

ORDINANCE # 2000- 11

**AMENDMENT TO THE AGRICULTURAL DISTRICT of the
KENDALL COUNTY ZONING ORDINANCE**

WHEREAS, Kendall County regulates development under authority of its Zoning Ordinance and related ordinances; and

WHEREAS, the Kendall County Board amends these ordinances from time to time in the public's interest; and

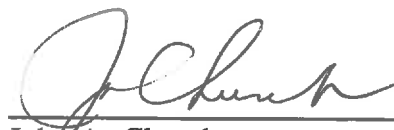
WHEREAS, all administrative procedures for amendments have been followed including a Public Hearing held before the Kendall County Zoning Board of Appeals.

NOW, THEREFORE, BE IT ORDAINED, the Kendall County Board hereby repeals Section 7.01 - Agricultural District and Section 7.02 - Floodplain District of the Kendall County Zoning Ordinance in their entirety.

BE IT FURTHER ORDAINED, the Kendall County Board hereby amends following sections of the Kendall County Zoning Ordinance as provided in attached Exhibit A:

1. 3.02 - Rules and Definitions; Definitions: Amend the following:
 - a. Agriculture
 - b. Agriculture Labor Housing
 - c. ECHO Housing
 - d. Farm
 - e. Farm Residence
 - f. Kennels (Commercial & Private)
 - g. Home Occupation
2. 4.00 - General Provisions: Add 4.19 - Floodplain Regulations
3. 7.00 - Agriculture Districts: Add 7.01 - Agricultural District
4. 13.04 - Administration; Variations: Amend the following:
 - a: 13.04 A. 2. - Standards for variation
 - b: 13.04 B. - Authorized variations

IN WITNESS OF, this Amendment to the Kendall County Zoning Ordinance was approved by the Kendall County Board on April 18, 2000.



John A. Church
Kendall County Board Chairman

Attest:



Paul Anderson
Kendall County Clerk

SECTION 3.00 RULES AND DEFINITIONS

3.02 DEFINITIONS

AGRICULTURE	Agriculture includes the growing of farm crops, truck garden crops, animal and poultry husbandry, apiculture, aquiculture, dairying, floriculture, horticulture, nurseries, tree farms, sod farms, pasturage, viticulture, wholesale greenhouses, and the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds. In interpreting the foregoing definition, it is the intent of this Ordinance to make the definition of agriculture as used herein identical to the definition of agriculture used in 55 ILCS 5/5-12001, as amended from time to time, exempting agriculture from the zoning authority of the County Board. Cultivating the ground, including the harvesting of crops, and rearing and management of livestock: tillage; husbandry; farming. In a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent, the preparation of these products for man's use. It includes grain storage, horse stables, nurseries, animal feed, commercial feeding, dairy and the like.
AGRICULTURAL LABOR HOUSING	One or more buildings, structures, tents, trailers, or vehicles or any combination thereof together with the land appertaining thereto established, operated, or maintained as living quarters for migrant workers or families containing migrant workers who are engaged in agricultural activities.
ECHO HOUSING	Elderly Cottage Housing Opportunities (ECHO Housing) is the provision of independent living quarters for elderly or disabled family members inside or within five hundred (500) feet of a Farm Residence in an agricultural area.
FARM	A parcel of land, or contiguous parcels of land under common ownership, used primarily for agriculture.
FARM RESIDENCE	A dwelling unit located on a farm.
KENNEL	Any lot or premises or portion thereof on which more than 4 dogs, cats, and other household domestic animals, over four months of age are kept for sale, or on which more than two such animals are boarded for compensation.
HOME OCCUPATION	Any gainful occupation or profession engaged in by an occupant of a dwelling unit as a use which is clearly incidental to the use of the dwelling unit for residential purposes. Tearooms, restaurants, tourist homes, animal hospitals, and kennels, among others, shall not be deemed to be "home occupation".

SECTION 7.00 AGRICULTURAL DISTRICTS

7.01 A-1 Agricultural District

A. PURPOSE

It is recognized that the public health and welfare of the citizens of Kendall County are greatly dependent upon the sustenance and economic benefits provided by a viable agricultural industry. This district is intended to ensure that lands within the county which are well suited for agricultural production of food and fiber are retained for such production, unimpeded by the establishment of incompatible uses which would hinder farm operations and irretrievably deplete agricultural lands.

Specific purposes for this district are:

- To establish a zoning district in which agriculture and certain related uses are encouraged as principal uses of the land.
- To preserve fertile, tillable soils as a valuable natural resource.
- To enhance and maintain the sound economic base that agricultural pursuits provide the county and region.
- To provide open areas which contribute to the stability of the environment and enhancement of air and water quality.
- To preserve woodlands and wetlands associated with farms which, because of their natural physical features, are useful as water retention and groundwater recharge areas, and as habitat for plant and animal life, but may not be conducive to the agricultural uses cited in this ordinance.

B. POLICY

To achieve the purposes of the agricultural district it shall be the policy of the county:

- To allow only those uses of land which are clearly and primarily best suited for agricultural purposes within the A-1 zoning district.
- To prevent mixtures of urban and rural land uses which create or tend to create conflicts and incompatibilities which directly or indirectly impose unbalanced tax loads on agriculture and which require urban services which, in turn, contribute to the premature termination and eventual elimination of agricultural uses.
- That allowance of farm residences under this section shall not change the general character of agricultural use.

C. USES PERMITTED

1. Conservation areas
2. Crop and tree farming
3. Dairy and livestock farming
4. Farming

5. Forest Preserve
6. Forestry
7. Game breeding
8. Gardening
9. Grazing and forage
10. Greenhouses and nurseries
11. Home occupation, provided:
 - a. It is conducted entirely within the dwelling or permitted accessory building by a member or members of the family residing in the dwelling and when such home occupation is clearly incidental and secondary to the use of the dwelling as a residence.
 - b. There are no signs, display or activity that will indicate from the exterior of the dwelling that it is being used for any use other than a dwelling except as allowed by the sign regulations for the district in which such "home occupation" is located.
 - c. No article shall be sold or offered for sale on the premises except as is produced by the occupation on the premises.
 - d. No stock in trade shall be kept or displayed on the premises unless such stock is clearly secondary and necessary to the performance of the services provided by the home occupation and at no time shall exterior storage of materials be permitted.
 - e. No person shall be employed other than a member of the family residing on the premises and one person outside the family, providing that additional persons (more than one) outside of the family may be permitted by the Zoning Board of Appeals pursuant to an application for special use filed in accordance with the provisions of this ordinance.
 - f. The number of off-street parking spaces for that use is provided as required by the Off-Street Parking, Loading, and Landscape Requirements of this Ordinance.
 - g. No mechanical equipment is used which may generate obnoxious fumes, excessive noise or other such related nuisances. No offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical disturbance shall be produced which is perceivable at or beyond the lot lines.
12. Horse breeding and raising
13. Horticulture
14. Poultry breeding and raising
15. Research and experimental farms
16. Single Family Residential Use, provided:
 - a. Single Family Dwellings on zoning lots approved pursuant to the applicable regulations prior to 8th day of March, 1977, which are as follows:
 - i. Any three-quarter (3/4) acre lot, or larger, existing prior to July 17, 1959.
 - ii. Any vacant three (3) acre parcel or larger that existed prior to August 8, 1971.
 - iii. Any vacant five (5) acre parcel or larger that existed prior to August 28, 1972.
 - iv. Any vacant twenty (20) acre parcel or larger that existed prior to March

April 8, 2000

8, 1977.

- v. Any sixty (60) acre parcel or larger that existed prior to March 7, 1977 may have one additional building permit.
 - vi. Any lot in a subdivision or group of lots combined to meet the minimum area requirements of a zoning lot.
- a. One Single Family Dwelling in addition to those existing on 7th day of March, 1977 for each zoning lot existing on 7th day of March, 1977 which exceeds sixty (60) acres in size. Such dwelling may be physically located on a zoning lot different from the one which qualifies providing the zoning lots are contiguous and are in the same ownership.

All existing zoning lots which meet the requirements of 16a or 16b above shall be registered by the property owner with the Kendall County Planning, Building and Zoning Department. One single family residence shall be permitted on each registered zoning lot. The registration deadline shall be December 29th, 2005. The County will maintain records of parcels which have been allocated and registered for single family dwellings in the A-1 zoning district.

If an owner declines to register a parcel by this date, the burden of proof of the availability of a permit will shift to the owner, who shall be required to prove, by clear and convincing evidence, that a building permit allocation is applicable to the parcel in question. After December 29th, 2005, the owner of a zoning lot meeting the standards of 16a or 16b above shall file a petition with the Kendall County Planning, Building and Zoning Department to construct a new single family dwelling on an unregistered prior zoning lot. The petition shall be reviewed and approved or denied by the Zoning Board of Appeals. In considering the petition, the Zoning Board of Appeals shall consider the following findings of fact:

- The petitioner must have purchased the property prior to May 1, 2000;
 - The petitioner must demonstrate that the property was buildable under the applicable zoning regulations at the time it was purchased.
 - Did the petitioner pay a premium price for the property because it was buildable (for example, substantially more than agricultural land was selling for at that time)
- c. A new farm residence shall be permitted on a zoning lot forty (40) acres or larger provided the property owner waives any right to additional residences otherwise permitted by 16a or 16b above on the same parcel. Prior to the construction of any new farm residence, the property owner shall file with the Kendall County Planning, Building and Zoning Department a legal description detailing the location of the parcel, along with a sketch identifying the location of the proposed farm residence. The County will maintain records of parcels which have been allocated for farm residences.
17. Sod farms
18. Truck farming

April 8, 2000

7-4

EXHIBIT A

19. Roadside stands, with not more than six hundred (600) square feet of gross floor area, including outdoor display, and set back at least ninety (90) feet from the center line of all adjacent roads, and with off-street parking for a minimum of five (5) cars, or one space for each fifty (50) square feet of structure, whichever is greater. Sales shall be limited to only those products grown or produced on the premises. Sales only permitted from March 15 through November 15.

D. SPECIAL USES PERMITTED

The following special uses may be permitted only if specifically authorized by the County Board as allowed in Section 13.07 .

17. Agricultural implement sales and service.
18. Agricultural Labor Housing, subject to the following restrictions:
 - a. Shall be used in connection with a use permitted in this district.
 - b. Shall provide for adequately screened off-road parking for the occupants.
 - c. Shall meet all requirements of the Kendall County Health Department.
19. Airports and heliports including aircraft hangers, tiedowns and aircraft service and repair.
20. Animal feed; preparation, grinding, mixing and storage.
21. Asphalt and (or) concrete batch mix plants.
22. Bed and breakfast establishments.
23. Cemeteries, including crematoriums and mausoleums provided no building shall be located less than one hundred (100) feet from a lot line.
24. Churches, temples or synagogues.
25. Communication uses, gas regulator stations, telephone exchanges, electric substations and generators.
26. Correctional Facilities.
27. Kennels, and Dog Kennels when located more than 600' from an occupied principal structure other than the owners residence.
28. Fairgrounds.
29. Golf courses, club houses, county clubs, and membership riding clubs.
30. Fertilizer and seed sales, including bulk storage and mixing.
31. Governmental buildings and facilities.
32. Grain Storage, when not accessory to the pursuit of agriculture.
33. Gun clubs, if located not nearer than one thousand (1000) feet to any residence other than that of the owner or lessee of the site, and if not so operated as to withdraw the land from its primary agricultural use.
34. Living quarters, a residential dwelling unit not to exceed two thousand (2,000) square feet, for a groomer or an employee-watchman and immediate family in conjunction with a permitted use or an approved conditional or special use. The living quarters shall be limited to one (1) home, apartment or dwelling unit per zoning lot or zoning parcel.
35. Parks.
36. Philanthropic institutions and institutions supported by charity.
37. Private clubs or lodges, except those the chief activity of which is a service customarily carried on as a business.

38. Recreational camps.
39. Retail or wholesale sales yards for agricultural products including, but not necessarily limited to, fruits, vegetables, flowers, plants, etc., that are not grown on the premises. Sanitary landfills and other means of solid waste management, including transfer stations.
40. Schools and Day Care Facilities.
41. Seminaries, convents, monasteries, and similar religious institutions including dormitories and other accessory uses required for operation.
42. Similar and compatible uses to those allowed as "permitted or conditional uses" in this district.
43. Slaughter houses.
44. Storage facilities for motor vehicles, boats, trailers, and other recreational vehicles.
45. The composting of landscape waste.
46. Veterinary establishments.

E. CONDITIONAL USES:

1. The following Conditional Uses may be permitted only if specifically authorized by the Zoning Administrator.
 - a. Riding Stables including, but not limited to: polo clubs, rodeo clubs and similar uses, provided: that the lot is not located nearer than five hundred (500) feet from an existing dwelling or a Residence District.
 - b. Buying and selling of livestock, but not a stockyard or a slaughter house. Such uses may not be located nearer than one thousand (1,000) feet from a Residence District.
 - c. Feed yards provided that the lot is not located nearer than one thousand (1,000) feet from a Residence District.
 - d. Accessory agricultural services such as a Black smith; Sale of farm supplies by farmers as agents, where grain elevators or similar commercial facilities are not maintained on the farm premises; or similar accessory use to a farm residence provided:
 - i. The applicant shall send notice to all owners of property within five hundred (500) feet of the subject site by certified mail within five (5) days of filing the applications of the intent and location of the service. If any owner receiving notice as described above shall, within ten (10) days after the date of the notice, file a written objection with the Zoning Administrator thereto, the question of whether such application shall be granted shall be referred to the Zoning Board of Appeals which shall consider the matter at its next regular or special meeting. A report summarizing the findings of fact and a recommendation of the Zoning Board of Appeals shall be forwarded to the County Board for a determination.

- ii. Such use shall be operated and storage maintained entirely within an enclosed building or screened on all sides by a solid fence not less than six (6) feet in height.
 - iii. Such use shall not utilize more than twenty-five (25%) percent of the lot area or two (2) acres, whichever is less.
 - iv. On-site employees shall consist of immediate family members, and not more than three (3) other persons.
 - v. Said business shall be owned by the owner of the residence.
 - vi. Such businesses shall provide a parking area to accommodate at least two (2) cars in addition to one parking space for each on-site employee. Such off-street parking area shall be appropriately landscaped so that it does not detract from the residential character of the property or its surroundings.
 - vii. No more than one business shall be permitted on a site.
 - viii. Such businesses shall produce no offensive noise, vibration, smoke, electrical interference, dust, odors, or heat on or off the premises of such use.
- e. Elderly Cottage Housing Opportunities (ECHO Housing), provided:
- i. One manufactured home is permitted on a separate ground area of not less than five acres in an A-1 District. Current health codes must be met.
 - ii. The following purpose is served:
 - To permit adult offspring to provide small temporary residences for their aging parents who are in need of support while maintaining independence.
 - To permit families to provide security and support for non-elderly relatives with serious health problems or physical disabilities.
 - To reduce the degree to which frail elderly homeowners have to choose between increasing isolation in their own homes and institutionalization in nursing homes.
 - To develop housing types in single-family neighborhoods that are appropriate for households at a variety of stages in the life cycle.
 - To permit E.C.H.O. housing in a manner that protects the property values and single-family character of neighborhoods by ensuring that the units are compatible with the neighborhood and are easily removed.
 - iii. A conditional use permit must meet the following requirements for Temporary E.C.H.O.:
 - There can only be one (1) E.C.H.O. housing unit located on each parcel.
 - The E.C.H.O. housing unit must comply with all setbacks within the respective zoning districts.

- The E.C.H.O. housing unit must not exceed one thousand-two hundred (1,200) square feet of living space with not more than two (2) bedrooms.
- The E.C.H.O. housing unit must be compatible with the surrounding area.
- The E.C.H.O. housing unit must be an attached or detached pre-manufactured home with a removable foundation or a mobile home.
- Each E.C.H.O. housing unit may have one (1) parking space.
- The owner of the principal residence and at least one occupant of the E.C.H.O. unit must be related by blood, marriage or adoption.
- The owner(s) of the principal residence and lot must live in one of the dwelling units on the lot. No more than two occupants shall reside in an E.C.H.O. unit.
- In order to be eligible for E.C.H.O. housing, at least one of the occupants of the E.C.H.O. unit must be over sixty-two (62), or unable to live independently because of mental or physical disabilities. All disabled occupants must submit a letter from a physician verifying the disability and stating the projected duration of the disability.
- The principal owner of the property must annually submit an affidavit to the Zoning Administrator, verifying that the unit is still occupied by the eligible resident(s). Once the unit is no longer occupied by the eligible resident(s), the principal owner has six (6) months to remove the unit from the property. If the unit is not removed within six (6) months, the Kendall County Zoning Department may remove the structure. The principal owner of the property will be held financially liable for the cost. If the principal owner has not cleared debts within thirty (30) days of notification, a lien may be placed against the property.

2. Single Family Dwellings may be authorized by the County Board under the following conditions:

- a. Each such dwelling shall be located on a zoning lot which meets the standards of single-family residential lots, one hundred and thirty thousand (130,000) sq. ft. minimum.
- b. Septic suitability is approved by the Health Department.
- c. It is the intent to limit such usage, and if, in the judgment of the County Board, contiguous parcels requesting approval hereunder represent an unwarranted expansion of this usage, then denial is warranted.
- d. That application shall be made on forms provided by the Zoning Administrator and shall include specific written and graphic statements and illustrations establishing evidence that the site meets the standards as follows:

That the site for the proposed use must be incompatible with agricultural use which may be evidenced by establishment of one or more of the following criteria:

- i. Existing woodland coverage of a substantial portion of the site containing trees in excess of 6" in diameter measured at breast height;
 - ii. Soils which have a land evaluation ranking from the Kendall County Soil & Water Conservation District of seventy-five (75) or less;
 - iii. Excessive slopes;
 - iv. Other physical features which serve as barriers to farm operations such as streams, rock outcroppings and property configuration in relationship to wetlands, flood-prone areas or buildings.
- e. That such application shall be presented to the Plan Commission and Zoning Board of Appeals for Review. Their recommendations shall be forwarded to the County Board who may grant or deny such application.

It is the policy that allowance of dwellings under this section shall not change the general character of agricultural use in the surrounding area.

F. TEMPORARY USES PERMITTED

Upon application and issuance by the Zoning Administrator of a permit thereof, the following uses may be operated as temporary uses. The Zoning Administrator may require that a site plan be submitted with the application to provide a means of evaluating compliance with Ordinance requirements. Any permitted temporary use may be treated as a special use (per the procedures contained in Section 13.07) if the stated time limit is to be exceeded.

1. Temporary building, trailer, or yard for construction materials and/or equipment, both incidental and necessary to construction in the zoning district provided that:
 - a. Each permit shall specify the location of the building, trailer, or yard and the area of permitted operation.
 - b. Each such permit shall be valid for a period of not more than six (6) calendar months and shall not be renewed for more than four (4) successive periods.
2. Trailers or mobile homes may be used for residential purposes only during the construction of a residence and must be removed within thirty (30) days of obtaining a certificate of occupancy or completion of construction. In no case shall a trailer or mobile home be permitted to remain on the premises for more than two years.
3. Christmas Tree Sales; each permit shall be valid for a period of not more than sixty (60) days.
4. Concrete ready-mix or asphalt concrete plants, when necessary and incidental to a major construction project.
 - a. Each such permit shall be valid for a period of not more than one (1) year and shall not be renewed for more than two (2) successive periods at the same

- location.
- b. The plant shall be located a minimum of one thousand (1,000) feet from any occupied principal structure.
 - c. All facilities placed or located on the site shall be removed and the site restored to a clean and vegetated condition within the time frame of the permit. The operator of the facility shall guarantee the proper removal of all facilities with good and sufficient security as approved by the Zoning Administrator.
 - d. The plant shall produce product only for the specific parcel for which the temporary use is permitted. For plants constructed to support a major road project, the plant shall be located adjacent to the roadway.

G. ACCESSORY USES PERMITTED

Accessory uses, buildings, or other structures and devices customarily incidental to and commonly associated with a permitted or special use are permitted; provided they are operated and maintained under the same ownership, on the same lot, and do not include structures or structural features inconsistent with the permitted use or special use.

H. SITE AND STRUCTURE REQUIREMENTS

1. Minimum Lot Area:
 - a. For a Farm Residence - forty (40) acres.
 - b. For Other Permitted Residences - as provided in Section 7.01C.
 - c. For Special and Conditional Uses - no minimum, unless specifically listed.
 - d. For Agricultural Uses and Structures (other than a Farm Residence) - no minimum.
2. Minimum Lot Width
 - a. For a Farm Residence or Other Permitted Residence - four hundred (400) feet for all parcels created after May 1, 2000.
 - b. For Agricultural Uses (other than Farm Residence), and Conditional Uses - four hundred (400) feet under common ownership .
3. Setback
 - a. Principal buildings - One hundred (100) feet from a dedicated road right-of-way or one hundred and fifty (150) feet from the center line of all adjacent roads, whichever is greater. Also, fifty (50) feet from all property lines dividing lots held in separate ownership.
 - b. Accessory structures - One hundred and fifty (150) feet from the center line of all adjacent roads and ten (10) feet from all property lines dividing lots held in separate ownership.

I. SPECIAL PROVISIONS

1. Parking requirements - in accordance with the applicable regulations set forth in Section 11.00.
2. Sign Requirements - in accordance with the applicable regulations set forth in Section

April 8, 2000

4.19 FLOOD PLAIN REGULATIONS

- A. **PURPOSE.** It is the purpose of these regulations to promote the public health, safety and general welfare and to minimize loss of life and excessive damage to property in areas of flood hazard.
- B. **ESTIMATES OF FLOOD THREAT.** The uses shall, when required by the Plan Commission:
1. Estimate the discharge of the regional flood which is representative of large floods known to have occurred in this region and which are reasonably characteristic of what can be expected to occur with a 100-year frequency on the particular streams subject to this ordinance.
 2. Determine the specific flooding threat at the site of the proposed conditional use and determine whether the use is located in a floodway or flood fringe area by:
 - a. Calculations of water surface elevations and flood protection elevations based upon hydraulic analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood. Flood protection elevations shall be one (1) foot above the water surface elevations of the regional flood plus the increase in the flood heights caused by the proposed development as provided in Section 7.02 (B) 2 (b) below.
 - b. Computation of the floodway required to convey this flood without increasing flood height to an extent which would cause substantial upstream or downstream damage to existing or reasonably anticipated future development. Computation of increases in flood height caused by any encroachment shall be based upon the reasonable assumption that there will be an equal degree of encroachment on both sides of the stream within that reach. Generally, any increase in flood stages attributable to encroachments on the flood plain of any river or stream shall not exceed 0.5 feet in any one reach or for the cumulative effect of several reaches.
- C. **PERMITTED USES.** The following open space uses shall be permitted within a Flood Plain to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill or storage of materials or equipment. In addition, no use shall adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributary to the main stream, drainage ditch, or any other facility of system.
1. Agricultural uses, including general farming, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, sod farming, provided such uses are permitted in an adjoining district.

2. Open type uses, such as loading and unloading areas, parking lots, storage of motor vehicles for not more than 24 hour periods, airport landing strips, when such uses are permitted in the District in which the flood plain is located.
 3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, ponds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, hiking and horseback riding trails, subject to all other provisions of this ordinance, providing that said use is expressly subject to the terms and conditions of Kendall County Recreational Vehicle Park and Campground Regulations.
 4. Residential uses such as lawns, gardens, parking areas and play areas.
- D. SPECIAL USES. All uses other than those specified in 4.19 (C) are permitted only upon application to the Zoning Administrator and the issuance of a special permit as provided in Section 13.07, Special Use Permits of this ordinance.

The Flood Plain includes both floodway and flood fringe areas. Therefore, the Plan Commission, as provided in Section 4.19-B, shall determine whether the proposed Special Use is located within the floodway, the provisions of Section 4.19-1 of this ordinance shall apply. If it is determined that the proposed use is located within the flood fringe, the provisions of Section 4.19-2 of this ordinance shall apply.

4.19-1. SPECIAL PROVISIONS

Special Provisions apply to the floodway portion of the Flood Plain.

- A. Uses Permitted in Section 4.19-C are Permitted Uses.
- B. Other uses are allowed only as Special Uses within the floodway provided they comply with the provisions of the Section, Section 4.19-1-C (Fill), 4.19-1-D (Structures), 4.19-1-E (Storage of Materials), other standards established in this ordinance, and any conditions attached to the issuance of the Special Use Permit. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other use shall be permitted which acting alone or in combination with existing or reasonably anticipated uses unduly affects the efficiency or the capacity of the floodway or unduly increases flood heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. Special Uses include:
 1. Uses or structures accessory to open space or Special Uses.
 2. Circuses, carnivals and similar transient amusement enterprises.
 3. Drive-in theaters, new and used car lots, road side stands, signs and billboards.
 4. Marinas, boat rentals, docks, piers, wharves, and water control structures.
 5. Railroads, streets, bridges, transmission lines and pipelines.
 6. Storage yards for equipment, machinery or materials.
 7. Kennels and stables.

8. Other uses similar in nature to uses described in Section 4.19 or this subsection which are consistent with the provisions set out in this ordinance.

C. FILL.

1. Any fill or materials proposed to be deposited in the floodway will be allowed only upon issuance of a Special Use Permit. The fill or materials must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
2. Such fill or other materials shall be protected against erosion by riprap, vegetative cover, or bulkheading.

D. STRUCTURES (temporary or permanent) ACCESSORY TO SPECIAL USES LISTED IN 4.19-B.

1. Structures shall not be designed for human habitation.
2. Structures shall have a low flood damage potential.
3. The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
 - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and
 - b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
4. Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river.
5. Service facilities such as electrical and heating equipment shall be placed at or above the regulatory flood protection elevation for the particular area if adequately floodproofed.

E. STORAGE OF MATERIALS AND EQUIPMENT.

1. The storage or processing of materials that in time of flooding are buoyant, flammable, explosive or could be injurious to human, animal or plant life, is prohibited.
2. Storage of other material or equipment may be allowed upon issuance of Special Use Permits if not subject to major damage by floods and firmly anchored to prevent flotation or readily removable from the area within the time available after flood warning.

F. GARBAGE AND SOLID WASTE DISPOSAL.

1. No Special Use Permits for garbage and waste disposal sites shall be issued for floodway areas.

April 8, 2000

7-14

EXHIBIT A

2. Provided further, there shall be no further encroachment upon the floodway at existing sites.

4.19-2 SPECIAL PROVISIONS APPLYING TO THE FLOOD FRINGE.

- A. Permitted Uses. Uses listed in Section 4.19-C as permitted uses are permitted uses within the flood fringe area.
- B. Special Uses. Structural or other uses shall be permitted within the flood fringe as Special Uses to the extent they are not prohibited by any other ordinance and they meet the following applicable standards:
 1. Residential Uses. Residence shall be constructed on fill with the first floor or basement floor at one (1') foot above the regulatory flood protection elevation. The finished fill elevation shall be at or above the regulatory flood protection elevation for the particular area and shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon. Where existing streets or utilities are at elevations which make compliance with this provision impractical or in other special circumstances the Plan Commission may recommend other techniques for protection.
 2. Non-Residential Uses. Structures other than residences shall ordinarily be elevated on fill as provided in Section 4.19-B-1 but may in special circumstances, be protected as provided in Section 4.19-C to a point at or above the regulatory flood protection elevation.
 3. Commercial Uses. Commercial structures generally must be constructed on fill with no first floor or basement floor below the flood protection elevation. Accessory land uses, such as yards, railroad tracks and parking lots may be at lower elevations. However, a permit for such facilities to be used by the general public shall not be granted, in the absence of a flood warning system, if the area is inundated to a depth greater than two feet or subject to flood velocities greater than four feet per second upon the occurrence of the regional flood.
 4. Manufacturing and Industrial Uses. Manufacturing and industrial buildings, structures and appurtenant works shall be protected to the flood protection elevation. Measures shall be taken to minimize interference with normal plant operations especially for streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 7.02-2 B-3, above. In considering permit applications, the Plan Commission shall give due consideration to needs of an industry whose business requires that it be located in flood plains areas.
 5. Utilities, Railroad Tracks, Streets and Bridges. Public utility facilities, roads, railroad tracks and bridges within the flood plain shall be designed to minimize increases in flood elevations and shall be compatible with local comprehensive flood plain development plans. Protection to the regulatory flood protection elevation shall be provided where failure or interruption of these public facilities would result in danger to the public health or safety or where such facilities are essential to the orderly

functioning of the area. Where failure or interruption of service would not endanger life or health, a lesser degree of protection may be provided for minor or auxiliary roads, railroads, or utilities.

6. Waste Treatment and Waste Disposal.
 - a. No new construction, addition, or modification to existing waste treatment facilities shall be permitted within the flood plain unless emergency plans and procedures for action to be taken in the event of flooding are prepared, filed with, and approved by the Illinois Environmental Protection Agency. The emergency plans and procedures must provide for measure to prevent introduction of any pollutant or toxic material into the flood waters.
 - b. There shall be no disposal of garbage or solid waste materials within flood plain areas except upon issuance of a Special Use permit at sites approved by the Illinois Environmental Protection Agency and subject to the requirements of Section 4.19-F.

4.19-3 SPECIAL USE PERMITS.

- A. Procedure to be followed by the Plan Commission in passing on Special Use Permits. Upon receiving an application for a Special Use Permit involving the use of fill, construction of structures, or storage of materials, the Plan Commission shall, prior to rendering a recommendation thereon:
 1. Require the applicant to furnish such of the following information as is deemed necessary by the Plan Commission for determining the regulatory flood protection elevation, whether the proposed use is located in the floodway or flood fringe, and other factors necessary to render a decision on the suitability of the particular site for the proposed use.
 - a. Plans. Ten copies drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the channel.
 - b. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
 - c. Plans showing elevations or contours of the ground pertinent structure, fill, or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities, photographs showing existing land uses and vegetation upstream and downstream, soil types, and other pertinent information.
 - d. Profile showing the slope of the bottom of the channel or flow line of the

stream for at least five hundred (500) feet in either direction from the proposed development.

- e. Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

April 8, 2000

7-17

EXHIBIT A

SECTION 13.00 ADMINISTRATION

13.04 VARIATIONS

B. AUTHORIZED VARIATIONS. Variation from the regulations of this amended ordinance shall be granted by the Zoning Board of Appeals only in accordance with the standards set forth in subsection 13.04-A hereof and may be granted in the following instances only, and in no others:

1. To permit the extension of a district to include an entire lot where the boundary line of the district divides a lot of record in the effective date of this amended ordinance.
2. To permit any yard of less dimension than required by the applicable regulations.
3. To permit the use of a lot for a use otherwise prohibited solely because of the insufficient area of the lot.
4. To reduce the applicable off-street parking or loading facilities required by not more than one parking space or loading berth or twenty percent of the required number, whichever is greater.
5. To increase by not more than twenty-five percent the maximum distance that required parking spaces are permitted to be located from the use served.
6. To permit the same off-street parking facilities to qualify as a required facility for two or more uses, provided the substantial use of such facility by each user does not take place at approximately the same hours of the same day of the week.
7. To permit a fence height greater than required by the applicable regulations.
8. To permit the construction of one single family detached dwelling on any agriculturally zoned parcel less than forty (40) acres in size, which:
 - a. was legally recorded and existing prior to March 8th, 1977,
 - b. meets the lot size standards contained in Section 7.01C-15a ,
 - c. had no dwelling unit existing thereon on said date.

In addition to considering the standards set forth in Section 13.04A-2 above in making written findings of fact and recommendation, the Zoning Board of Appeals shall

PROPOSED AGRICULTURAL ZONING DISTRICT ORDINANCE

consider the following findings of fact:

- i The petitioner must have purchased the property prior to May 1, 2000;
- ii The petitioner must demonstrate that the property was buildable under the applicable zoning regulations at the time it was purchased.

The Zoning Board of Appeals shall also consider such factors as:

- iii Did the petitioner pay a premium price for the property because it was buildable (for example, substantially more than agricultural land was selling for at that time?) And
- iv Whether the property is viable for agriculture or any other reasonable use.