

KANE COUNTY ORDINANCE NO. 2013 - 11

AN ORDINANCE AMENDING CHAPTER 21 ARTICLE K OF THE KANE COUNTY LAND USE ORDINANCE INCREASING THE MINIMUM ACREAGE TO TEN ACRES

WHEREAS, the Kane County Planning Commission, after a duly noticed public hearing, recommended for approval that Chapter Twenty One Article K of the Kane County Land Use Ordinance allow at a minimum, ten acre divisions instead of five acre divisions;

AND WHEREAS, the Kane County Board of Commissioners, in a duly noticed public meeting, received the recommended amendments to Chapter 21 Article K of the Kane County Land Use Ordinance and desires to enact the recommendations;

NOW THEREFORE, THE COUNTY LEGISLATIVE BODY OF KANE COUNTY, STATE OF UTAH ORDAINS AS FOLLOWS:

Chapter Twenty One Article K Section 2 Subsection 2b of the Kane County Land Use Ordinance is amended as set forth below. Additions to the Ordinance are indicated with an underline and deletions from the ordinance are indicated with a strike-through.

“is for 10 lots or less, all of which are at least 5~~10~~ acres as a conforming aliquot parts parcel or less than 5~~10~~ acres, but not less than 4.59.5 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;”

This Ordinance shall take effect December 10th, 2013.

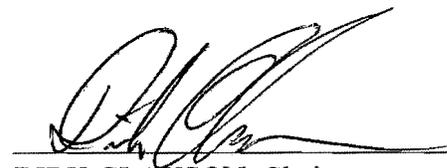
The County Clerk is ordered to publish this ordinance in accordance with Utah State Law.

ADOPTED this 25th day of November, 2013.

ATTEST:




KARLA JOHNSON
Kane County Clerk/Auditor


DIRK CLAYSON, Chair,
Board of Commissioners,
Kane County

Commissioner Clayson voted Aye
Commissioner Matson voted Aye
Commissioner Heaton voted Aye

ARTICLE K: RURAL UNIMPROVED SUBDIVISIONS

SECTION:

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.. Although proof of intent is not a requirement of this Article, when the intent of an applicant is to develop the property into a subdivision as the term is normally used, this article should not be used.

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.

9-21K-2: Rural Unimproved Subdivision Application.

Notwithstanding articles A-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:

- 1) 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.
- 2) The proposed subdivision:
 - a. has a name that is distinct from all other recorded subdivisions in the county recorder's office;
 - b. is for 10 lots or less, all of which are at least 5 acres as a conforming aliquot parts parcel or less than 5 acres, but not less than 4.5 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;
 - c. 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;
 - d. 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);
 - e. is located in a zoned area;
 - f. conforms to all applicable land use ordinances or has properly received a variance from requirements of an otherwise conflicting and applicable land use ordinance; and
 - g. 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;
 - h. provides each newly created lot with 1) a vesting of the utility and access easements and other rights of access that the parent parcel holds at the time of the subdivision application; 2) a 28-foot wide recorded access and utility easement across the parent parcel that is necessary to connect the new parcel to any public right-of-way to which the parent parcel has access; and 3) a recorded utility easement across the parent parcel necessary to allow each newly created lot access to the same utilities

currently available to the parent parcel or planned, at the time of the proposed subdivision, to be available to the parent parcel in the future.

- i. 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.
- 2) 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.
 - 3) The proposed subdivision does not include land previously divided under this article.
 - 4) 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.
 - 5) The application is signed and submitted by each and every property owner of the land included in the application.
 - 6) 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.
 - 7) If the proposed subdivision contains agricultural land that qualifies as land in agricultural use as defined by Utah State Code § 59-2-502 (FAA) the applicant must also submit:
 - a. a signed statement that the land is not used and will not be used for any non-agricultural purpose;
 - b. a signed notice that the County may require the parcel to comply with Articles A-J of this chapter if it is later used for a non-agricultural purpose.

9-21K-3: Approval.

- 1) If an applicant meets the requirements of Section two (2) 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.
- 2) If recommended for approval the application shall be forwarded to the County Commission for final approval.
- 3) 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.
- 4) 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 ordinance as of the date of recording.
- 5) 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.
- 6) A lot or parcel approved under this Article shall not be restricted from being sold or offered for sale under 9-21A-6 and 9-21B-4.
- 7) 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.

Ordinance # 2013-11

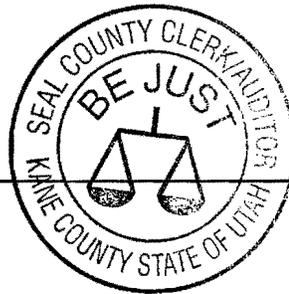
Short Title Land Use Ord. Chapter 21 Article R
10 (ten) acre min-

Action	Date	Copy Attached
Public Hearing Notice publication	Nov 13	✓
Commission Agenda Posted	Nov 21	✓
State Wide Website Proof of Publication; Agenda	" 11	✓
Ordinance Summary Attorney Review		
Adopted	Nov 25	
Electronic Certified Copy		
Published in the SUN	12-5-13	
Effective	Dec 11	
Sent to Codifiers	12-26-13	
Codification verified		
Posted on County Web Site		

Voting Record

Commissioner Clayton	aye
Commissioner Matson	aye
Commissioner Heaton	absent

Karlafisher
Clerk/Auditor Certification



County Seal

PUBLIC NOTICE
AGENDA OF THE KANE COUNTY
BOARD OF COMMISSIONERS MEETING
NOVEMBER 25, 2013, At 10:00 AM IN THE
KANE COUNTY COMMISSION CHAMBERS,
76 NORTH MAIN, KANAB, UTAH

The items listed under Consent Agenda will be considered as a group and acted upon by one motion with no separate discussion of said items, unless a Commissioner so requests. In that event, the item will be removed from the Consent Agenda for separate discussion. The Commission meeting will begin at **10:00 AM**.

CALL MEETING TO ORDER & WELCOME:
PRAYER:

PLEDGE OF ALLEGIANCE:
CITIZEN PUBLIC INPUT:

CONSENT AGENDA:

Check Edit reports and purchase orders as signed
Approval of Minutes: November 4,18, & Election Canvass 2013
Land Use:

REGULAR AGENDA:

Elected Official Reports:

- **2014 Commission Meeting Schedule** (*Auditor Johnson*)
- **Adopt Tentative Budget** (*Auditor Johnson*)
- **Resolution 2013-18 Appointment of Kane County Representative and an Alternate Representative for the Utah Counties Indemnity Pool Annual Membership Meeting** (*Auditor Johnson*)
- **11:00 AM Insurance Committee Update) and Renewal Rates & Prescription Administration** (*Dave Owens & Mike Sharp*)
- **12:00 Recess while Commissioner's attend a Remote Court Service Meeting** (*Commissioner Clayton*)

Departmental Reports:

- **Ordinance 2013-11 Amending Chapter 21 Article K of the Kane County Land Use Ordinance increasing the minimum acreage to Ten Acres** (*LUA Shannon McBride*)
- **Best Friends MOU** (*ES-Alan Alldredge*)
- **Vermillion Cliffs Roads Update** (*GIS--Lou Pratt , Road Supervisor Bert Harris*)
- **Palomar Rural Unimproved Subdivision-Approval** (*LUA McBride*)

Other Business: Reports,
Schedules,
Assignments:

Next Meeting Dec. 9 Commission Mtg, Dec. 16 Work Mtg, Dec 23 Commission Mtg.

CLOSED SESSION:

- Discussing an individual's character, professional competence, or physical or mental health;
- Strategy sessions to discuss collective bargaining, pending or reasonably imminent litigation, or the purchase, exchange lease or sale of real property;
- Discussions regarding security personnel, devices or systems; or
- Investigative proceedings regarding allegations of criminal misconduct.

KANE COUNTY

Planning Commission/Land Use Authority

November 13, 2013

5:30 p.m./Work Meeting

6:00 p.m. Regular Meeting/Public Hearings-Commission Chambers

Kane County Courthouse

76 North Main Street, Kanab, Utah

Agenda

Facilitator: Chairman, Tony Chelewski

Attendees: Planning Commission, County Staff, Interested Citizens

5:30 PM Work Meeting

6:00 PM Pledge of Allegiance
Approval of Minutes
Announcements

Chairman, Tony Chelewski

Chairman, Tony Chelewski

Regular Meeting-Public Topics and Public Comments:

Administrative/6:00pm Public Hearing

Lot Line Adjustment- Mark Jacobs, Property Owners;
Elk Ridge Estates Subdivision, Unit 4, Phase III, Lots 80 & 81;
Submitted by New Horizon Engineering, Brent Carter.

Administrative/6:05pm Public Hearing

Amending a Subdivision Plat- Trevor Montefalcon, Member
Serenity Holdings, LLC; Elk Ridge Estates, Unit 4, Phase III,
Lot 82; Submitted by New Horizon Engineering, Brent Carter.

Administrative/6:06pm

Conditional Use Permit- David Harris; Vermillion Cliff
Estates, Lot 70; Proposed Recreational Facility/Wind Tunnel
Business.

Administrative/6:07pm Public Hearing

Lot Joinder- Albert Williams, Property Owner; Abel Acres
Subdivision in Church Wells, Utah, Amended Lots F-44 &
F-43; Township 43 South, Range 1 East, Section 2 SLB & M;
Submitted by TC Engineering, Tom Avant.

Legislative/6:08pm Public Hearing

Rural Unimproved Subdivision- Hazel Zitting, Haze Holdings
LLC, & Becky Crosby, HJ Lemmon Trust, Property Owners;
8 Mile Gap Estates Subdivision; 4 Lots, 30 Acres; Submitted
by TC Engineering, Tom Avant.

Legislative/6:09pm
Public Hearing

Rural Unimproved Subdivision- Kendrick Rogers, Property Owner; Palomar Estates; 4 Lots, 22.63 Acres; Submitted by TC Engineering, Tom Avant.

Legislative/6:10pm
Public Hearing

Kane County Land Use Ordinance, Chapter 21-Subdivision Regulations, Article K, Rural Unimproved Subdivisions; (5 acre minimum).

Definitions:

“Public Hearing” means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing. “Public Meeting” means a meeting that is required to be open to the public pursuant to the requirements of Title 52, Chapter 4 Open and Public Meetings; the public may or may not be invited to participate. “Legislative” means an action taken by the County Commission or Land Use Authority; amending ordinances, adopting general plan, annexations, zoning and rezoning; a reasonable debatable action that could promote the general welfare of the community. “Administrative” means an action taken by the Land Use Authority Commission, staff, County Commission interpreting ordinances and regulations, conditional uses, approving subdivision site plans, issuing building permits; an administrative decision must satisfy the requirements prescribed under state law or the County Land Use Code (LUC), whichever is stricter.

Notice of Public Hearing

Notice is hereby given that on Wednesday, November 13, 2013 at 6:10 p.m. in the Commission Chambers located in the Kane County Courthouse at 76 North Main Street, the Kane County Planning Commission will hold a public hearing for proposed revisions to the Kane County Land Use Ordinance, Chapter 21-Subdivision Regulations, Article K, Rural Unimproved Subdivisions; (5 acre minimum).

At the time and place set forth above, all interested persons may appear and will be given an opportunity to be heard either in support of or in opposition to the proposed inclusion to the Kane County Land Use Ordinance.

On the 24 day of October, 2013

 _____

Karla Johnson, Kane County Clerk/Auditor

Posted Southern Utah News

October 31, 2013

November 7, 2013

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Notice Title:
Meeting Notice

Government Type:
County

Entity:
Kane County

Public Body Name:
Kane County Commission

Notice Subject:
Business

Notice Type:
Meeting

Street Address:
76 N Main

Street Address continued:

City:
Kanab

Zip:
84741

Start Date:
11/21/13 3:42 PM

End Date:
11/21/13 3:42 PM

Description / Agenda:

*Agenda was
verified
Mkt -
Cm*

Help all!!! With Muncipal TNT referendum elections.
 Look this over and please give input. I thought I saw a better time frame at UAC from one of our group and I can't remember who had it, but I am sure it was better than this.
 The TNT referendum or cities and towns is going through this legislature under Senator Valentine. And we need to look over dates and issues to see if we can accommodate the proposed law or need to work on changing dates etc before the bill is finished.
 The referendum is allowable by the Utah Constitution, so the Legislature will set up requirements for it. In talking with Roger Tew of the Utah League of Cities and Towns, these are the dates associated with a TNT referendum legislation at this point in time. They are also looking at adding a fiscal note to help us if we need with verifying signatures.

August 17th is the last date of Public hearing on taxes. This starts the 5 days for people to call for a referendum

August 22nd Last day for the people to call for a referendum.

August 24th Last day for the ballot wording and packet preparation.

September 24th last day for signature gathering.

Now this next date is more flexible it is up to 12 days for us to verify signatures.

October 6th last date to verify signatures at the 12 days.

SOOO!!

When I look at this time frame for approving signatures before preparing ballots, Maybe on a municipal year, but no way for UCAVA or by mails for a general election.

Here are two options for discussion that may fit either municipal or general elections.

1. Issue a second ballot to those voting after the referendum is qualified (then we have new artwork that means we have to duplicate all the ballots already mailed. Tracking them and duplicating them as they come in mixed in the middle of those sent out with the new ballot.)
2. Put the issue on the ballot to begin with and proceed with the election as if it is qualified and if so all is well, if not then we turn of the issue in the counting and have the entity notify the voters that the issue will not be counted in any format on Election Day. (this gives us much more time to certify the signatures.

Karla

ADA:

NOTICE OF SPECIAL ACCOMMODATION DURING PUBLIC MEETINGS In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Karla Johnson at 435-644-2458.

Electronic Participation:

N/A

Other:

Emergency Notice:

No

Send copy of notice to:

clerkkj@kanab.net

Audio File Location:

Attachments:

There are attachments associated with this notice.

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Owner

PUBLIC NOTICE

The Kane County Board of Commissioners have adopted Ordinance 2013-11 and Ordinance amending Chapter 21 Article K of the Kane County Land Use Ordinance, Increasing the minimum acreage to 10 acres. The Ordinance will become effective December 11, 2013. The Ordinance is on view in the Kane County Clerk/Auditor's Office during regularly scheduled office hours 8:00 AM to 5:00 PM at 76 North Main, Kanab, Utah, 84741.

Published December 5, 2013 in the Southern Utah News.

Karla Johnson
Kane County Clerk/Auditor