

AN ORDINANCE OF KENDALL COUNTY, ILLINOIS
REGULATING DEVELOPMENT IN
SPECIAL FLOOD HAZARD AREAS

BE IT ORDAINED BY THE KENDALL COUNTY BOARD, as follows:

Section 1. PURPOSE

This Ordinance is enacted pursuant to the police powers granted to this County by Ill. Rev. Stat., (Chapter 34, Sections 414 and 422) in order to accomplish the following purposes:

- a. To prevent unwise developments from increasing the flood or drainage hazards to others;
- b. To protect new buildings and major improvements to buildings from flood damage;
- c. To protect human life and health from the hazards of flooding;
- d. To lessen the burden on the taxpayer for flood control projects, repairs to flooding-damaged public facilities and utilities, and flood rescue and relief operations;
- e. To maintain property values and a stable tax base by minimizing the potential for creating flood blight areas;
- f. To make Federally subsidized flood insurance available for property in the unincorporated area of Kendall County; and
- g. To provide for the orderly growth and development (pursuant to the County's comprehensive plan) of an environment that is especially sensitive to changes from human activity.

Section 2. PROVISIONS FOR ACCOMPLISHING THE PURPOSE

All new development proposals in the Special Flood Hazard Areas shall be reviewed and approved by the Zoning Officer. The Zoning Officer's review is to ensure the following:

- a. New development will not change the flow of flood or other surface drainage waters so that other properties become more susceptible to damage;
- b. New developments will not create special hazards or nuisances when flooded; and
- c. New buildings and major improvements to existing buildings will not be subject to damage by the base flood.

Section 3. DEFINITIONS

"Flood" means: a general and temporary condition of inundation of normally dry land areas from the overflow of water and rapid

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accumulation, or the runoff of surface waters from any source.

- B. "Base Flood" means; the flood having a one-percent probability of being equalled or exceeded in any given year. The base flood is also known as the 100 year flood. The base flood elevation at any location is as defined in Section 4, of this Ordinance.
- C. "SFHA" or "Special Flood Hazard Area" Means: those lands within the jurisdiction of the unincorporated area of Kendall County that are subject to inundation by the base flood. The SFHAs of the unincorporated area of Kendall County is generally identified as such on the Flood Insurance Rate Map (FIRM) of the County prepared by the Federal Insurance Administration and dated July 19, 1982.
- D. "Floodway" means: that portion of the SFHA required to store and convey the base flood. If not prohibited, building or placing obstructions in a floodway will increase flood damages to other properties.
- E. "FPE" or "Flood Protection Elevation" means: the elevation of the base flood (plus one foot) at any given location in the SFHA.
- F. "Development" means: any manmade change to real estate, including:
 - (i) construction, reconstruction, or placement of a building or an addition to a building valued at more than \$1,000;
 - (ii) installing a mobile home on a site or preparing a site for a mobile home;
 - (iii) drilling, mining, installing utilities or facilities, construction of roads, bridges or similar projects valued at more than \$1,000;
 - (iv) construction or erection of levees, walls, or fences;
 - (v) filling, dredging, grading, excavating, or other nonagricultural alterations of the ground surface;
 - (vi) storage of materials; or
 - (vii) any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include:

- (i) maintenance of existing buildings and facilities such as re-roofing or re-surfacing roads;
- (ii) repairs made to a damaged building that do not change the building's exterior dimensions and that are valued at less than 50% of the value of the building before the damage occurred;
or

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- (iii) gardening, plowing, and similar agricultural practices that do not involve filling, grading, or construction of levees.
 - (iv) agricultural development activities on farms as exempted by law.
- G. "Building" means; a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank in order that such tanks will be constructed to the same flood damage protection standards. The term includes a mobile home or prefabricated building which is affixed on a permanent site and connected to the required utilities. The term does not include recreational vehicles or travel trailers.

Section 4. BASE FLOOD ELEVATION

This Ordinance's protection standard is the base flood according to the best date available to the Illinois State Water Survey's Floodplain Information Repository. Whenever a party disagrees with the best available data, he may finance the detailed engineering study needed to replace existing data with better data and submit it to the State Water Survey.

- a. The base flood elevation for the SFHAs of the Fox River, East branch Little Rock Creek, Blackberry Creek, Clear Creek, Waubensee Creek, Aux Sable Creek, Aux Sable Creek-Middle Aux Sable Creek and Middle Aux Sable Creek shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of the County prepared by the Federal Insurance Administration and dated January 19, 1982.
- b. The base flood elevation for each of the remaining SFHAs delineated as a "A Zone" on the Flood Hazard Boundary Map/Flood Insurance Rate Map shall be the 100 year flood depth calculated according to the formulas presented in Depth & Frequency of Floods in Illinois published by the U.S. Geological Survey, 1976.

Section 5. DEVELOPMENT PERMIT

No person, firm, or corporation shall commence any development in the SFHA without first obtaining a development permit from the Zoning Officer. The Zoning Officer shall not issue a development permit if the proposed development does not meet the requirements of this Ordinance.

- a. Application for a development permit shall be made on a form provided by the Zoning Officer. The Application shall be accompanied by drawings of the site, drawn to scale showing property line dimensions and, in those parts of the site that are below the base flood elevation,
 - (i) existing grade elevations and all changes in grade resulting from excavation or filling;
 - (ii) the direction of flow of surface drainage and flood flows;
 - (iii) the location of all watercourses and drainage facilities;
 - (iv) the location and dimensions of all buildings and additions to buildings; and

- (v) the elevation of the lowest floor (including basement) of all buildings subject to the requirements of Section 7 of this Ordinance.
- b. Upon receipt of an application for a development permit, the Zoning Officer shall compare the elevation of the site to the base flood elevation. Any development located on land higher than the base flood elevation is not in the SFHA and therefore not subject to the requirements of this Ordinance.
- c. The Zoning Officer shall inform the applicant of any and all other local, state, and federal permits that may be required for this type of development activity. The development permit will only be issued on the condition that the other specified permits are obtained. The Zoning Officer shall not issue a Certificate of Use or Occupancy unless all required permits have been obtained.
- d. A filing fee for a development permit shall be \$50.

Section 6. PREVENTING INCREASED DAMAGES

- a. No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity.
 - (i) For development proposals located in an identified floodway or within a riverine SFHA where the floodway has not yet been identified, the following rule shall apply: The Zoning Officer shall review the development plans to discern if,
 - (a) a new obstruction to flood flows would be created;
 - (b) the project will involve a channel crossing such as a bridge or pipeline; or
 - (c) the project will modify the shape of the channel.If any of these three situations will result from the project, the applicant shall be required to obtain a permit from the Illinois Department of Transportation, Division of Water Resources, issued pursuant to Ill. Rev. Stat., Ch. 19, Sec. 70. The Zoning Officer shall not issue a development permit unless the applicant has obtained either a Section 70 permit or a "waiver of permit required" from the Division of Water Resources.
 - (ii) For development proposals located in a flood fringe, "AO Zone", of "AH Zone" identified as such on a SFHA map or in a lakefront floodplain, ponding area, area of sheet flow, or other SFHA not subject to overbank flooding from an identified channel, the requirement of this subsection 6.a shall not apply.
- b. No development in the SFHA shall include locating or storing chemicals, explosives, bouyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the FPE unless such materials are stored in a storage tank or floodproofed building constructed according to the requirements of Section 7.c of this Ordinance.
- c. New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes and other above ground openings located below the FPE are watertight.

Section 7. PROTECTING BUILDINGS

In addition to the damage prevention requirements of Section 6, all buildings to be located in the SFHA shall be protected from flood damage below the FPE. This building protection requirement applies to the following situations:

- (i) construction or replacement of a new building valued at more than \$1,000;
- (ii) improvements made to an existing building that increase the first floor area by more than 20%;
- (iii) reconstruction or repairs made to a damaged building that are valued at or more than 50% of the value of the building before the damage occurred; and
- (iv) installing a mobile home on a new site or a new mobile home on an existing site. This building protection requirement does not apply to returning a mobile home to the same site it formerly lawfully occupied.

This building protection requirement may be met by any one of the following methods:

- a. A building may be constructed on permanent land fill in accordance with the following:
 - (i) The area to be filled shall be cleared of all standing trees, brush, down timber, trash, and other growth or objects unsuitable for use as foundation material.
 - (ii) The fill shall be placed in layers no greater than 1 foot deep before compaction.
 - (iii) The surface of the fill shall be at or above the FPE. The fill shall extend at least 10 feet beyond the foundation of the building before sloping below the FPE.
 - (iv) The fill shall be protected against erosion and scour during flooding by vegetative cover, rip rap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
 - (v) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
 - (vi) The Zoning Officer shall maintain a record of the "as built" elevation of the lowest floor of the building.
- b. A building may be elevated in accordance with the following:
 - (i) The building or improvements shall be elevated on stilts, piles, walls, crawl space, or other foundation that is permanently open to flood waters and not subject to damage by hydrostatic pressures.
 - (ii) The foundation and supporting members shall be anchored, shaped and aligned so as to minimize exposure to known hydrodynamic

forces such as current, waves, and floating debris. If mobile homes are permitted in the SFHA they shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

- (a) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side;
 - (b) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;
 - (c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - (d) Any additions to the mobile home be similarly anchored.
- (iii) All areas below the FPE shall be constructed of materials resistant to flood damage. The bottom of the joists of the lowest floor and all utility meters shall be located at or above the FPE.
 - (iv) The Zoning Officer shall maintain a record of the "as built" elevation of the lowest floor.
 - (v) No area below the FPE shall be used for storage of items or materials subject to flood damage unless such items or materials are declared "property not covered" by a Standard Flood Insurance Policy of the National Flood Insurance Program.
 - (vi) Any future alteration of the area below the FPE that violates the requirements of this Section 7.b shall be deemed a violation of this Ordinance. The Zoning Officer shall inform the applicant that any such alteration is considered a willful act to increase flood damages and therefore will cause coverage by a Standard Flood Insurance Policy to be suspended.
 - (vii) No mobile home may be placed on a new site located within an identified floodway.
- c. A non-residential building may be floodproofed in accordance with the following:
- (i) A Registered Professional Engineer shall certify that the building has been designed so that below the FPE, the Structure and attendant utility facilities are water-tight and capable of resisting the affects of the base flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of bouyancy, and impacts from debris or ice.

- (ii) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
- (iii) The Zoning Officer shall maintain the engineer's certificate and a record of the "as built" elevation to which the building was floodproofed.

Section 8. OTHER DEVELOPMENT REQUIREMENTS

The County Board shall take into account flood hazards, to the extent that they are known, in all official actions related to land management, use and development.

- a. New subdivision, mobile home parks, and planned unit developments (PUDs) shall meet the requirements of Sections 6 and 7 of this Ordinance. Plats or plans for new subdivisions, mobile home parks, and planned unit developments (PUDs) shall include a signed statement by a Registered Professional Engineer that the plat or plans account for changes in the drainage of surface waters in accordance with the Plat Act (Ill. Rev. Stat., 1979, Ch. 109, par. 2).
- b. Plats or plans for new subdivisions, mobile home parks, and planned unit developments (PUDs) shall display the following flood data:
 - (i) the boundary of the SFHA;
 - (ii) the boundary of the floodway, if shown on available SFHA maps;
 - (iii) easements of lands dedicated to Kendall County for access for channel maintenance purposes; and
 - (iv) the FPE for each building site. Where the Base Flood Elevation is not available from an existing study filed with the Illinois State Water Survey, the applicant shall be responsible for calculating the FPE and submitting it to the State Water Survey for review and approval as best available elevation data.
- c. Plans for the development activities to be undertaken by the County in the SFHA shall be reviewed by the Zoning Officer to ensure that they comply with this Ordinance. Except as exempted by law, no other local government shall commence any development activity in the SFHA without first obtaining a development permit from the Zoning Officer.
- d. The County Planning Department shall take the following into consideration when preparing or revising the comprehensive plan, community development program, housing assistance plan, and other land use or development programs:
 - (i) preserving SFHA land for open space uses such as farming or recreation;
 - (ii) acquiring and removing frequently flooded buildings;
 - (iii) prohibiting hospitals, water treatment plants, natural gas storage and other critical or especially hazardous facilities from locating in the SFHA;

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- (iv) identifying the elevations of the Base Flood and past floods at entrances to public buildings, on street signs, or other prominent locations; and
- (v) other flood hazard mitigation or floodplain management activities that could help accomplish the purposes of this Ordinance.

Section 9. VARIANCES

Whenever the standards of this Ordinance place undue hardship on a specific development proposal, the applicant may apply to the Plan Commission for a variance. The Plan Commission shall review the applicant's request for a variance and shall submit its recommendation to the County Board.

- a. No variance shall be granted unless the applicant demonstrates that:
 - (i) the development activity cannot be located outside the SFHA;
 - (ii) a substantial economic hardship would result if the variance were not granted;
 - (iii) the relief requested is the minimum necessary;
 - (iv) there will be no additional threat to public health or safety or creation of a nuisance;
 - (v) there will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities; and
 - (vi) the provisions of subsection 5.c of this Ordinance can still be met.
- b. The Zoning Officer shall notify an applicant in writing that a variance from the requirements of Section 7 that would lessen the degree of protection to a building will:
 - (i) result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage;
 - (ii) increase the risks to life and property; and
 - (iii) require that the applicant proceed with knowledge of these risks and that he will acknowledge in writing that he assumes the risk and liability.
- c. A variance from the requirements of Section 7 may be granted to permit a "wet floodproofed" building, that is; a building to be intentionally flooded during a flood, provided:
 - (i) no part of such a building below the FPE may be subject to flood damage;
 - (ii) the variance shall be conditioned on the contents being:
 - (a) of materials resistant to flood damage; or
 - (b) items declared "property not covered" by a Standard Flood

Insurance Policy of the National Flood Insurance Program;
or

- (c) readily moveable to a place of protection during a flood provided there will be personnel available and adequate warning.
 - (iii) Any future alteration of the area below the FPE that violates the conditions of the variance shall be deemed a violation of this Ordinance. The Zoning Officer shall inform the applicant that any such alteration is considered a willful act to increase flood damages and therefore will cause coverage by a Standard Flood Insurance Policy to be suspended.
- d. Variances requested in connection with restoration of a site or building documented as worthy of preservation by the Illinois Department of Conservation may be granted using criteria more permissive than the requirements of Subsection 9.a.

Section 10. DISCLAIMER OF LIABILITY

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This Ordinance does not imply that development either inside or outside of the SFHA will be free from flooding or damage. This Ordinance does not create liability on the part of the County or any officer or employee thereof for any flood damage that results from reliance on this Ordinance or any administrative decision made lawfully thereunder.

Section 11. PENALTY

The Zoning Officer may determine upon due investigation that a violation of minimum standards of this Ordinance exist and after such owner fails after ten days notice to correct his property, the County may make application to the Circuit Court for an injunction requiring conformance with this Ordinance or make such other order as the court sees necessary to secure compliance with the Ordinance. Any person who violates this Ordinance shall upon conviction thereof be fined not less than twenty-five dollars (\$25.00) nor more than two-hundred dollars (\$200.00). A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues. Failure to comply with the requirements of a permit or conditions of a variance resolution shall be deemed to be a violation of this Ordinance. Nothing herein shall prevent the County from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

Section 12. ABROGATION AND GREATER RESTRICTIONS

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 13. SEPARABILITY

The provisions and sections of this Ordinance shall be deemed separable

and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder.

Section 14. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law.

PASSED THIS 13 day of July, 1982.

Robert S. Cherry
Chairman, Kendall County Board

APPROVED this 13 day of July, 1982.

ATTESTED AND FILED IN MY OFFICE THIS 13 day of July, 1982

Joan P. Brody
County Clerk Kendall County