provided for cars, sewer vehicles, refuse collection vehicles, fire-fighting equipment, etc., at the end of private drives and dead end streets.

P. Traffic Conditions: The effect of the development on traffic conditions on abutting streets shall be shown.

Q. Layout: The layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, driveways and walkways.

R. Off Street Parking: The arrangement and adequacy of off street parking facilities.

S. Improvements: Location, grades, widths, and type of all improvements proposed for all streets.

T. Grading and Drainage: Show proposed general grading patterns, and existing and proposed general drainage corridors. A Grading Permit is required.

U. Line Locations: A plan showing the location of all water, sewer and drainage lines in and through the project.

V. Deed Restrictions/ Covenants (CC&Rs): Copies of any deed restrictions, restrictive covenants, bylaws, architectural controls or other requirements that may be appurtenant to the proposed development.

W. All feasibility letters as stated in 9-21D-2 M 1-8.

9-20-6: PRELIMINARY PLAT SUBMITTAL ITEMS:

Preliminary plat shall be submitted after the Planned Unit Development application is approved. See 9-21D-1 for all preliminary plat requirements and submission items.

9-20-7: PLAN CHANGE MODIFICATIONS:

Changes Or Modifications: Any changes or modifications to the approved plan for development during the period of construction shall first be re-submitted to the planning staff for approval and if deemed significant and at the discretion of the staff, returned to the Planning Commission for their review and recommendations and to the County Commissioners.

9-20-8: RESIDENTIAL - SINGLE LOT DEVELOPMENT STANDARDS:

A. Building Coverage: The land coverage by all buildings shall not exceed fifty percent (50%) of the net lot or parcel acreage.

B. Density: The density of a PUD-residential - single lot development shall conform to the density limitations of the underlying zone.

C. Setbacks: The setbacks for all Planned Unit Developments - Residential will be as follows, unless an approved setback alternative plan is granted by the Planning Commission and approved by the Commission:

1. Front Yard: Front yard setbacks shall be a minimum of twenty feet (25'). The street side of corner lots, shall be the same as the front yard setback.

2. Building, Parking Required: The front yard setback area shall not be used for long term parking of any motor vehicles, or for required additional visitor parking, except for the driveway directly in front of the garage or carport of the dwelling unit.

3. Side Setbacks: Side yard setbacks on interior lot lines shall be a minimum of five feet (5') on one side and five feet (5') on the opposite side for all dwellings, with a minimum of ten feet (10') between homes. Side yard setbacks on exterior lot lines (boundary lines) shall be a minimum of ten feet (10').

4. Rear Setbacks: Rear yard setbacks shall be a minimum of five feet (5').

D. Parking Requirements: The parking requirements of chapter 13 of this title shall apply.

E. Height Restrictions: No building shall be erected to a height greater than thirty five feet (35') unless specifically approved as part of the PUD zone change approval.

F. Landscape Requirement: Floodways and slopes that exceed a specific percentage and/or have unsuitable soil conditions for hillside development, as identified in 9-21J-3 (A), are not considered developable. Any land within a subdivision having a slope greater than ten percent (10%) 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 percent (40%) 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 forty percent (40%) or greater. The applicant of the requested PUD Zone shall show what areas are to be landscaped and what areas are to be left in a natural state. All proposed structures, future structures, roads and parking areas are excluded from the calculations used to satisfy this requirement.

G. Time Limitations: Building permits for construction within Planned Unit Development Residential Zones must be obtained within eighteen (18) months of the approval of a PUD zone change to Planned Unit Development - residential. If eighteen (18) months elapse without the issuance of building permits for the construction of the approved plans within the Planned Unit Development, all conceptual and preliminary

plan approvals shall be deemed null and void, unless an extension is granted. The applicant shall request an extension on an approved development plan prior to the expiration of the eighteen (18) month time limit. In the case that an approved development plan does expire, the zoning of the property shall remain Planned Unit Development, but no construction will be allowed on the property until a new plan is submitted and approved by the Planning Commission and the Commission.

9-20-9: RESIDENTIAL – MULTIPLE-RESIDENTIAL DEVELOPMENT STANDARDS:

A. Building Coverage: The land coverage by all buildings shall not exceed thirty percent (30%) of the net lot or parcel acreage.

B. Minimum Lot Size: The minimum lot size in multi-residential subdivisions with private individual building pads and associated common area is one acre; provided, that at least twenty percent (20%) of the total project is developed and maintained as common open landscape or recreation area.

C. Density: The density of a Planned Unit Development Multi-Residential shall conform to the density limitations of the general plan, except that the County upon recommendation of the Planning Commission may approve a density greater than the Multi-Residential zone designation where the following findings are made:

1. The proposed development is considered an infill development where the surrounding land is already developed; and
2. The proposed dwellings are platted for individual ownership of the dwelling units; and
3. The density and building scale of the proposed units are similar in scale to an adjoining developed parcel or is considered in scale with the surrounding area and fits harmoniously into the neighborhood, as determined by the Planning Commission.

D. Setbacks: The setbacks for all Planned Unit Developments - Multi-Residential will be as follows, unless an approved setback alternative plan is granted by the Planning Commission and approved by the County Commission:

1. Front Yard: Front yard setbacks shall be a minimum of twenty five feet (25'). The street side of corner lots, shall be the same as the front yard setback.

2. Building, Parking Required: The front yard setback area shall not be used for long term parking of any motor vehicles, or for required additional visitor parking, except for the driveway directly in front of the garage or carport of the dwelling unit.

3. Side And Rear Setbacks: Side and rear setbacks on interior lot lines shall be a minimum of ten feet (10') for all dwellings.

4. Group Dwellings: In group dwellings, no two (2) buildings may be located closer together than ten feet (10') for one-story buildings, fifteen feet (15') for two-story buildings, and twenty feet (20') for approved three-story (or more) buildings.

5. Two-Story Buildings: For two-story (or more) buildings, the side and rear setbacks shall be at least twenty five feet (25') along the boundary of a Residential Zone, and twenty feet (20') along the boundary of other zones.

E. Parking Requirements: The parking requirements of Chapter 13 of this title shall apply.

F. Signs and Advertising: The requirements of Chapter 16 of this title shall apply, except that in large Residential Planned Unit Developments (those containing more than 200 dwelling units), the Planning Commission may approve an overall sign scheme for the project which may exceed the restrictions contained in chapter 16 of this title.

G. Height Restrictions: No building shall be erected to a height greater than thirty five feet (35') unless specifically approved as part of the PUD zone change approval.

H. Size Requirement: Each Planned Unit Development Zone shall contain a minimum of one acre and 30% density.

I. Landscape Requirement: Floodways and slopes that exceed a specific percentage and/or have unsuitable soil conditions for hillside development, as identified in 9-21J-3 (A), are not considered developable. The applicant of the requested PUD shall show what areas are to be landscaped and what areas are to be left in a natural state. All proposed structures, future structures, roads and parking areas are excluded from the calculations used to satisfy this requirement.

J. Time Limitations: Building permits for construction within Planned Unit Development must be obtained within eighteen (18) months of the approval of a zone change to Planned Unit Development – Multiple-Family. If eighteen (18) months elapse without the issuance of building permits for the construction of the approved plans within the Planned Unit Development Zone, all conceptual and preliminary plan approvals shall be deemed null and void, unless an extension is granted. The applicant shall request an extension on an approved development plan prior to the expiration of the eighteen (18) month time limit. The County Commission may approve a six (6) month extension on an approved development plan. In the case that a second six (6) month extension is needed, the applicant shall request a second extension on the approved development plan prior to the expiration of the first six (6) month extension time limit. The County Commission will approve or deny the requested second extension on the development plan. In the case that an approved development plan does expire, the zoning of the property shall remain planned unit development, but no construction will be allowed on

the property until a new plan is submitted and approved by the Planning Commission and the County Commission.

9-20-10: REVIEW BY LAND USE AUTHORITY:

In order that it may approve a Planned Unit Development, the land use authority shall have authority to require the following conditions be met by the applicant:

A. All submittal items for a Planned Unit Development are submitted at the time of the Planned Unit Development Application as required per Chapter 20 and Chapter 21.

B. That the proponents of the planned unit development have demonstrated to the satisfaction of the land use authority that they are financially able to carry out the proposed project, as regulated in [9-21-l](#).

C. That the proponents intend to start construction within twelve months of the approval of the project, and intend to complete the construction, or approved phase thereof, within two (2) years from the date construction begins. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-20-11: SCOPE OF LAND USE AUTHORITY ACTION:

In carrying out the intent of this chapter the land use authority shall consider the following principles:

A. A certified surveyor or engineer licensed in the state shall be used to survey all properties for the Planned Unit Development.

B. The land use authority may approve or disapprove an application for a Planned Unit Development. In an approval, the land use authority may attach such conditions as it may deem necessary to secure compliance with this section. The denial of an application for a Planned Unit Development by the land use authority may be appealed to the appeal authority. Appeal must be filed within thirty (30) days of receipt of written reason for denial. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

C. Filing Of Plan And Materials: The conceptual development plan and supplementary text materials, after adoption, shall be filed in the offices of the County Recorder, and all development within the Planned Unit Development Zone shall comply therewith, unless the development plan and supplementary materials are amended as prescribed herein.

D. Final Subdivision Plat: A final subdivision plat as described in the Subdivision Ordinance in effect at the time of application shall be submitted for a recommendation of approval or disapproval to the Planning Commission, who shall forward their recommendation to the County Commission for final plat approval as outlined elsewhere in this title.

9-20-12: CONSTRUCTION LIMITATIONS:

A. Upon approval of a Planned Unit Development, construction shall proceed only in accordance with the plans and specifications approved by the land use authority and in conformity with any conditions attached by the county commission to its approval.

B. Amendments to approved plans and specifications for a Planned Unit Development shall be obtained only by following procedures for a Planned Unit Development.

C. No permit shall be issued for any proposed building, structure or use within the project unless such building, structure or use is in accordance with the approved development plan and with any conditions imposed in conjunction with its approval. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

**KANE COUNTY LAND USE ORDINANCE
CHAPTER 21: SUBDIVISIONS**

ARTICLE A. GENERAL PROVISIONS

SECTION:

9-21A-1: Purpose

9-21A-2: Scope

9-21A-3: Effect On Previous Ordinance

9-21A-4: Exceptions

9-21A-5: Definitions

9-21A-6: Penalties

9-21A-7: Validity

9-21A-1: PURPOSE:

The purpose of this chapter is:

- A. To promote the health, safety and general welfare of the residents of Kane County.
- B. To promote the efficient and orderly growth of Kane County.
- C. 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 rights of way, and to establish fees and other charges for the authorizing of a subdivision. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21A-2: SCOPE:

- A. This chapter 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.
- B. 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 chapter, shall be further divided, rearranged or reduced in area, except as provided in this chapter. 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 chapter.
- C. No amendment to this chapter 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. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)
- D. 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, and perimeter fencing 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. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2015-12, 7-27-2015, eff. 8-11-2015)

9-21A-3: EFFECT ON PREVIOUS ORDINANCE:

The existing subdivision ordinance of Kane County, Utah, is hereby superseded and amended to read as set forth herein; provided however, that this chapter 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. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21A-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 chapter after receiving the recommendation of the land use authority, provided that such variances shall not substantially impair the intent of this chapter. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21A-5: DEFINITIONS:

Unless the context requires otherwise, the following definitions shall be used in the interpretation and construction of this chapter. 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 chapter but not defined herein shall have the meaning as defined in any other ordinance adopted by the Kane County commission.

AGRICULTURAL USE, LAND IN AGRICULTURAL USE: Land devoted to the raising of useful plants and animals with a reasonable expectation of profit.

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.

BONA FIDE DIVISION OR PARTITION OF AGRICULTURAL LAND FOR AGRICULTURAL PURPOSES: Refer to article N of this chapter.

CAMPGROUND: A parcel designated and approved by the county for occupancy by tents, trailers, motor homes or campers on a temporary basis.

COVENANTS, CONDITIONS AND RESTRICTIONS: Limits and rules placed on a group of homes by a builder, developer, neighborhood association or homeowners' association. These restrictions will be enforced by the homeowners' association and not the county.

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.

FRONTAGE, LOT: The linear measurement of the front lot line.

GENERAL PLAN: A long range policy plan prepared and adopted by the Kane County commission to guide county growth.

GRADE:

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 inches (12") 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.

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 inches (6") within the first ten feet (10').

HOMEOWNERS' ASSOCIATION (HOA): A legal organization of property owners within a subdivision, planned community condominium or other grouping of homes and/or property that makes and enforces rules for the properties within the association. The county will not enforce homeowners' association rules. The HOA will be in charge of enforcing all HOA rules. Kane County will only enforce applicable state and local laws and ordinances.

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 manmade improvements.

OFF SITE FACILITIES: Improvements not on individual lots but generally within the boundaries of the subdivision which they serve.

OFFICIAL MAP: The official map or maps adopted by Kane County pursuant to the county zoning and planning enabling legislation.

ON SITE FACILITIES: Construction or placement of the dwelling and its appurtenant improvements on a lot.

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.

PERSON: A firm, association, organization, partnership, company, corporation or any legal entity entitled to own property as well as an individual.

PLOT PLAN: Plat of a lot, drawn to scale, showing such information as may be required by the Kane County land use authority.

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.

SHAPE FILES: A GIS shape file is a file format used for storing geographic information data in GIS computer programs and databases, such as ArcGIS and ArcCatalog. The file extension for shape files is ".shp".

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 approved final plat, or a thoroughfare of at least twenty eight feet (28') 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 trafficway 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.

SUBDIVIDER: Any person, developer, firm, corporation, partnership or association who causes land to be divided into a subdivision for himself or others.

SUBDIVISION: Any land that is divided, resubdivided, or proposed to be divided into two (2) 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.

A. 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.

B. Subdivision does not include:

1. A bona fide division or partition of agricultural land for agricultural purposes;
2. 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.
3. A recorded document, executed by the owner of record, revising the legal description of more than one contiguous parcel of property into one legal description encompassing all such parcels of property; or
4. 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.

C. 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.

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 three hundred feet (300') of the property proposed for development.

WATER SYSTEM, NONPUBLIC: 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 fifteen (15) lots or less than twenty five (25) people.

WATER SYSTEM, PUBLIC: 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 fifteen (15) or more lots of an average of twenty five (25) or more people at least sixty (60) days per year.

ZONE CLEARANCE: Assurance by the land use authority that a proposed activity is in compliance with existing zoning regulations. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2015-12, 7-27-2015, eff. 8-11-2015)

9-21A-6: PENALTIES:

A. Any person, organization, corporation, or other entity, whether as owner, occupant, agent, real estate agent, or employee, who causes, permits or otherwise participates in any violation of any provision of this chapter shall be guilty of a class B misdemeanor upon conviction, punishable by a fine, imprisonment, or both, as determined by a court of competent jurisdiction. In addition, the provisions of this chapter may also be enforced by injunction, mandamus, abatement, merger of title, civil penalty, or any other remedy provided by law.

B. Whenever any act or omission is made unlawful under this title, every person who causes, solicits, requests, commands, encourages, aids, or abets such act or omission, which constitutes an offense, shall be criminal and civilly liable as a party for such act or omission.

C. Each day that a violation exists may be charged as a separate violation.

D. Any one, all, or any combination of penalties and remedies set forth herein may be used to enforce the provisions of the subdivision ordinance.

E. Kane County may withhold building permits and all other permits related to a violation of this chapter, until all violations are resolved.

F. Unless otherwise specified in this chapter, the civil penalties for any violation of this chapter shall be fifty dollars (\$50.00) per day per offense beginning on the ninetieth day after written notification of the violation from Kane County is sent, up to a maximum of three thousand dollars (\$3,000.00).

G. The following are violations of the subdivision ordinance, in addition to other acts or omissions that would constitute a violation:

1. Subdividing or resubdividing any land, parcel, or lot into two (2) or more lots, parcels, sites, units, plots or other divisions of land, by execution of deed to oneself or another person,

by recordation of deed, by gifting, or any other form of subdividing, without complying with the requirements of the subdivision ordinance.

2. Selling, gifting, or transferring a parcel or lot, which parcel or lot was subdivided without complying with the requirements of the subdivision ordinance, whether the selling party is the original party responsible for the subdivision or not. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

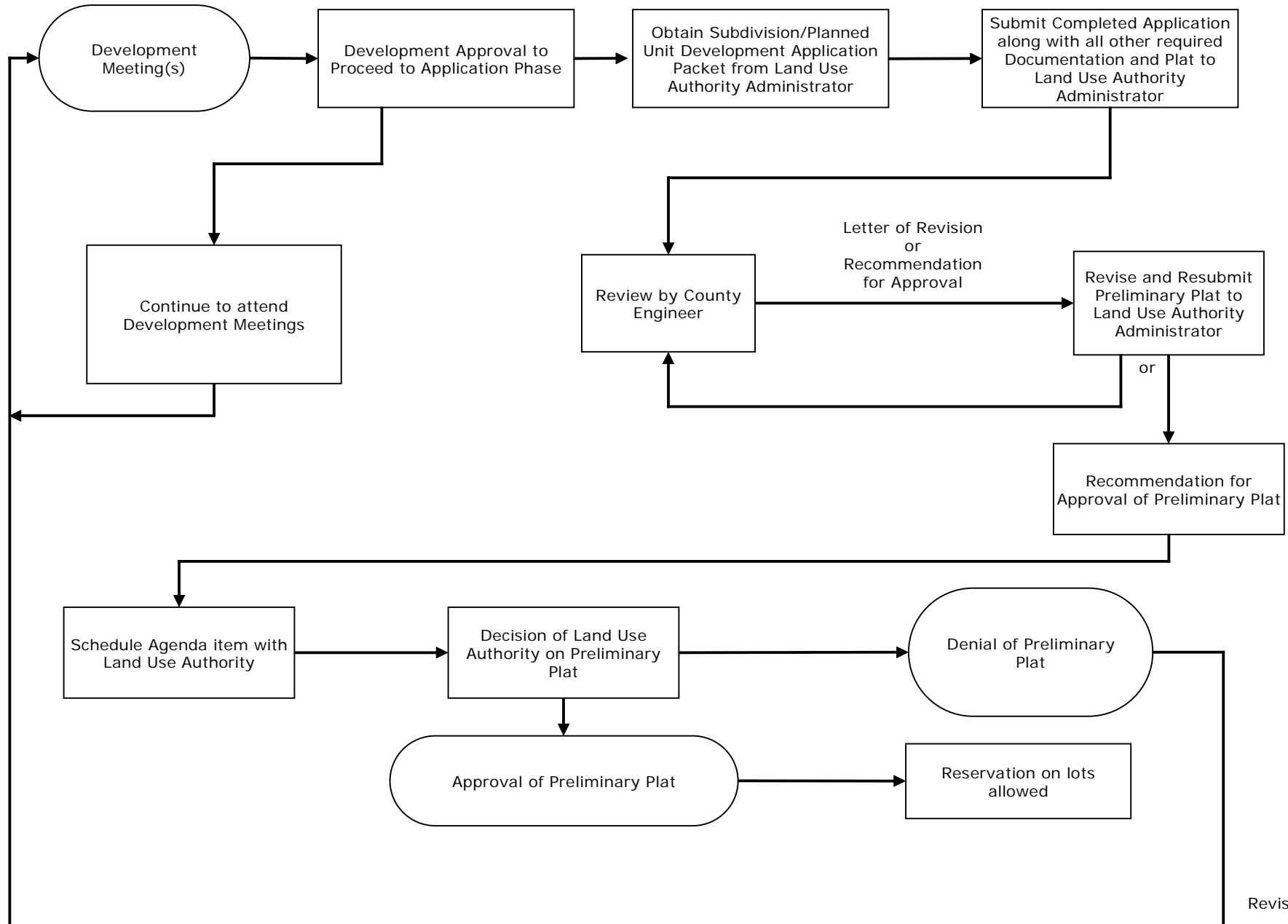
H. For property owners of any land that is currently divided improperly or illegally, the owner, their agent or assign shall be authorized to sell, gift or otherwise transfer the property regardless of any other section or subsection of this title, and will not be subject to criminal or civil action under this title, if they first receive a signed "authorization to transfer" from the land use administrator. Upon application by the landowner(s), the land use administrator may issue an "authorization to transfer" if the landowner is not the person or entity that improperly or illegally divided the property contained within the application, and the improper or illegal subdivision occurred prior to January 1, 2005. A signed "authorization to transfer" may be recorded and if recorded shall automatically transfer to any subsequent owner(s) of the property. However, if after obtaining a signed "authorization to transfer" any current or subsequent owner of the property further subdivides, or otherwise alters the size and/or shape of the property in violation of state or county law or ordinance, the "authorization to transfer" shall become immediately null and void. (Ord. O-2015-12, 7-27-2015, eff. 8-11-2015)

9-21A-7: VALIDITY:

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid, such holding shall not affect the validity of the remaining portion of this chapter. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

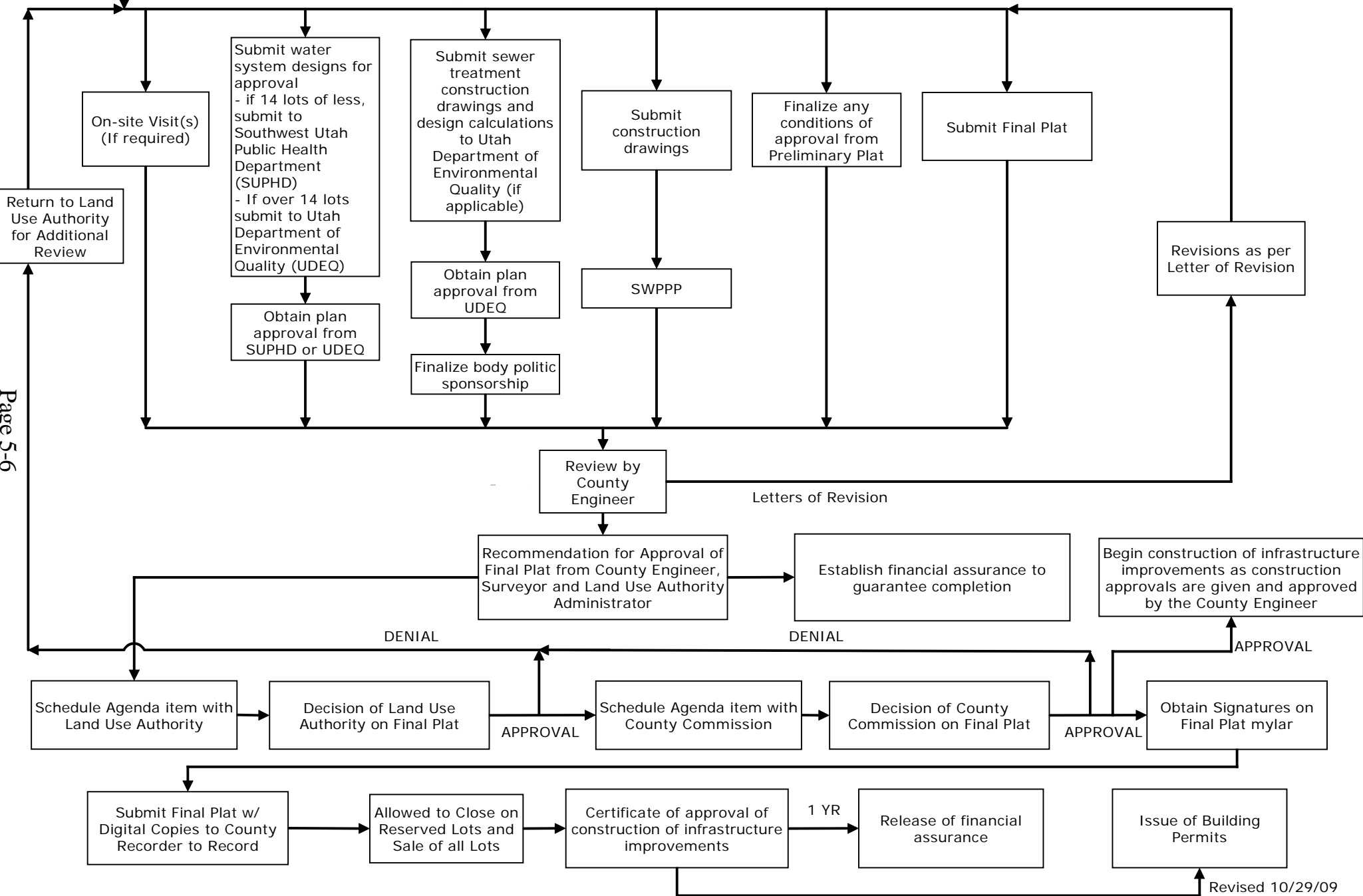


PRELIMINARY PLAT REVIEW AND APPROVAL PROCEDURE FOR KANE COUNTY LAND USE AUTHORITY





FINAL PLAT APPROVAL PROCEDURE FOR KANE COUNTY LAND USE AUTHORITY



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