

ORDINANCE # 2018- 04

**TEXT AMENDMENT TO SECTIONS 4.19, 5.08, 6.07.G.2, 7.01, 8.02, 8.03, 10.01.C.27
10.03.I AND 13 OF THE KENDALL COUNTY ZONING ORDINANCE
TRANSFERRING THE AUTHORITY TO HEAR APPLICATIONS FOR SPECIAL
USE PERMITS, APPLICATIONS FOR MAJOR AMENDMENTS OF SPECIAL USE
PERMITS, AND APPLICATIONS FOR NON-OWNER INITIATED REVOCATIONS
OF SPECIAL USE PERMITS FROM THE HEARING OFFICER TO THE ZONING
BOARD OF APPEALS**

WHEREAS, the Kendall County Planning, Building and Zoning Committee requested text amendment to Sections 4.19, 5.08, 6.07.G.2 7.01, 8.02, 8.03, 10.01.C.27, 10.03.I, and 13 transferring the authority to hear applications for special use permits, applications for major amendments of special use permits and applications for non-owner initiated revocations of special use permits from the Hearing Officer to the Kendall County Zoning Board of Appeals;

WHEREAS, the Kendall County Board amends this ordinance from time to time in the public interest; and

WHEREAS, the Kendall County Board established the Hearing Officer by Ordinance 2004-13; and

WHEREAS, 55 ILCS 5/5-12009.5 allows a county zoning board of appeals to hold public hearings on applications related to special use permits; and

WHEREAS, 55 ILCS 5/5-12009.5 defines the notification requirements for hearings of a county zoning boards of appeal on applications related to special use permits; and

WHEREAS, the current language of various sections of the Kendall County Zoning Ordinance currently require applications for special uses to be heard by the Hearing Officer; and

WHEREAS, the Kendall County Board believes that the Kendall County Zoning Board of Appeals is the more appropriate body to hear special use related applications; and

WHEREAS, all administrative procedures required prior to passing text amendments to the Kendall County Zoning Ordinance have been followed, including holding a public hearing, before the Kendall County Zoning Board of Appeals, which occurred on January 29, 2018;

and

NOW, THEREFORE, BE IT ORDAINED, the Kendall County Board hereby amends Sections 4.19, 5.08, 6.07.G.2, 7.01, 8.02, 8.03, 10.01.C.27, 10.03.I, and Section 13 of the Kendall County Zoning Ordinance as provided:

- I. Recitals: The recitals set forth above are incorporated as if fully set forth herein.
- II. Amended Text: The reference to “Section 13.07” contained in Section 4.19 is hereby deleted and replaced with “Section 13.00”.
- III. Amended Text: The reference to “Section 13.07” contained in Section 5.08 is hereby deleted and replaced with “Section 13.00”.
- IV. Amended Text: The reference to “Section 13.07” contained in Section 6.07.G.2 is hereby deleted and replaced with “Section 13.00”.
- V. Amended Text: The reference to “Section 13.07” contained in the first paragraph of Section 7.01.D is hereby deleted and replaced with “Section 13.00”.
- VI. Amended Text: The reference to the “hearing officer” contained in Section 7.01.D.53.d is hereby deleted and replaced with “Zoning Board of Appeals”.
- VII. Amended Text: The reference to “Section 13.07” contained in the first paragraph of Section 8.02.C is hereby deleted and replaced with “Section 13.00”.
- VIII. Amended Text: The reference to “Section 13.07” contained in the first paragraph of Section 8.03.H.1 is hereby deleted and replaced with “Section 13.00”.
- IX. Amended Text: The reference to “Section 13.07” contained in the first paragraph of Section 8.03.H.2 is hereby deleted and replaced with “Section 13.00”.
- X. Amended Text: The reference to the “hearing officer” contained in Section 10.01.C.27 is hereby deleted and replaced with “Zoning Board of Appeals”.
- XI. Amended Text: The reference to the “hearing officer” contained in Section 10.03.I is hereby deleted and replaced with “Zoning Board of Appeals”.

XII. Amended Text: The existing language contained Section 13.01.A.2.e is hereby deleted and replaced with the following:

“Receive, file and forward applications for zoning map and text amendments, special uses, variances, planned developments and other matters which under this ordinance require referral to the Regional Plan Commission, the Zoning Board of Appeals, the Zoning, Platting Advisory Committee (ZPAC), the Planning, Building and Zoning Committee (PBZ), or the full County Board.”

XIII. Amended Text: The existing language contained in Section 13.01.B.8 is hereby deleted and replaced with the following:

“Rules and Procedures. The Zoning Board of Appeals shall adopt such rules concerning the filing of appeals and applications for amendments, variances, and special use permits, giving of notice and conduct of hearings as shall be necessary to carry out their duties as defined herein. The Board shall keep minutes of its proceedings, keep records of its examinations and other official acts, and shall record the vote on all actions taken. All minutes and records shall be filed in the Office of the Zoning Board of Appeals and shall be a public record.”

XIV. Amended Text: The existing language contained in Section 13.01.B.10.e is hereby replaced with the following:

“To hear all applications for special use permits, major amendments to special use permits and revocation of special use permits in the manner prescribed by, and subject to, the standards established herein, and report said findings and recommendations to the County Board.”

XV. Amended Text: The existing Section 13.01.B.10.e and Section 13.01.B.10.f are hereby re-lettered as Section 13.01.B.10.f and Section 13.01.B.10.g respectively.

XVI. Amended Text: The existing language contained in Section 13.01.B.11.a is hereby deleted and replaced with the following:

“Judicial Review. All decisions and findings of the Zoning Board of Appeals, on appeals, application for variations, special use permits or amendments, shall, after a hearing, be subject to review by court as by law may be provided.”

XVII. Amended Text: The existing language contained in Section 13.01.D.11.a is hereby deleted.

XVIII. Amended Text: The existing language contained in Section 13.01.D.11.b is hereby re-lettered as Section 13.01.D.11.a.

XIX. Amended Text: The existing language contained in Section 13.08.A is hereby deleted and replaced with the following:

“PURPOSE. The development and execution of this ordinance is based upon the division of the County which is subject to County Zoning into districts, within which districts the uses of land and structures and the bulk and location of structures in relation to the land are substantially uniform. It is recognized, however, that there are other uses which, because of their unique characteristics, cannot be properly classified in any particular district without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use of this particular location. Special uses may include, but are not limited to, public and quasi-public uses affecting the public interest; uses that have a unique, special, or unusual impact upon the use or enjoyment of neighboring property; and uses that affect planned development. A use may be permitted in one or more zoning districts and may be a special use in one or more other zoning districts.”

XX. Amended Text: The reference to the “Hearing Officer” contained in Section 13.08.C.4 is hereby deleted and replaced with “Zoning Board of Appeals”.

XXI. Amended Text: The reference to the “Hearing Officer” contained in Section 13.08.C.5 is hereby deleted and replaced with “Zoning Board of Appeals”.

XXII. Amended Text: The reference to the “Hearing Officer” contained in Section 13.08.D is hereby deleted and replaced with “Zoning Board of Appeals”.

XXIII. Amended Text: Section 13.08.E.1 is added to the Zoning Ordinance with the following language:

“The Zoning Board of Appeals shall report to the County Board a Finding of Fact using the criteria listed in Section 13.08.J of this ordinance and a recommendation as to whether the County Board should deny, grant or grant subject conditions.”

XXIV. Amended Text: The existing language contained in Section 13.08.E.1 is hereby re-lettered as Section 13.08.E.2 and the two (2) references to the “Hearing Officer” are hereby deleted and replaced with “Zoning Board of Appeals”.

XXV. Amended Text: The existing language contained in Section 13.08.E.2 is hereby re-lettered as Section 13.08.E.3.

XXVI. Amended Text: The reference to the “Hearing Officer” contained in Section 13.08.F is hereby deleted and replaced with “Zoning Board of Appeals”.

XXVII. Amended Text: The reference to “Section 13.07.H” contained in Section 13.08.F is hereby deleted and replaced with “Section 13.08.H”.

XXVIII. Amended Text: The reference to “his/her findings” contained in Section 13.08.F. is hereby deleted and replaced with “their findings”

XXIX. Amended Text: The existing language contained in Section 13.08.H is hereby deleted and replaced with the following:

“HEARING ON APPLICATION. Upon receipt in proper form of the application and statement referred to in paragraph 13.08.G of this ordinance, the Zoning Board of Appeals shall hold at least one public hearing in the township in which the property is located, or in the County Office Building. Provided, that if the owner of any property affected by such proposed special use so requests in writing, such hearing shall be held in the township affected by the terms of such proposed amendment. At least fifteen (15) days in advance of each hearing, notice of the time, place and date of such hearing shall be published in a newspaper published in the township or road district where the property is located. If there is no newspaper published in the township or road district where the property is located, the notice must be published in a newspaper of general circulation in Kendall County. The notice must also contain:

1. The particular location of the property for which the special use is requested by legal description and by street address, or if there is no street address, by locating the property with reference to any well-known landmark, highway, road, thoroughfare, or intersection.
2. Whether the petitioner or applicant is acting for himself or herself or as an agent, alter ego, or representative of a principal and the name and address of the principal.
3. Whether the petitioner or applicant is a corporation, and if so, the correct names and addresses of all officers and directors of the corporation and of all stockholders or shareholders owning any interest in excess of 20% of all of the outstanding stock or shares of the corporation.
4. Whether the petitioner or applicant, or his or her principal, is a business or entity doing business under an assumed name, and if so, the name and residence of all actual owners of the business or entity.
5. Whether the petitioner or applicant, or his or her principal, is a partnership, joint venture, syndicate, or an unincorporated voluntary association, and if so, the names and addresses of all partners or members of the partnership, joint venture, syndicate, or unincorporated voluntary association.
6. A brief statement of the proposed special use.

In addition to any other notice required by this Section, the Zoning Board of Appeals must give at least fifteen (15) days notice before the hearing to any municipality whose boundaries are within 1-1/2 miles of any part of the property proposed as a special use and the owner or owners of any land adjacent to or immediately across any street, alley, or public right-of-way from the property proposed as a special use. The petitioner or applicant must pay the costs of the publication of the notice required by this Section.

An audio recording of the proceedings shall be made by the County and shall be retained for a period of one year from the date of hearing. The petitioner at his or her discretion may elect to provide a court reporter, at his or her own expense, for the purposes of making a formal transcript of the proceedings. In addition to the application fee, the petitioner shall be responsible for the cost of the Zoning Board of Appeals in conducting the hearing in accordance with the schedule of fees as established by the County Board.”

XXX. Amended Text: The reference to the “Hearing Officer” contained in Section 13.08.I is hereby deleted and replaced with “Zoning Board of Appeals”.

XXXI. Amended Text: The two references to the "Hearing Officer" contained in the first paragraph of Section 13.08.J are hereby deleted and replaced with "Zoning Board of Appeals".

XXXII. Amended Text: The existing language contained in Section 13.08.K is hereby deleted and replaced with the following:

"CONDITIONS. The Zoning Board of Appeals may recommend and the County Board may provide such conditions or restrictions reasonably necessary to meet the standards listed in Section 13.08.J upon the construction, location and operation of a special use, including but not limited to provisions for the protection of adjacent property, the expiration of said special use after a specified period of time, off-street parking and loading, as shall be deemed necessary to secure the general objectives of this amended ordinance and to reduce injury to the value of property in the neighborhood."

XXXIII. Amended Text: The reference to the "Hearing Officer" contained in Section 13.08.P.3.d is hereby deleted and replaced with "Zoning Board of Appeals".

XXXIV. Amended Text: The existing language contained in Section 13.08.P.3.e is hereby deleted and replaced with the following:

"The Zoning Board of Appeals shall set a hearing date and shall cause notice of the hearing to be published at least once following the procedures set forth in Section 13.08.H of this ordinance."

XXXV. Amended Text: The two references to the "Hearing Officer" contained in Section 13.08.P.3.f are hereby deleted and replaced with "Zoning Board of Appeals".

XXXVI. Amended Text: The three references to the "Hearing Officer" contained in the third paragraph of Section 13.08.Q.1 are hereby deleted and replaced with "Zoning Board of Appeals".

XXXVII. Amended Text: The reference to "Section 13.07.H" contained in the first paragraph of Section 13.08.Q.2 is hereby deleted and replaced with "Section 13.08.H".

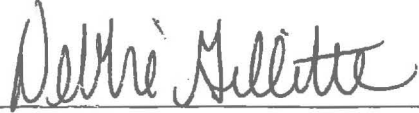
XXXVIII. Amended Text: The references to the "Hearing Officer" contained in the first paragraph of Section 13.08.Q.2 and Section 13.08.Q.2.c are hereby deleted and replaced with "Zoning Board of Appeals".

XXXIX. In the event of conflict between this Ordinance and Ordinance 2004-13, this Ordinance shall take precedence.

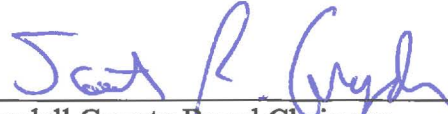
XL. Any completed application for a special use permit, major amendment to a special use permit, or non-owner initiated special use permit revocation lawfully submitted prior to the adoption of this ordinance shall follow the rules and procedures for adoption in place on the date the application was submitted.

IN WITNESS OF, this amendment to the Zoning Ordinance has been enacted by a majority vote of the Kendall County Board this 21st day of March, 2018.

Attest:



Kendall County Clerk
Debbie Gillette



Kendall County Board Chairman
Scott R. Gryder