

**ORDINANCE 98- 17**  
**AMENDMENT to the KENDALL COUNTY ZONING ORDINANCE &  
SUBDIVISION CONTROL ORDINANCE  
AND LAND RESOURCES MANAGEMENT PLAN INTERIM POLICY  
RESIDENTIAL DENSITY**

WHEREAS, the Kendall County Board has adopted Zoning Ordinance, Subdivision Control Ordinance, and Land Resources Management Plan as means of controlling and managing development within Kendall County; and

WHEREAS, the Kendall County Board amends said documents from time to time for the best interests of Kendall County; and


WHEREAS, all administrative procedures required by Kendall County for amending the Zoning Ordinance including a public hearing held by the Zoning Board of Appeals have been followed; and

WHEREAS, the Kendall County Board finds that the density regulations in this ordinance are in the best interest of Kendall County;

THEREFORE, BE IT ORDAINED by the County Board of Kendall County, Illinois hereby amends the Kendall County Zoning Ordinance and Subdivision Control Ordinance, along with the Land Resources Management Plan, regarding density within residential districts provided in Exhibit A attached hereto.

IN WITNESS OF, this Amendment to Kendall County Zoning Ordinance has been enacted on August 18, 1998.

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John A. Church  
Kendall County Board Chairman

  
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Paul Anderson  
Kendall County Clerk

# Proposed Amendments to the Kendall County Zoning Ordinance

## SECTION 3.00 RULES AND DEFINITIONS

### Common Open Space

Common open space refers to the land within a Planned Development that is devoid of buildings and other structures, other than recreational and pedestrian facilities and uses accessory thereto, and is suitable for active and passive recreational activities. For purposes of this ordinance, common open space must be a minimum of 50' wide. Common open space may include underground drainage fields for community septic systems or back-up areas for individual septic systems, and for "spray fields" for spray irrigation purposes in a "land treatment" sewage disposal system. Common open space specifically excludes parking lots for non-recreational uses, street rights-of-way, subdivided residential lots, school sites, "mound" sewage disposal systems protruding above grade and aerated sewage treatment ponds. Common Open Space is further divided into two categories as follows:

**Primary Open Space** consists of wetlands and land within the 100-year flood plain.

**Secondary Open Space** includes otherwise developable areas of a property which are being preserved for passive or active open space use. Wet bottom detention areas may be included as a part of secondary open space.

## SECTION 13.00 ADMINISTRATION

### 13.06 AMENDMENTS.

F. FINDING OF FACT AND RECOMMENDATION OF THE ZONING BOARD OF APPEALS. Within a reasonable time after the close of the public hearing on a proposed amendment, the Zoning Board of Appeals shall make written findings of fact and shall submit same together with its recommendation to the County Board of Kendall County. Where the purpose and effect of the proposed amendment is to change the Zoning classification of particular property, the Zoning Board of Appeals shall make findings based upon evidence presented to it in each specific case with respect to the following matters:

5. Consistency with the spirit of the Land Resource Management Plan and other adopted County of municipal plans and policies.

E. STANDARDS. No special use shall be recommended by the Zoning Board of Appeals unless said Board shall find:

1. That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
2. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole.
3. That the establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage, and/or other necessary facilities have been or are being provided.
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestions in the public streets.
6. That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the zoning Board of Appeals.
7. That the special use is consistent with the spirit of the Land Resource Management Plan and other adopted County of municipal plans and policies.

**L. Planned Developments.**

1. **Purpose.** Planned developments are intended to encourage imaginative site planning which integrates the development proposal with existing topography and other natural environmental assets of the land while conserving the County's rural character. Clustering of units is encouraged to provide common open space. ~~the most imaginative and best possible design of building forms and site planning for tracts of land where unitary plans would best adapt to topographic and other natural features of such sites.~~ Under this procedure well planned residential, industrial, commercial and other types of land use, individually or in combination, may be developed in accordance with standards herein. ~~with complete design flexibility. Planned developments must be environmentally compatible. They should have a more beneficial effect upon the health, safety, and general welfare of the people of the County, and particularly, in the immediate surroundings than would developments built in conformity with standard district regulations. Site of planned developments shall be not less~~

~~than fifteen acres to accommodate self-contained developments and to create their own substantially different character from other special uses that the following additional standards are established to guard against their use solely as a means of intensifying the use of land.~~

9. **Residential Planned Developments.** After <fill in date of adoption of this text amendment> all new residential planned developments shall be zoned R-1 PUD unless the property is already zoned R-2 or R-3. For planned developments located in one or more residence districts, exceptions may be made in the regulations of such districts, as follows:

a. **Use Regulations.**

- (1) In any Residential Planned Development uses listed as permitted uses are allowed, and single-family attached, single-family semi-detached, and multiple-family dwellings may be allowed.
- (2) Uses listed as special uses in the zoning district in which the development is located may be allowed.
- (3) In residential planned developments containing over fifty dwelling units, permitted uses and special uses permitted in the B-1 Limited Business District shall be allowed, provided that such uses and accessory uses shall not occupy more than five percent of the net land area of the development.

b. **Base Density.** Maximum permitted density for a residential planned development will be based on the sum of the base density and the density premium provisions of this Section. Base density for all planned developments shall be .25 dwelling units per buildable acre. To determine the permitted number of dwelling units, the buildable area of the site shall be multiplied by the sum of .25 dwelling units per acre (the base density) and the appropriate density premium as noted below. Buildable area is defined as the total area of the property minus the following:

- wetlands,
- the 100-year floodplain, as shown on official FEMA maps,
- land within the required right-of-way of an existing roadway,
- land under an existing permanent easement prohibiting future development (including electrical power lines, fiber-optic lines and pipelines).

Lot sizes smaller than otherwise required in the underlying zoning district may be permitted provided adequate septic systems are provided and lots have direct access to a common open space.

c. **Gross-Density Premiums.** The maximum gross density for residential planned developments may be increased up to a maximum of .8 dwelling units per buildable acre (.25 d.u./ac. base density plus maximum premium of .55 d.u./ac.) of fifteen percent, in accordance with and when if the development includes one or more of the following.

- (1) Secondary open space that is substantially more than the minimum size otherwise required for storm water detention or through park dedication requirements. (Bonus not to exceed .35 dwelling units per buildable acre)
  - (2) Provision of recreational amenities, beyond minimum standards established in the subdivision ordinance, including but not limited to: a golf course, ballfields, playground equipment, tennis courts, basketball courts, swimming pool, hiking and bicycling paths (beyond those designated on the County Transportation Plan), community centers, and exceptional landscape improvements such as native or natural plantings. (Bonus not to exceed .10 dwelling units per buildable acre).
  - (3) Offsite and perimeter road improvements in addition to those needed to provide adequate access solely for the proposed development. (Bonus not to exceed .10 dwelling units per buildable acre).
  - (4) Endowment of a permanent fund to offset continuing open space maintenance costs. Spending from this fund should be restricted to expenditure of interest, in order that the principal may be preserved. Assuming an annual average interest rate of 5%, the amount designated for the Endowment Fund should be twenty (20) times the amount estimated to be required on a yearly basis to maintain the open space. This fund shall be transferred by the developer to the designated entity with ownership and maintenance responsibilities (such as a homeowners' association, a land trust, or the County). (Bonus not to exceed .10 dwelling units per buildable acre).
  - (5) Conservation of traditional rural architecture reminiscent of Kendall County's agricultural heritage, preservation of historical structures, or design of new structures which reflect these architectural themes. (Bonus not to exceed .10 dwelling units per buildable acre).
  - (6) Protection of slopes exceeding 25% as measured over a 10-foot interval and minimization of mass grading (Bonus not to exceed .10 dwelling units per buildable acre).
  - (7) Enhancement or expansion of an existing wetland or creation of a new wetland beyond that required for compliance with Army Corps of Engineers Section 404 Permit requirements. (Bonus not to exceed .10 dwelling units per buildable acre).
- ~~(1) Is adjacent to, or across from a public or permanent private open space which is not less than ten acres in area with a depth perpendicular to a lot line of the planned development of not less than three hundred feet.~~
  - ~~(2) For the dedication of public recreational and education sites recommended in the Comprehensive Plan equal to the number of dwelling units that would otherwise have been permitted upon lands so dedicated.~~

~~————— (3) ——— For the provision of unique design features which required unusually high development costs and which tend to achieve an especially attractive and stable development — as determined by the County Planning Commission.~~

~~————— (4) ——— In the R-6, and R-7 Districts, for the provision of permanent open space at grade, in addition to required yards — a percentage equal to two times the percentage of the site devoted to such use.~~

~~d.c. — Yards. Yard requirements may be varied or waived if lot is located adjacent to common open space. — except along the perimeter of the development.~~

~~e.d — Signs. In accordance with the regulations in Section 12.00.~~

~~f.e. — Off-Street Parking and Loading. In accordance with the regulations in Section 11.00.~~

# Proposed Amendments to the Kendall County Subdivision Control Ordinance

## SECTION 6.02 DEFINITIONS

SIGNIFICANT TREES. Those existing trees on a development site that are worthy of preservation. Tree species identified in appendix (x) and having a diameter at breast height (tree measured 4.5 feet above grade) of eight inches (8") or greater that are in good health. These lists of significant trees are derived primarily from "Plants of the Chicago Region" by Floyd Swink and Gerould Wilhelm of the Morton Arboretum and "Kane County Wild Plants & Natural Areas" by Richard Young of the Kane County Forest Preserve District.

## SECTION 7.03 PLATS AND DATA FOR APPROVAL OF PRELIMINARY PLAN

- E. The County may require the developer to pay for additional environmental, engineering, or planning studies needed to evaluate the impact of a proposed subdivision. Such studies may include, but are not limited to, traffic impact analysis, tree surveys, wetlands evaluation and delineation and other features of the proposed subdivision regulated by the County. The Chairperson of the Planning Building and Zoning Committee and/or the Kendall County Planning Building and Zoning Department Director shall determine the need for additional studies and coordinate retention of qualified experts.

## SECTION 9.00 DESIGN STANDARDS

- A. In laying out a subdivision, the subdivision plat and plans shall conform to:
  - 1. All applicable ordinances and policies of the County of Kendall including Zoning, Soil Erosion, Flood Plain, Land/ Cash, Stormwater, Land Resource Management Plan and Transportation Plan.
  - 2. Applicable laws, rules and regulations of the State of Illinois and duly constituted agencies thereof.
  - 3. In all cases where a subdivision lies within one and one-half (1½) miles of the corporate limits of a city or village, the subdivision shall also conform to applicable subdivision ordinances and official plans of that city or village.

In all instances where a requirement of this ordinance, or other applicable ordinances of Kendall County, is similar to, or in conflict with, other provisions of the ordinances of that village or city, the most restrictive shall apply and prevail. The Plat Officer shall determine which requirements will be considered most restrictive.

- B. Subdivisions shall comply with the following design standards:
  - 1. To the maximum extent practicable, development shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize

negative impacts and alteration of natural features. Design of the development shall specifically conserve and enhance key natural environmental assets. The County Board shall require that appropriate means be established to preserve such assets, including:

- a. 100-year flood plains as defined by current Flood Insurance Rate Maps published by the Federal Emergency Management Agency (FEMA).
  - b. Unique and/or fragile areas such as seeps, natural drainage ways and wetlands as delineated on wetlands maps prepared by the U.S. Fish and Wildlife Service, areas designated by the Illinois Department of Natural Resources, the U.S. Army Corps of Engineers, or field verified by on-site inspection.
  - c. Steep slopes in excess of 20% as measured over a 10-foot interval unless appropriate engineering measures concerning slope stability, erosion, and resident safety are taken.
  - d. Habitats for endangered species as identified on federal or Illinois Department of Natural Resource inventories.
  - e. Historically significant structures and sites listed on federal or state lists of historic places. Existing structures reminiscent of Kendall County's agricultural heritage should also be conserved to the fullest extent practical.
  - f. At least 70% of all significant trees located outside existing and proposed rights-of-ways and drainage and utility easements shall be protected from construction activity. Significant trees required to be protected shall be appropriately marked and fenced (silt and construction) to prevent the intrusion of development activities, the accumulation of soil erosion sediment or any other destruction of such protection areas during construction. Those trees within the immediate construction area shall have fencing erected at a minimum of five (5) foot radius centered on the trunk of the tree.
2. Maintenance or creation of a buffer of native species vegetation of at least 25 feet in depth adjacent to wetlands and the high water limit of surface waters, including creeks, streams, lakes and ponds.
  3. Design around existing hedgerows, treelines and large woodlands (greater than one acre), especially those containing many mature trees or a significant wildlife habitat. However, woodlands in poor condition with limited management potential can provide suitable locations for residential development.
  4. Common open space areas shall generally abut existing or potential open space land on adjacent parcels. Such subdivision open space shall be designed as part of larger contiguous and integrated greenway systems, as per the policies in the Land Resource Management Plan.
  5. Protect rural roadside character and maintain scenic views and vistas as seen from



public thoroughfares. Except within a planned development, no new primary structures shall be located within 150 feet of a road right-of-way designated as a scenic route on the Kendall County Transportation Plan.

6. Trees shall be provided at retention/detention ponds and along both sides of new streets (outside of public rights-of-way).

C. Appropriate means of open space ownership and maintenance shall be provided consistent with the following standards:

1. **Responsibility.** Prior to the final approval of any Residential Planned Development, the public or private ownership and maintenance responsibilities for all common open spaces shall be established by the developer and approved by the County. Public ownership shall be either the County, the Forest Preserve District, a Park District, Township, or State. Private ownership shall be a Property Owners's Association duly established by articles of incorporation and bylaws, in accordance with the Illinois Condominium Property Act, or an approved private conservation organization. The instrument of conveyance shall include covenants running with the land to guarantee the common open space will be properly cared for and used only for purposes designated in approved final Residential Planned Developments.
2. **County Authority.** In the event that any portion of the property shall be developed under the Illinois Statutes relating to condominiums, the covenants, conditions and restrictions shall include a provision whereby the County shall have the right, but not the obligation, to enforce covenants or obligations of the association or the owners of the units as defined and provided within the declaration of Condominium, and further shall have the right, upon thirty (30) days prior written notice specifying the nature of a default, to enter upon common open spaces and cure such default, or cause the same to be cured at the cost and expense of the association or the owner(s) thereof. The County shall also have the right to charge or place a lien upon the property of the condominium association for the repayment of such costs and expenses, including reasonable attorney's fees, in enforcing such obligations. The declaration shall further provide that this provision may not be amended without County approval. Prior to recording, the finalized Declaration of Condominium shall be submitted to the County for their approval.
3. **Management Plan.** To insure appropriate long term maintenance of common open spaces the developer shall submit a detailed open space management plan describing the method and schedule of maintenance prior to approval of the final plat for the first phase of development.
4. **Dedication of Easements.** The County may, but shall not be required to, accept easements for public use of any portion or portions of common open space land, title of which is to remain in ownership by condominium or homeowners' association, provided:

- such land is accessible to County residents;

- there is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and
  - a satisfactory maintenance agreement is reached between the developer, condominium or homeowners' association, and the County.
5. **Transfer of Easements to a Private Conservation Organization.** With the permission of the County, an owner may transfer easements to a private, nonprofit organization, among whose purposes is to conserve open space and/or natural resources, provided that:
- the organization is acceptable to the County, and is a recognized conservation organization with perpetual existence;
  - the conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its function; and
  - a maintenance agreement acceptable to the County is entered into by the developer and the organization.

#### SECTION 9.01 - PUBLIC SITES

1. Where a proposed park, playground, school or other public use area is shown in whole or in part within a subdivision on the Land Resource Management Plan or as otherwise required by the County, appropriate public agencies and governing bodies shall be given an opportunity to begin, within one (1) year from the date of recording the Final Plat, procedures to acquire said acreage.
2. Where deemed essential by the County Board ~~Planning Commission~~, upon consideration of the particular type of development proposed in the subdivision, and especially in large-scale ~~neighborhood unit~~ developments, the County Board ~~Planning Commission~~ may require the dedication or reservation of such other areas or sites of a character, extent, and location suitable to the needs created by such development for schools, parks, and other neighborhood purposes.
3. Suitability of Land: The developer shall be responsible for improving the public site so that it is safe and useable for its public purpose. ~~No land shall be subdivided by reason of flooding, collection of groundwater, bad drainage, adverse earth or rock formations or topography, or any other feature likely to be harmful to the health, safety or welfare of the future residents of the subdivision or of the county. Such lands shall remain unsubdivided until such time as the conditions causing the unsuitability are corrected.~~
- ~~4. Preservation of Natural Features; natural features such as trees, brooks, hilltops, and views shall be preserved wherever reasonably possible.~~
- 4.5 Interior Parks: Parks situated in the interior of blocks shall have direct and public access to surrounding streets by easement at least 30 feet wide.

#### SECTION 10.00 - REQUIRED LAND IMPROVEMENTS

F. **Design Standards**

6. Sidewalks and Hike/Bike Trails: shall be provided in the following areas:

- a. Residential Districts: Sidewalks, when required, shall be located outside but adjacent to the limits of the right-of-way in a permanent easement. The developer shall be responsible for installing sidewalks when and where required by the County Board. Each lot owner shall be responsible for maintaining the sidewalk. ~~Individual property owners will be responsible for their construction and maintenance.~~ Sidewalks shall be a minimum of five (5) feet wide, five (5) ~~four (4)~~ inches deep, and shall be constructed of class X concrete. Where sidewalks cross driveways, they shall be six (6) inches deep. Sidewalks shall be extended to the street pavement including handicapped ramps where curbs are otherwise present or required.
- b. Commercial/Industrial Districts: Sidewalks shall be located as in residential districts, however, they shall be five (5) feet wide and four (4) inches deep.
- c. Hike/Bike Trails: Hike/bike trails designated on the County Transportation Plan (contained in the Land Resource Management Plan) along or through the development site must be built or paid for by the developer. Trails must be designed according to the Design Program as published by the Oswegoland Park District. The timing of trail construction shall be determined by the County based on connections to other trails or availability of the Forest Preserve or other entity to maintain said trail.

- 11. **Off-Site and Perimeter Road Improvements** : Off-site and perimeter road improvements that are needed to provide adequate access must be built or paid for by the developer. The County may require the developer to pay for qualified engineering studies to advise on improvements needed.

APPENDIX (X) - KENDALL COUNTY SIGNIFICANT TREES (8" or more)

Scientific Name	Common Name
<i>Acer nigra</i>	Black Maple
<i>Acer saccharum</i>	Sugar Maple
<i>Aesculus glabra</i>	Ohio Buckeye
<i>Carya ovata</i>	Shagbark Hickory
<i>Celtis occidentalis</i>	Common Hackberry
<i>Fraxinus americana</i>	White Ash
<i>Fraxinus nigra</i>	Black Ash
<i>Fraxinus pennsylvanica</i>	Red Ash
<i>Fraxinus pennsylvanica</i> var. <i>subintegerrima</i>	Green Ash
<i>Fraxinus quadrangulata</i>	Blue Ash
<i>Gymnocladus dioicus</i>	Kentucky Coffee Tree
<i>Juglans cinerea</i>	Butternut
<i>Juglans nigra</i>	Black Walnut
<i>Ostrya virginiana</i>	Hop Hophornbeam or Ironwood
<i>Platanus occidentalis</i>	Sycamore
<i>Populus deltoides</i>	Cottonwood
<i>Prunus serotina</i>	Wild Black Cherry
<i>Quercus alba</i>	White Oak
<i>Quercus bicolor</i>	Swamp White Oak
<i>Quercus macrocarpa</i>	Bur Oak
<i>Quercus muhlenbergii</i>	Chinquapin Oak
<i>Quercus rubra</i>	Red Oak
<i>Quercus velutina</i>	Black Oak
<i>Tilia americana</i>	Basswood, Linden
<i>Ulmus americana</i>	American Elm
<i>Ulmus rubra</i>	Slippery Elm

APPENDIX (Y) - KENDALL COUNTY SIGNIFICANT TREES (any size)

Scientific Name	Common Name
<i>Asimina triloba</i>	Paw Paw
<i>Carpinus caroliniana</i>	Blue Beech
<i>Cercis canadensis</i>	Redbud
<i>Cornus alternifolia</i>	Pagoda Dogwood
<i>Morus rubra</i>	Red Mulberry
<i>Rhamnus alnifolia</i>	Alder Buckthorn
<i>Rhamnus lanceolata</i>	Lance-Leaved Buckthorn
<i>Ulmus thomasi</i>	Rock Elm

## DENSITY LOCATIONS - INTERIM POLICY

1. If the property is within a Contiguous Growth Area, the maximum density shall be the lowest of the following:
  - a. The density recommended within the applicable municipal Comprehensive Plan.
  - b. The density of the adjacent subdivision
  - c. The density of a traditional R-3 subdivision
  - d. .8 dwelling units per acre.
  
2. If the property is within a Rural Transition Area, the maximum density shall be the lowest of the following:
  - a. The density recommended within the applicable municipal Comprehensive Plan.
  - b. The density of the adjacent subdivision.
  - c. The density of a traditional R-2 subdivision.
  - d. .6 dwelling units per acre.