



Land Use Authority

76 North Main Street, Kanab, Utah 84741

(435) 644-4966 or (435) 644-4951

planning@kane.utah.gov

REQUIREMENTS AND PROCEDURES FOR A PLATTED UNIMPROVED SUBDIVISION

The following are the requirements and procedures to obtain approval for a Platted Unimproved Subdivision under Kane County Land Use Ordinance 9-21M-(1-3).

- 1) Submit an application and pay a fee of \$500.00 for engineering review to the Land Use Administrator with the following documentation:
 - a. (2) Copies of Record of Survey Map
 - b. (3) Copies of 11" X 17" Record of Survey Maps for Planning Commission
 - c. Signed "Agreement of Understanding"
 - d. Signed "FAA Non-Compliance Notice" (if applicable)
 - e. Letter from County Assessor regarding FAA status
 - f. Water and Sewer System Declaration and Acknowledgment letter
 - g. Lender's Consent and Dedication
 - h. Lien Holders Statement signed (if applicable)
 - i. Tax statement for current year
 - j. Title Report
 - k. Addressing through the addressing committee road/easement names
 - l. Deed for transferal of 66' easement
- 2) Obtain a letter of approval from the Culinary Water Authority and/or Sanitary Sewer Authority, if the proposed subdivision has a water and/or sewer system, or has plans for a water and/or sewer system.
- 3) The applicant shall submit documentation that shows that:
 - a. All of the land contained in the application was subdivided prior to January 1st, 2009
 - b. The act of subdivision was done by a person who is not the applicant or among the applicants
 - c. The act of subdividing was done in a manner that did not fully comply with State Code and County Ordinance in effect at the time of the act.
- 4) The application shall contain each and every lot or parcel of land owned by the applicant which resulted in the illegal subdivision of the same original piece of land. The original piece of land shall have been in compliance with all applicable State and County subdivision regulations before the illegal subdivision. *This subsection shall not prohibit the approval of an application solely because there were multiple acts of illegal subdivision on the same original piece of land that occurred at different times.

- 5) The application shall not include any portion of land previously approved under Kane County Land Use Ordinance 9-21(K-M), or that is part of an approved platted subdivision as shown by the records in the County Recorder's Office.
- 6) Each lot or parcel in the application shall be accessible by a minimum 66' dedicated easement or right-of-way (9-21M-2E(3)).
- 7) The plat shall have a name for the subdivision that includes the words "Platted Unimproved Subdivision" which is distinct from all other recorded subdivisions in the County Recorder's Office.
- 8) The size, shape and location of the proposed lots as shown on the proposed plat may be different than the size, shape and location of the land as it was illegally subdivided prior to January 1st, 2009, except that no lot shall be reduced in size if it is already smaller than ten acres and no lot shall be reduced to a size smaller than ten acres. Furthermore, the total number of proposed lots on the plat may be the same or less but shall not be greater than the number of lots created by the act of illegal subdivision prior to January 1st, 2009.
- 9) The application shall be consistent with the Kane County General Plan.
- 10) Each existing easement (either by dedication or by prescriptive use) providing access to surrounding subservient properties shall be preserved and dedicated on the plat. Upon permission from the owner of the subservient lot, these existing easements may be realigned.
- 11) Any public right-of-way or utility easement (either by dedication or by prescriptive use) existing on the land contained in the application shall be preserved and dedicated on the plat.
- 12) Each existing and newly created 66 foot access road or easement shall have a name for address purposes that is distinct from other road or easement names located in Kane County as approved by the Address Administrator.
- 13) Submit application no later than 21 days prior to the monthly Planning Commission/Land use Authority meeting.
- 14) The Land Use Administrator will conduct a review of the application and submit the Plat to the County Engineer for review. You will be notified of any problems with the application.
- 15) After the application has been approved by the Land Use Administrator and the County Engineer it will be scheduled on the next regular meeting of the County Land Use Authority for review and recommendation to the County Commission. It is highly recommended that the applicant or their authorized agent be present at the Land Use Authority meeting. Telephonic appearance is acceptable if prior arrangements are made.
- 16) After the Land Use Authority makes their recommendation the application will be forwarded to the County Commission for final review and approval at their next regularly scheduled meeting
- 17) If approved the Plat will be signed by all the appropriate parties and then will be ready for recording.
- 18) A Platted Unimproved Subdivision with a recorded approved plat shall be considered in compliance with the land use ordinance as of the date of recording.
- 19) A building permit shall not be denied on the basis that a lot or parcel is part of a Platted Unimproved Subdivision, approved under this Article.

- 20) A lot or parcel approved under this Article shall not be restricted from being sold or offered for sale under KCLUO 9-21A-(1-6) and 9-21B-(1-4).

Surveyor's Document Checklist:

- | | |
|--|---|
| <input type="checkbox"/> Record of Survey Map | <input type="checkbox"/> Agreement of Understanding |
| <input type="checkbox"/> FAA Status Letter | <input type="checkbox"/> FAA Non-Compliance Notice |
| <input type="checkbox"/> Tax Statement | <input type="checkbox"/> Lien Holder Statement/Lender's Consent |
| <input type="checkbox"/> Water/Sewer Declaration | <input type="checkbox"/> Title Report |
| <input type="checkbox"/> Culinary Water Authority Approval | <input type="checkbox"/> Sanitary Sewer Authority Approval |

***Incomplete applications will be returned.**

***Application must be received in office 21 days prior to the scheduled
Land Use Authority Meeting.**

***Fee is non-refundable after engineer's review.**



Land Use Authority

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PLATTED UNIMPROVED SUBDIVISION Application Fee \$500

***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)**

Owner/Applicant: _____ Date: _____
Address _____ Fax: _____
City: _____ State: _____ Zip: _____
Phone: _____ E-Mail: _____

Name of Subdivision: _____

Location and Legal Description: _____

Number of Lots _____ Minimum Lot Size _____

Will the parcels divided by this Rural Unimproved land be used for anything other than agricultural uses under the FAA definitions of Utah State Code? Yes No

If yes, please explain: _____

I HEREBY CERTIFY THE ABOVE INFORMATION TO BE TRUE AND ACCURATE:

Signature of Property Owner Date Signature of Property Owner Date

Planning Commission Action:

Approved Denied

Planning Commission
Chairman: _____ Date: _____

Commission Approval: _____

Land Use Administrator Use Only:

Existing Zone_____

General Plan Compliance: Y N

Land Use Ordinance Compliance: Y N

Engineer Review:

Record of Survey Map: Approved Denied

Zone Change Required: Y N

Previously Divided under Article K: Y N

Easements: Approved Denied

FAA NON-COMPLIANCE NOTICE

STATE OF UTAH)
 :SS
COUNTY OF KANE)

I, _____, the applicant of a rural unimproved subdivision named _____, hereby state and affirm that this proposed subdivision currently qualifies for land in agricultural use under Utah State Code 59-2-502 (FAA) and is only used for agricultural purposes as defined by the above mentioned statute. **I further state and affirm that the proposed subdivision is not used and will not be used for any non-agricultural purpose as defined by the above mentioned statute. I agree and take notice that under Kane County Land Use Ordinance 9-21K-2H(1-2), after my application for subdivision is approved, if the land is later used for a non-agricultural purpose, as defined under Utah State Code 59-2-502, the county shall, require the subdivision to comply with Articles A-J of Chapter 21 of the Kane County Land Use Ordinance, per Utah State Code 17-27a-605(1)(3).**

Date: _____

Signature: _____

Printed Name: _____

NOTARY STATEMENT

Subscribed and sworn to before me this _____ day of _____, 20____, by _____.

Witness my hand and official seal.

Notary Public Signature

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

Date: _____

Land Use Authority
76 North Main Street
Kanab, UT 84741

Re: Parcel(s)

On the date of this letter, I, Ryan Maddux, Kane County Assessor, certify that the above referenced parcels:

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

Pursuant to Utah Tax Code 59-2-509 land will require a new application when:

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

_____ Has **not qualified** and are not taxed in accordance with the Farmland Assessment Act (FAA)

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

Sincerely,

Ryan Maddux
Kane County Assessor

Utah Code
Effective 5/9/2017
59-2-502. Definitions.

- (1) "Actively devoted to agricultural use" means that the land in agricultural use produces in excess of 50% of the average agricultural production per acre:
 - (a) as determined under Section [59-2-503](#); and
 - (b) for:
 - (i) the given type of land; and
 - (ii) the given county or area.
- (2) "Conservation easement rollback tax" means the tax imposed under Section [59-2-506.5](#).
- (3) "Identical legal ownership" means legal ownership held by:
 - (a) identical legal parties; or
 - (b) identical legal entities.
- (4) "Land in agricultural use" means:
 - (a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:
 - (i) forages and sod crops;
 - (ii) grains and feed crops;
 - (iii) livestock as defined in Section [59-2-102](#);
 - (iv) trees and fruits; or
 - (v) vegetables, nursery, floral, and ornamental stock; or
 - (b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.
- (5) "Other eligible acreage" means land that is:
 - (a) five or more contiguous acres;
 - (b) eligible for assessment under this part; and
 - (c) (i) located in the same county as land described in Subsection [59-2-503\(1\)\(a\)](#); or
(ii) contiguous across county lines with land described in Subsection [59-2-503\(1\)\(a\)](#) as provided in Section [59-2-512](#).
- (6) "Platted" means land in which:
 - (a) parcels of ground are laid out and mapped by their boundaries, course, and extent; and
 - (b) the plat has been approved as provided in Section [10-9a-604](#) or [17-27a-604](#).
- (7) "Rollback tax" means the tax imposed under Section [59-2-506](#).
- (8) "Withdrawn from this part" means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:
 - (a) an owner voluntarily requests that the land be withdrawn from this part;
 - (b) the land is no longer actively devoted to agricultural use;
 - (c) (i) the land has a change in ownership; and
(ii) (A) the new owner fails to apply for assessment under this part as required by Section [59-2-509](#); or

- (B) (I) an owner applies for assessment under this part as required by Section [59-2-509](#); and
 - (II) the land does not meet the requirements of this part to be assessed under this part;
- (d) (i) the legal description of the land changes; and
 - (ii) (A) an owner fails to apply for assessment under this part as required by Section [59-2-509](#); or
 - (B) (I) an owner applies for assessment under this part as required by Section [59-2-509](#); and
 - (II) the land does not meet the requirements of this part to be assessed under this part;
- (e) if required by the county assessor, the owner of the land:
 - (i) fails to file a new application as provided in Subsection [59-2-508\(5\)](#); or
 - (ii) fails to file a signed statement as provided in Subsection [59-2-508\(5\)](#); or
- (f) except as provided in Section [59-2-503](#), the land fails to meet a requirement of Section [59-2-503](#).

Amended by Chapter [319](#), 2017 General Session

**Rural Unimproved Subdivision
Water and Sewer System Declaration and Acknowledgement**

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

Name of the Subdivision: _____
Applicant: _____

Owner must initial all items below:

- _____ 1. The Applicant declares that no **water system** exists in the above proposed Rural Unimproved Subdivision and that there are no current plans for a future water system for the Rural Unimproved Subdivision. **(Deed restriction will be recorded.)**
- _____ 2. The Applicant declares that no **sewer system** exists in the above proposed Rural Unimproved Subdivision and that there are no current plans for a future sewer system for the Rural Unimproved Subdivision. **(Deed restriction will be recorded.)**
- _____ 3. The Applicant acknowledges that lots in the above proposed Rural Unimproved Subdivision **will not be able to obtain a building permit until a water system and sewer system have been approved and installed in accordance with State law and County Ordinance.**
- _____ 4. The Applicant acknowledges that at no point will Kane County be liable or take responsibility for the lack of a water or sewer system or any other infrastructure or future improvements.

Signature: _____ Date: _____

NOTARY STATEMENT

Subscribed and sworn to before me this _____ day of _____, 20____, by
_____.

Witness my hand and official seal.

Notary Public Signature

LIEN HOLDER STATEMENT

Property Owner's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Parcel #: _____ Location and Legal description of Subdivision Plat: _____

***IF PROPERTY IS OWNED FREE & CLEAR, PLEASE SIGN BELOW:**

The above lots are owned by the above; free & clear.

Signature of Owner/Trustee

Signature of Owner/Trustee

OR

***IF PROPERTY IS FINANCED OR A LIEN EXISTS, PLEASE COMPLETE THE FOLLOWING AND SUBMIT A COMPLETED LENDER'S CONSENT AND DEDICATION FORM:**

LIEN HOLDER/LENDER: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

LENDER’S CONSENT AND DEDICATION

LENDER’S ACKNOWLEDGMENT

_____, hereby consents to the recordation of the subdivision plat of _____, Parcel #: _____.

The property described on said subdivision plat of _____ & affected by this Consent to record & Dedication is situated in Kane County, Utah, described as follows:

Lender’s Signature

NOTARY STATEMENT

On this ____ day of _____, 20____, personally appeared before me, (Name)_____, the signer of the within instrument, who duly acknowledged before me that he/she is the (Title)_____ of (Financial Institution) _____, the corporation that executed the above instrument & was signed in behalf of said corporation by authority of its by-laws, and acknowledged to me that said corporation executed the same.

Notary Public

My Commission Expires: _____
Notary Public residing at City: _____ State: _____ County: _____

ARTICLE M. PLATTED UNIMPROVED SUBDIVISION

9-21M-1: INTENT:

9-21M-2: PLATTED UNIMPROVED SUBDIVISION APPLICATION:

9-21M-3: APPROVAL; EFFECT OF APPROVAL:

9-21M-1: INTENT:

Hundreds of lots or parcels located in the county have been subdivided without first complying with the provisions of this chapter. Often, individuals have divided their property illegally at the direction of private professionals. Others have misinterpreted previous county ordinances and thought they were acting in conformity with applicable laws. Many of these unapproved subdivisions exist undetected for years and often are sold and then resold from the subdivider to a third party purchaser before the error is detected by the county. Beginning in 2009, Kane County created a subdivision ordinance that required greater improvements and strictly enforced the subdivision ordinance wherever possible. Since that time, although there is no legal duty to do so, Kane County has acted diligently to inform its residents that no property can be divided without first complying with state code and the county subdivision ordinance. The purpose of this article is to provide a plausible option for purchasers of property illegally subdivided prior to 2009 to bring their property into compliance while still maintaining a minimal level of appropriate land use development practices.

In 2012, Kane County adopted the rural unimproved subdivision ordinance ([article K of this chapter](#)) to allow a less restrictive means for dividing property. Although some of the requirements of the rural unimproved subdivision are the same and the end result is similar to this article, the "Platted Unimproved Subdivision", many landowners who own previously illegally subdivided land do not qualify for a rural unimproved subdivision because the application does not include all of the land as it existed prior to the illegal subdivision (sometimes referred to as the parent parcel). In order for illegally subdivided land to qualify for a rural unimproved subdivision the application must contain all of the land that was illegally subdivided from the original parent parcel and the application must be joined by all of the landowners if there is more than one. Under this article the applicant does not have to present all of the land that was divided illegally. The applicant must however present all of the land that they own contained within the parent parcel which existed legally before the illegal subdivision. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21M-2: PLATTED UNIMPROVED SUBDIVISION APPLICATION:

Notwithstanding articles A through J of this chapter, the land use authority may approve an application for a platted unimproved subdivision, if the following criteria and requirements have been met:

- A. The applicant shall complete, sign, and submit an official application together with any other required documentation, the form of the application having been prepared by the land use administrator, and pay the associated fee.
- B. The applicant shall submit proof by a preponderance of evidence that: 1) all of the land contained in the application was subdivided prior to January 1, 2009; 2) the act of subdivision was done by a person who is not the applicant or among the applicants, or by persons, none of whom are the applicant or among the applicants; and 3) the act of subdividing was done in any manner that did not fully comply with state code and county ordinance in effect at the time of the act.
- C. The application shall contain each and every lot or parcel of land owned by the applicant or applicants which resulted from the illegal subdivision of the same original piece of land. The original piece of land shall have been in compliance with all applicable state and county subdivision regulations before the illegal subdivision. This subsection shall not prohibit the approval of an application solely because there were multiple acts of illegal subdivision on the same original piece of land that occurred at different times.

D. The application shall not include any portion of land previously approved under this article, article K or L of this chapter, or that is or was already part of an approved platted subdivision as shown by the records in the county recorder's office.

E. Each lot or parcel in the application shall be:

1. Graphically illustrated on a subdivision plat, the form of which, notwithstanding the infrastructure and improvements required under this chapter, otherwise complies with the requirements of this chapter.
2. Located in a zoned area and otherwise conforms to the requirements of that zone as set forth in this title, including, but not limited to, size and area requirements. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)
3. Each newly created parcel shall be provided with: a) legal recorded access to the utility and access easements and other rights of access that the parent parcel holds at the time of the subdivision application; b) a recorded public access and public utility easement(s) with a minimum of sixty six foot (66') width across the parent parcel for any roads that provide access beyond the development or are planned to provide access beyond the development or a minimum of fifty foot (50') width for roads that terminate within the development to provide access and utility easement(s) from the original point of access of the parent parcel to the newly created parcels. Roads that terminate within the development may be recorded as private easements rather than a public easement at the discretion of the applicant; c) a recorded utility easement across the parent parcel necessary to allow each newly created parcel access to the same utilities currently available to the parent parcel and planned future access for power, water, and other utilities, to be available to all the new parcel(s) in the future; and d) access and utility easement(s) from the original point of access of the parent parcel to the newly created parcel(s) to any public right-of-way. (Ord. O-2018-1, 1-12-2018)
4. Approved by the culinary water authority and the sanitary sewer authority, if a culinary water system or sewer system is included in the plans of the subdivision. (Note: Under Kane County ordinance and Utah State Code a building permit will not be issued for lots that do not first contain an approved culinary water and sewer system.) (Ord. 2014-1, 1-27-2014, eff. 2-11-2014)

F. The plat shall have a name for the subdivision that includes the words "Platted Unimproved Subdivision" which is distinct from all other recorded subdivisions in the County Recorder's Office.

G. The size, shape and location of the proposed lots as shown on the proposed plat may be different than the size, shape and location of the land as it was illegally subdivided prior to January 1, 2009, except that no lot shall be reduced in size if it is already smaller than ten (10) acres and no lot shall be reduced to a size smaller than ten (10) acres. Furthermore, the total number of proposed lots on the plat may be the same or less but shall not be greater than the number of lots created by the act of illegal subdivision prior to January 1, 2009.

H. The application shall not be inconsistent with the County General Plan.

I. Each existing easement (either by dedication or by prescriptive use) providing access to surrounding subservient properties shall be preserved and dedicated on the plat. Upon permission from the owner of the subservient lot, these existing easements may be realigned.

J. Any public right-of-way or utility easement (either by dedication or by prescriptive use) existing on the land contained in the application shall be preserved and dedicated on the plat.

K. Each existing and newly created access road or easement shall have a name for address purposes that is distinct from other road or easement names located in Kane County as approved by the Address Administrator.

L. The applicant shall submit an agreement of understanding with the Kane County Commission that in unincorporated areas of the County, dedicated roads will not be accepted, improved or maintained by the County, until the subdivision complies with articles A through J of this chapter, specifically including the width of the easement and the condition of the road.

M. If the application contains agricultural land in agricultural use as defined in Utah State Code section 59-2-502 (FAA) (as amended) the applicant is not required but is encouraged to meet with the County Assessor to review how this application may affect the tax status of the land in the application. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21M-3: APPROVAL; EFFECT OF APPROVAL:

- A. If an applicant meets the requirements of section [9-21M-2](#) of this article the Land Use Authority after hearing the application in a public meeting shall recommend approval of the application to the County Commission or deny the application.
- B. If recommended for approval the application shall be forwarded to the County Commission for final approval.
- C. Upon final approval of the County Commission, the plat shall be signed by the appropriate official of the County Commission and the Land Use Authority.
- D. A platted unimproved subdivision with a recorded approved plat shall be considered in compliance with this chapter as of the date of recording.
- E. A building permit shall not be denied on the basis that a lot or parcel is part of a platted unimproved subdivision, approved under this article.
- F. A lot or parcel approved under this article shall not be restricted from being sold or offered for sale under sections [9-21A-6](#) and [9-21B-4](#) of this chapter. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)