



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 to the Land Use Administrator with the following documentation:
 - a. (2) Copies of 24" X 36" 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. Lender's Consent and Dedication
 - g. Lien Holders Statement signed (if applicable)
 - h. Tax statement for current year
 - i. Title Report
 - j. Addressing through the addressing committee road/easement names
 - k. Deed for transferal of 66' easement
4. The plat shall have a name for the subdivision that includes the words "Rural Unimproved Subdivision" which is distinct from all other recorded subdivisions in the County Recorder's Office.
5. Submit application no later than 21 days prior to the monthly Planning Commission meeting.
6. 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.

7. After the application has been approved by the Land Use Administrator, GIS Department and the County Engineer, it will be scheduled on the next regular meeting of the Planning & Zoning Commission for final review and approval. It is highly recommended that the applicant or their authorized agent be present at the Land Use Authority meeting. Telephonic appearance is acceptable if prior arrangements are made.
8. 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.
9. Once approved by the Land Use Authority and the Kane County Commissioners the Record of Survey can be signed and recorded.

Surveyor's Document Checklist:

- | | |
|---|---|
| <input type="checkbox"/> Record of Survey Maps | <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"/> Health Department 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.**



**Kane County
Land Use Authority**

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**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 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

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 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)

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