



Kane County Land Use Authority

76 North Main Street,
Kanab, Utah 84741
(435) 644-4966

Email planning@kane.utah.gov

REQUIREMENTS AND PROCEDURES FOR A RURAL UNIMPROVED SUBDIVISION

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

1. Obtain a Record of Survey Map completed by a licensed surveyor that complies with Kane County Land Use Ordinance 9-21K-2.
 - a. Auto CAD.DWG file or GIS SHAPE file, submitted by surveyor;
 - b. File to contain all parcel lines and reference monuments;
 - c. Data file to be GEO referenced to Utah State Plane South Grid Coordinate System or ground Coordinate System including ground scale factor.
2. Obtain a wastewater feasibility letter from Southwest Utah Public Health Department.
3. Submit an application and pay a fee of \$1000.00 with the following documentation:
 - a. (1) Copy of 24" X 36" Record of Survey Map
 - b. (2) Copies of 11" X 17" Record of Survey Maps for Planning Commission
 - c. Digital copy of plat
 - d. Signed "Agreement of Understanding"
 - e. Signed "FAA Non-Compliance Notice" (if applicable)
 - f. Letter from County Assessor regarding FAA status
 - 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
4. Submit application no later than 21 days prior to the monthly Planning Commission meeting.
5. The plat shall have a name for the subdivision that includes the words "Rural Unimproved Subdivision" and AG-FAA zoning marked on each parcel, which is distinct from all other recorded subdivisions in the County Recorder's Office.
6. Provides each newly created parcel 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 a 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 parcel(s) in the future; and d) to provide 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. If a recorded access does not exist at the time of the application, the width of the newly created access across private property shall be listed in subsection B8c of this section. (KCLUO 9-21K-3(8))

7. 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.
8. The Land Use Administrator will conduct a review of the application and submit the Record of Survey Map to the County Engineer for review. You will be notified of any problems with the application.
9. After the application has been approved by the Land Use Administrator, the County Engineer, it will be scheduled on the next regular meeting of the Planning & Zoning Commission for final 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.
10. Once approved by the Land Use Authority and the Kane County Commissioners the Record of Survey can be signed and recorded.

***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.**



**Kane County
Land Use Authority**

76 North Main Street, Kanab, Utah 84741
(435) 644-4966
planning@kane.utah.gov

**RURAL UNIMPROVED SUBDIVISION
Application Fee \$1000**

***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 _____

City: _____ **State:** _____ **Zip:** _____

Phone: _____ **E-Mail:** _____

Name of New Subdivision: _____

Parcel or Lot # to be divided: _____

Number of New 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: _____ **Date:** _____

Printed Name: _____

Land Use Authority Action:

Approve **Deny**

Planning Commission Chairman
Commission Approval Date: _____

Date

Land Use Administrator Use Only:

Existing Zone_____

Zone Change Required: Y N

General Plan Compliance: Y N

Previously Divided under Article K: Y N

Land Use Ordinance Compliance: Y N

Engineer Review:

Record of Survey Map: Approved Denied

Easements: Approved Denied

**Kane County
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

**KANE COUNTY
AGREEMENT OF UNDERSTANDING**

I, _____, the applicant of a rural unimproved subdivision named _____, hereby agree and take notice that under Kane County Land Use Ordinance 9-21K-2B-7(a-d) in unincorporated areas of the County, **dedicated roads will not be accepted, paved or maintained by the County, until the subdivision complies with Articles A through J of Chapter 21 of the Kane County Land Use Ordinance.**

Date: _____

Signature: _____

Printed Name: _____

NOTARY STATEMENT

State of Utah

§

County of _____

On this ____ day of _____ in the year ____ before me, _____, personally appeared _____, proved to me through satisfactory evidence of identification, to be the person whose name is signed on the preceding or attached document in my presence.

Notary Signature

**KANE COUNTY
FAA NON-COMPLIANCE NOTICE**

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

State of Utah

§

County of _____

On this ____ day of _____ in the year ____ before me, _____, personally appeared _____, proved to me through satisfactory evidence of identification, to be the person whose name is signed on the preceding or attached document in my presence.

Notary 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

**KANE COUNTY
LIEN HOLDER STATEMENT**

Property Owner's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Parcel #: _____

Check one:

The above parcel is owned free and clear.

The above stated parcel is financed or a lien exists. *Please complete the information below AND complete Lender's Consent and Dedication form.

LIEN HOLDER/LENDER: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

I hereby declare that the information given above is true to the best of my knowledge.

Signature of Owner/Trustee

Signature of Owner/Trustee

**KANE COUNTY
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 K. RURAL UNIMPROVED SUBDIVISIONS

9-21K-1: INTENT:

9-21K-2: RURAL UNIMPROVED SUBDIVISION APPLICATION:

9-21K-3: APPROVAL:

9-21K-1: INTENT:

Kane County desires to create a simplified, less restrictive process for the dividing of land located within the unincorporated areas of Kane County when the project is small and the main purpose and general intent of the division is not property development. This simplified process does not require all of the same improvements and regulations that are required under this chapter when applying for the division of land and approval of a subdivision plat. Under Utah State Code and Kane County ordinance almost any division of land is defined as a subdivision even though the common and ordinary use of the word subdivision refers to denser residential areas that include roads, utilities, and other improvements. (Ord. 2014-18, 9-22-2014)

Furthermore, for decades many individuals have subdivided their property without first complying with State law and County ordinance in effect at the time of the illegal subdivision. Many individuals may desire to use this article to bring their land into compliance. If an applicant under this article otherwise complies with the requirements of this article, they may obtain approval for a rural unimproved subdivision if, and only if, the application includes all portions of the original land (sometimes referred to as parent parcel) as it legally existed prior to being subdivided illegally, and the application is joined by all of the current property owners. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21K-2: RURAL UNIMPROVED SUBDIVISION APPLICATION:

Notwithstanding articles A through J of this chapter, the Land Use Authority may approve an application for a rural unimproved subdivision, if the following criteria and requirements are met:

- 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 proposed subdivision:
 1. Has a name that is distinct from all other recorded subdivisions in the County Recorder's Office; (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)
 2. Is for ten (10) lots or less, all of which are at least ten (10) acres as a conforming aliquot parts parcel or less than ten (10) acres, but not less than 9.5 acres if necessary to compensate for the curvature of the earth or the convergence of township lines as recognized in the public land survey system, or because of previous survey errors; (Ord. 2013-11, 11-25-2013, eff. 12-10-2013)
 3. Is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes;
 4. Has been approved by the culinary water authority and the sanitary sewer authority, if a culinary water system or sewer system is included in the plans of the subdivision (Note: Under Kane County

ordinance and Utah State Code a building permit will not be issued for lots that do not first contain an approved culinary water and sewer system.); (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

5. Is located in a zoned area; upon completion and approval of application, land will then comply with FAA agricultural land use and will be zoned AG-FAA; (Ord. O-2018-6, 7-9-2018)
6. Conforms to all applicable land use ordinances or has properly received a variance from requirements of an otherwise conflicting and applicable land use ordinance;
7. Is graphically illustrated on a record of survey map completed by a licensed surveyor who certifies that he or she is a licensed surveyor and has verified all measurements and placed monuments as represented on the map. The record of survey map must be signed by the applicant and the surveyor, and shall contain the following notes on the record of survey:
 - a. Roads are not constructed or maintained by Kane County or any local government entities and are the responsibility of the owner(s) or developers;
 - b. No utilities (e.g., power, water, sewer, phones) are provided by Kane County. Kane County does not bear the responsibility now or in the future for any improvements. Improvements are the responsibility of the owner or developer;
 - c. If and when the developer/landowner has met County standards and specifications for infrastructure and they have been formally accepted by the County these notations should be removed from the plat;
 - d. County acceptance of infrastructure does not infer that the County will upgrade that accepted infrastructure beyond the standard of its acceptance; (Ord. 2014-18, 9-22-2014)
8. Provides each newly created parcel 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 a 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 parcel(s) in the future; and
 - d) to provide 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. If a recorded access does not exist at the time of the application, the width of the newly created access across private property shall be listed in subsection B8c of this section.
 - a. A public right-of-way shall be any right-of-way claimed by UDOT, the County, or a municipality as a Class B, C, or D road which is established or claimed through a recorded deed easement, RS-2477 assertion, or title V easement on BLM lands recorded access across State trust lands, recorded access across Forest Service lands, or a public prescriptive easement as determined by the Kane County GIS Department.
 - b. The recorded legal access may be any of the following:
 - (1) On BLM Lands: Access across public lands shall be accepted in the form of any valid, private, public or County title V or RS-2477 rights-of-way. RS-2477 right-of-way or title V access across land

managed by the Bureau of Land Management (BLM) with any width approved by the BLM deemed acceptable.

- (2) On Private Lands: Existing recorded legal access easement with a minimum of twenty eight feet (28'). Prescriptive easements do not satisfy the access requirements of this section. The subservient land owner must sign a recordable document acknowledging the easement and allow use for all of the new lots in the proposed subdivision as a public or private easement as outlined in this subsection B8.

c. Width of a newly created easement may be any of the following:

- (1) Any new recorded easement across private land, with a minimum width of sixty six feet (66') or fifty feet (50') as outlined in this subsection B8; and (Ord. O-2016-4, 10-15-2018)

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

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

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

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

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

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

H. If the proposed subdivision contains agricultural land that qualifies as land in agricultural use as defined by Utah state code section 59-2-502 (FAA) the applicant must also submit:

1. A signed statement that the land is not used and will not be used for any nonagricultural purpose;

2. A signed notice that the county may require the parcel to comply with articles A through J of this chapter if it is later used for a nonagricultural purpose. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

I. If fencing, gates or cattle guards exist they must remain in place. However they may be moved to conform to new lot lines.

J. If any roads exist at the time of applying for the rural unimproved subdivision they must continue to remain at the existing or improved condition.

K. It is not necessary to improve any existing roads to the full width of the dedicated easement at the time of application.

L. If any proposed lot has access to any major highway system, the applicant shall give notice to the Utah department of transportation for the newly created lots or parcels. (Ord. O-2015-12, 7-27-2015, eff. 8-11-2015)

9-21K-3: APPROVAL:

- A. If an applicant meets the requirements of section 9-21K-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 appropriate official of the county commission and the land use authority shall sign the plat or issue a letter of written approval in the case of a record of survey.
- D. A platted unimproved subdivision with a recorded approved plat or a letter of written approval recorded with a record of survey shall be considered in compliance with this 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.
- G. A plat may not be recorded without all the appropriate signatures and a record of survey map may not be recorded without the letter of written approval. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)