

ORDINANCE # 2011- 01

**AMENDMENT TO THE KENDALL COUNTY ZONING ORDINANCE SECTIONS
13.00, 3.00 & 7.01 "Administration," Rules & Definitions," & Agricultural District"
respectively**

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 interest; and

WHEREAS, all administrative procedures for amendments have been followed including a Public Hearing held before the Kendall County Zoning Board of Appeals on September 28, 2010.

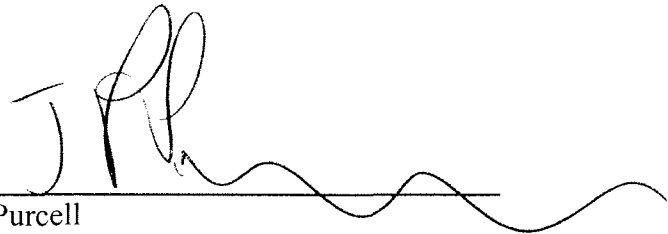
NOW, THEREFORE, BE IT ORDAINED, the Kendall County Board hereby amends Sections 13.01, 13.04, 13.05, 13.06, 13.07, "Administration," 3.00 "Rules & Definitions," & 7.01 "A-1 – Agricultural District" of the Kendall County Zoning Ordinance as provided in attached Exhibit "A".

IN WITNESS OF, this Amendment to the Kendall County Zoning Ordinance was approved by the Kendall County Board on January 18, 2011.

Attest:



Debbie Gillette
Kendall County Clerk



John Purcell
Kendall County Board Chairman

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EXHIBIT A

13.01 ADMINISTRATIVE OFFICERS

A. THE ZONING ADMINISTRATOR.

1. The enforcement of this amended ordinance is hereby vested in the Zoning Administrator of the County and such deputies or assistants as have been or shall be duly appointed by the County Board in accordance with Section 3.02 of this Code.
2. Powers and Duties. The Zoning Administrator shall administer and enforce this ordinance, and in addition thereto and in furtherance of said authority he shall:
 - a. Examine and approve an application pertaining to the use of land or structures when the application conforms with the provisions of this ordinance.
 - b. Issue Zoning Certificates, and make and maintain records thereof.
 - c. Issue Occupancy Certificates and make and maintain records thereof.
 - d. Supervise inspections of structures and uses of land to determine compliance with the terms of this ordinance, and where there are violations, initiate action to secure compliance.
 - e. 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 Hearing Officer as appointed by the County Board in subsection D of this Section 13.01, the Zoning, Platting Advisory Committee (ZPAC), the Planning, Building and Zoning Committee PBZ), or the full County Board.
 - f. Maintain permanent and current records of this ordinance, including, but not limited to, maps, amendments, the rules or practice and procedure of the Zoning Board of Appeals, special use, variations, appeals and applications therefore, and records of hearings thereon - including the recording of district amendments and special uses on the Zoning district map.
 - g. Decide or make recommendations on all other matters under this ordinance upon which the Zoning Administrator is required to act.

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- h. Receive all notices of petitions for appeals, variations, amendments and special use permits which have been referred to the Zoning Board of Appeals or other appropriate reviewing body.
 - i. Maintain all zoning records which are a part of the administration of this ordinance.
 - j. Initiate, direct and review from time to time, a study of the provisions of this ordinance, and make reports of this recommendation to the Zoning Board of Appeals, the County Planning Commission and the County Board not less frequently than annually.
 - k. Direct the development of proposed amendments to the provisions of this ordinance as may be necessary from time to time.
 - l. Publish periodically this ordinance, including the zoning district map.
 - m. Provide and maintain public information service relative to matters arising out of this ordinance.
3. Procedure in case of violation. Whenever there is found a violation of the terms of this ordinance, the Zoning Administrator or his or her designee shall file a formal complaint in accordance with the procedures as established under the ordinances of the County regarding the creation of a Code Hearing Unit charged with the enforcement and administrative adjudication of violations to the provisions of this and all other applicable codes and ordinances of the County unless otherwise provided by law. When compliance is so secured, the Zoning Administrator shall issue an occupancy certificate certifying such compliance. *(Amended 8/17/04)*

B. ZONING BOARD OF APPEALS

1. Creation and Membership. A Zoning Board of Appeals (ZBA) is hereby created, such Board to consist of five members appointed by the County Board, at least four of whom shall reside in the unincorporated area of the County. The County Board may provide for the appointment of an additional two members to serve for a term of five years. No two of whom shall reside in the same Congressional Township, and shall be confirmed by the members of the County Board. At the end of the term of the two additional members, the County Board may provide for the appointment of

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successors or may allow the Board of Appeals to revert to a membership of five. All members shall be residents of Kendall County.

2. Terms of Office. The member of the Zoning Board of Appeals shall be appointed for the following terms:

One for a term of one year.

One for a term of two years.

One for a term of three years.

One for a term of four years.

One for a term of five years.

Thereafter, as their terms expire, each new appointment shall be for a term of five years. If a vacancy occurs, by resignation or otherwise among the members of the Board, the County Board shall appoint a member for the unexpired term. The County Board shall also have the power to remove any member of the Zoning board of Appeals for cause, after public hearing.

3. Officers. The County Board shall name one of the members of the Zoning Board as Chairman upon his appointment, and in the case of a vacancy shall name a new chairman.
4. Quorum. A majority of members of the Zoning Board of Appeals shall constitute a quorum. -
5. Employees. The County Board may appoint and fix the compensation of a secretary and such other employees as are necessary for the discharge of its duties.
6. Offices. The County Board shall provide suitable offices for the holding of hearings and the preservation of records, documents, and accounts.
7. Appropriations. The County Board shall appropriate funds to carry out the duties of the Zoning Board of Appeals and the Board shall give the authority to expend, under regular County procedure, all sums appropriated to it for the purposes and activities authorized herein.
8. Rules and Procedures. The Zoning Board of Appeals shall adopt such rules concerning the filing of appeals and applications for amendments,

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and variances, 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.

9. All meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. There shall be at least fifteen days but not more than thirty days notice of the time and place of such meetings published in a paper of general circulation in Kendall County; said notice to contain a statement of the particular purpose of such meeting and a legal description of the location of the property or properties under consideration at such meeting. All meetings of the Board shall be open to the public.
10. Powers and Duties. The Zoning Board of Appeals shall:
 - a. Hear and determine appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator charged with the enforcement of this amended ordinance with the exception of violations. *(Amended 8/17/04)*
 - b. Hear and decide all matters referred to it, or upon which it is required to pass under this amended ordinance.
 - c. Hear and pass upon applications for variations when a property owner or his agent shows that a strict application of the terms of this amended ordinance relation to the use, construction or alteration of buildings or structures, or the use of land imposes upon him practical difficulties or particular hardships.
 - d. To hear all applications for amendments to this ordinance in the manner prescribed by, and subject to, the standards established herein, and report said findings and recommendations to the County Board. *[AMENDED 4/20/04]*
 - e. Hold public hearings and submit to the County Board a report and recommendation on each proposed ordinance for the amendment, supplement, change or repeal of the Zoning Ordinance as set forth herein.
 - f. No rehearing shall be held on a denied appeal or application for variance or special use or on a recommendation to deny a

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proposed amendment to the Zoning Ordinance for a period of twelve months from the date of said denial or recommendation to deny.

11. Jurisdiction. The concurring vote of four members of a Board consisting of five members or the concurring vote of five members of a board consisting of seven members is necessary to reverse any order, requirements, decision or determination of the Zoning Administrator, or to decide in favor of the applicant any matter upon which it is authorized by this amended ordinance to render decisions.
 - a. Judicial Review. All decisions and findings of the Zoning Board of Appeals, on appeals, application for variations or amendments, shall, after a hearing, be subject to review by court as by law may be provided. *[AMENDED 4/20/04]*

C. KENDALL COUNTY REGIONAL PLANNING COMMISSION. The Planning Commission shall have the following duties under this ordinance:

1. To receive from the Zoning Administrator copies of all applications for amendments and special use permits along with the committee report from the Zoning and Platting Advisory Committee (ZPAC) and report thereon with its recommendations.
2. To hold conferences in regard to proposed plan developments under this Ordinance and submit a written report with its recommendations.
3. To initiate, direct and review a study of the provisions of this Ordinance and the zoning map attached hereto and to make reports on its recommendation to the County Board not less frequently than annually.

D. HEARING OFFICER.

A Hearing Officer shall be appointed by the County Board on the basis of training and experience which qualifies them to conduct hearings, make recommendations or findings of fact and conclusions on the matters heard and otherwise exercise and perform the powers, duties and functions delegated in accordance with this Section. The Hearing Officer shall receive such compensation as the County Board shall provide, and the County Board may establish a schedule of fees to defray the costs of providing a hearing officer. *[Amended 4/20/04]*

1. Powers and Duties. Hearing Officer shall be responsible for:

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- a) Conducting hearings and making recommendations to the PBZ and County Board on all Special Use applications. The procedures for conducting such hearings and recommendations shall be as specified in Section 13.07. herein. *(Amended 8/17/04)*
- b) Conducting hearings and performing all other duties as assigned under the terms and provisions of the applicable ordinances and codes established by the County Board regarding the creation of a Code Hearing Unit charged with the enforcement and administrative adjudication of violations to the provisions of this and all other applicable codes and ordinances of the County. *(Amended 8/17/04)*

13.04 VARIATIONS. *(AMENDED 03/21/2000)*

A. PURPOSE AND CONDITIONS.

1. In order that the spirit of this ordinance may be observed and substantial justice done, the Zoning Board of Appeals shall upon application or appeal determine and vary the terms thereof, other than permitted or special use restrictions the variance of which shall not be permitted, upon making a finding of fact that, owing to special conditions, a literal enforcement of the provisions of this amended ordinance would result in a particular hardship or practical difficulty.
2. In making its determination as to whether there is a particular hardship or practical difficulty, the Zoning Board of Appeals shall take into consideration the extent to which the following conditions, all favorable to the applicant or appellant, have been established by the evidence.
 - a. That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out.
 - b. That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification.
 - c. That the alleged difficulty or hardship has not been created by any person presently having an interest in the property.
 - d. That the granting of the variation will not materially be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

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- e. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood; and
 - f. That the proposed variance complies with the spirit and intent of the restrictions imposed by this amended ordinance.
 3. The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variation as may be necessary to prevent injurious effects there from upon other property in the neighborhood, and better to carry out the general intent of this amended ordinance.
- 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 the change of a location, height, or bulk (such as: maximum allowable building footprint, floor area ratio, etc.) requirement.
(AMENDED 8/17/04)
 3. To permit a structure in a side, rear, or front yard in which that structure is prohibited.
 4. To permit the use of a lot for a use otherwise prohibited solely because of the insufficient area of the lot.
 5. 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.
 6. 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.
 7. 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.

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- C. APPLICATION FOR VARIATION AND NOTICE OF HEARING. An application for a variation shall be filed with the Zoning Administrator on a prescribed form who shall forward a copy of same to the Zoning Board of Appeals without delay. The application shall contain such information as the Zoning Board of Appeals may from time to time by rule provide. No more than ninety (90) days after the filing of such application, a hearing shall be held on the application. Notice of such hearing shall be published at least once nor more than thirty (30) or less than fifteen (15) days before the hearing, in a newspaper of general circulation in Kendall County. The published notice may be supplemented by such additional form of notice as the County Board may by rule provide.

13.05 APPEALS

- A. SCOPE OF APPEAL. Except for violations of this code cited by the Zoning Administrator or his or her designee, an appeal may be taken to the Zoning Board of Appeals by any person, firm, or corporation, or office, department, board or bureau affected by a decision of the office of the Zoning Administrator. The appeal shall specify the grounds thereof and shall be filed within such time and in such form as may be prescribed by the Board by general rule. The Zoning Administrator shall, upon request of the Zoning Board of Appeals, transmit to it all documents, plans, and papers constituting the record of the action from which an appeal was taken. *(Amended 8/17/04).*
- B. HEARING OF APPEAL. The Zoning Board of Appeals shall fix a reasonable time for the hearing of an appeal. Public notice shall be given of the hearing and due notice shall be given additionally to the interested parties. At the hearing, any party may appear in person, by agent, or by attorney.
- C. STAYING OF WORK ON PREMISES. When an appeal from the decision of the Zoning Administrator has been taken and filed with the Zoning Board of Appeals, all proceedings and work on the premises concerning which the decision was made shall be stayed unless the Zoning Administrator shall certify to the Board that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except by a restraining order which may be granted by the Zoning Board of Appeals or by the Circuit Court of Kendall County, on application, on notice to the Zoning Administrator and the owner of the premises affected and on due cause shown. After the owner or his agent or persons or a corporation in charge of the work on the premises affected have received notice that an appeal has been filed with the Zoning Board of Appeals, the Zoning Administrator shall have full power to order such work discontinued or stayed and to call upon the police power of the County to give full force and effect to the order.
- D. DECISION ON APPEAL. In exercising its powers, the Zoning Board of Appeals may, upon the concurring vote of four members of a five member Board or five members of a seven member Board, reverse or affirm, wholly or partly or may modify the order, requirement, decision, or determination appealed from as in its opinion ought to be done in the premises, and to that end have all the powers of

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the Zoning Administrator.

13.06 AMENDMENTS.

- A. **AUTHORITY.** The regulations imposed and the districts created under the authority of this ordinance may be amended, from time to time, by ordinance in accordance with applicable Illinois Statutes. Two types of amendments are possible. A map amendment is needed to change the zoning classification of a particular parcel or parcels. A text amendment is needed to change the regulations of this ordinance. An amendment shall be granted or denied by the County Board only after a public hearing before the Zoning Board of Appeals, and a report of its findings and recommendations has thereafter been submitted to the County Board.
- B. **INITIATION OF AMENDMENTS.** Amendments may be proposed by the County Board, a Committee designated by the County Board, the Zoning Board of Appeals, the Regional Plan Commission or by a person, firm or corporation having a possessory interest which is specifically enforceable on the land which is described in the application for an amendment.
- C. **APPLICATION FOR AMENDMENT.**
1. An application for an amendment shall be filed with the Zoning Administrator.
 2. A copy of such application shall thereafter be forwarded to the Zoning, Platting & Advisory Committee (ZPAC), the Regional Plan Commission and to the County Zoning Board of Appeals with a request to hold a public hearing and submit to the County Board a report of its findings and recommendations.
 3. For all proposed map amendments, the Applicant will promptly forward via certified mail return receipt requested a copy of the complete application and notice of public hearing to the Township containing the subject parcel, and to any municipality within one and one-half (1½) miles of the subject parcel.
- D. **HEARING ON APPLICATIONS.** The Zoning Board of Appeals shall hold a public hearing on each application for an amendment and on each proceeding initiated by the Zoning Board of Appeals of its own motion. Hearings on map amendments shall be held in the township affected by the terms of such proposed amendments or in the County Office Building. Provided, that if the owner of any property affected by such proposed map amendment so requests in writing, such hearing shall be held in the township affected by the terms of such proposed amendment. Hearings on text amendments shall be held in the County Office Building. The hearing shall be conducted and a record of such proceedings shall be preserved in such manner as the Zoning Board of Appeals shall, by rule, prescribe from time to time.
- E. **NOTICE OF PUBLIC HEARING.**
1. The applicant shall publish notice of the time and place of the Public

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Hearing in a newspaper of general circulation in Kendall County not less than fifteen days before such hearing.

2. At least fifteen days prior to each hearing the PBZ Department shall post a sign on the road or street frontage of the land proposed to be reclassified by amendment and a copy of such notice shall be mailed to the clerk of each municipality, the corporate limits of which lie within one and one-half miles of the land proposed to be reclassified. Supplemental or additional notices may be published or distributed as the Zoning Board of Appeals may, by rule, prescribed from time to time.
3. In addition to the above requirements, if the property is zoned A-1, the applicant shall provide notice of the public hearing at least 15 days prior to the hearing date by certified mail return receipt requested to the property owner of record for all parcels within five hundred feet (500'), excluding road right-of-way, of the parcel to be rezoned.
4. For all other zoning categories, only adjacent properties must be notified via certified mail return receipt requested.

F. **FINDING OF FACT AND RECOMMENDATION OF THE ZONING BOARD OF APPEALS.** Within a reasonable time after the close of the 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:

1. Existing uses of property within the general area of the property in question.
2. The Zoning classification of property within the general area of the property in question.
3. The suitability of the property in question for the uses permitted under the existing zoning classification.
4. The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was in its present zoning classification. The Zoning Board of Appeals shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and is not solely for the interest of the applicant. The Zoning Board of Appeals may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant. For the purpose of this paragraph the R-1 District shall be considered the highest classification and the M-2 District shall be considered the lowest classification.

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

G. DECISIONS.

1. ZBA findings shall be forwarded to the County Planning, Building and Zoning Committee of the County Board for review and recommendation to the full Board. The County Board, upon report of the County Zoning Board of Appeals and without further public hearing, may grant or deny any proposed amendment, or may refer it back to the County Zoning Board of Appeals or Planning, Building and Zoning Committee for further consideration.
2. In case of written protest against any proposed amendment, signed and acknowledged by the owners of twenty percent of the frontage proposed to be altered, or by the owners of twenty percent of the frontage immediately adjoining or across an alley there from, or by the owners of twenty percent of the frontage directly opposite the frontage proposed to be altered, or in cases where the land affected lies within one and one-half mile of the limits of a zoned municipality with a recorded comprehensive plan, by the city council or president and board of trustees of the zoned municipality with limits nearest adjacent, filed with the Clerk of Kendall County, such amendment shall not be passed except by the favorable vote of three-fourths of all the members of the County Board of Kendall County.

13.07 SPECIAL USES

- A. 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.
- B. INITIATION OF SPECIAL USES. Any individual, firm or corporation having a possessory interest entitled to exclusive possession in land, or several such owners acting jointly having such interest in parcels of land comprising one contiguous tract or the County Board may file an application for one or more special uses as provided in this ordinance.
- C. PROCESSING.
 1. An application for a special use shall be filed with the Zoning Administrator.
 2. A copy of such application shall be forwarded to the Zoning and Platting Advisory Committee (ZPAC) for review, comment, and recommendation

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3. A copy of such application and the committee report from the Zoning and Platting Advisory Committee (ZPAC) shall thereafter be forwarded to the Planning Commission for review, comment, and recommendation.
 4. A copy of such application and the reports from the Zoning and Platting Advisory Committee (ZPAC) and Planning Commission shall thereafter be forwarded to the Hearing Officer with a request to hold a public hearing and submit to the County Board a report of its findings and recommendations. *[Amended 4/20/04]*
 5. The recommendation and findings of the Hearing Officer shall be forwarded to the Planning, Building and Zoning (PBZ) Committee of the County Board for review and recommendation prior to final action by the County Board.
- D. **CONDITIONS AND GUARANTEES.** Prior to or after the granting of a special use, the Hearing Officer may recommend and the County Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation thereof as deemed necessary to protect the value, utilization and enjoyment of the neighboring properties, and to secure compliance with the standards and requirements specified in this section. In cases in which a special use is granted, the County Board may require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be in compliance. Failure to comply with such conditions or restriction imposed shall constitute a violation of this ordinance. *[Amended 4/20/04]*
- E. **DECISIONS.**
1. The County Board, upon report of the Hearing Officer and without further public hearing, may grant or deny a proposed special use, or may refer back to the Hearing Officer for further consideration. *[Amended 4/20/04]*
 2. The County Board shall act to grant, deny, or amend the recommendations for every Special Use pertaining to a regulated use within 30 days of the date of those recommendations.
- F. **REVOCAION.** In any case where a special use has not been established within two (2) years from the date of granting thereof, then, the County Board may revoke the special use, or if the special use has been discontinued for a continuous period of two (2) years, the County Board may revoke the special use. If a revocation is proposed, the Hearing Officer shall hold a public hearing (following procedures outlined in Section 13.07 H below) and submit to the County Board a report of his/her findings and recommendations. The current property owner shall be provided notice at least 15 days in advance of the hearing.
- G. **APPLICATION FOR SPECIAL USE.** An application for special use or amendment of a special use shall be filed with the Zoning Administrator and shall include a statement in writing by the applicant and adequate evidence showing that the proposed special use will conform to the standards set forth herein.

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- H. HEARING ON APPLICATION. Upon receipt in proper form of the application and statement referred to in paragraph 13.07-2 of this Section, the Hearing Officer 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 and place of such hearing shall be published in a newspaper of general circulation in Kendall County. *[Amended 4/20/04]*

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 Hearing Officer in conducting the hearing in accordance with the schedule of fees as established by the County Board.

- I. AUTHORIZATION. For each application for a special use the Hearing Officer shall report to the County Board of Kendall County its findings and recommendations, including the stipulations of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. The County Board may grant or deny any application for a special use. *[Amended 4/20/04]*

No proposed special use once denied by the County Board shall be again, on a subsequent petition, considered for approval within a period of twelve 12 months from the date of said denial.

- J. STANDARDS. No special use shall be recommended by the Hearing Officer unless said Hearing Officer shall make a written finding: *[Amended 4/20/04]*
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

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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 congestion 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 Hearing Officer. *[Amended 4/20/04]*
 7. That the special use is consistent with the spirit of the Land Resource Management Plan and other adopted County or municipal plans and policies.
- K. **CONDITIONS.** The Hearing Officer may recommend and the County Board may provide such conditions or restrictions 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. *[Amended 4/20/04]*
- L. **DURATION.** Special Uses granted hereunder shall be transferable and shall run with the land unless otherwise specified by the terms of the Special Use permit.
- M. **AMENDMENTS TO APPROVED SPECIAL USES.** Unless amended, a special use shall be constructed/established in accordance with the terms and conditions as stated in the approving ordinance and any controlling site plans attached to or referenced in the ordinance which granted the special use (if applicable). Modifications of the terms and conditions specified in the approving ordinance granting the special use or changes to any controlling site plans attached to or referenced in the ordinance which granted the special use (if applicable) shall require the processing and approval of either a minor or major change to a Special Use.
- Amendment of Special Uses under this paragraph shall apply to all existing, valid Special Uses issued prior to the date of the amendment of this ordinance as well as any future Special Uses granted under this ordinance. *(Amended 9/15/2009)*
- N. **MINOR AMENDMENTS ON PROPERTY GOVERNED BY A SPECIAL USES ORDINANCE:** Minor Amendments are those that do not alter the intent or uses of the property for which a Special Use has been approved. Minor Amendments shall be limited to the following:

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1. Proposed additions, enlargements or changes in any existing or proposed building or buildings, shown on any controlling site plans attached to or referenced in the ordinance which granted the special use (if applicable), and the addition of accessory structures not shown on such plans may be permitted provided that all of the following conditions are met:
 - a) The proposed addition, enlargement or change will, in the opinion of the Zoning Administrator, result in a better utilization of the property or a more efficient and desirable use of the land.
 - b) The change shall not constitute more than a ten (10) percent increase in the lot coverage of all approved buildings on the property or a ten (10) percent increase of the total floor area of all approved buildings on the property.
 - c) The proposed addition, enlargement or change will not infringe upon or extend into any required building setback, off street parking or loading space or required building separation or exceed the height or bulk regulations of the underlying zoning district.
 - d) The additional off-street parking or loading spaces required for such proposed addition, enlargement or change, can be supplied as required by the applicable zoning ordinance provisions.
 - e) The proposed addition, enlargement or change will not result in an enlargement or increase of any previously approved variation.

2. Minor Modifications of Conditions provided that all of the following are met:
 - a) The proposed modification will, in the opinion of the Zoning Administrator, result in equal or better performance than the original condition imposed.
 - b) The proposed modification or change shall not result in a change of more than ten (10) percent of any previously imposed condition.
 - c) The result of the proposed modification shall be that the property will still be in substantial compliance with the previously approved ordinance.

An owner seeking an approval of such change shall submit an application for a minor amendment to be acted upon by the Zoning Administrator. The Zoning Administrator may, at his or her discretion, refer the request for a minor amendment to the Planning, Building and Zoning Committee of the County Board for recommendation prior to taking action. In addition, the petitioner may appeal the decision of the Zoning Administrator in

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the review of a minor amendment to the PBZ Committee. In such instances the PBZ Committee shall be the final authority in deciding upon such requests. (*Amended 9/15/2009*)

O. MAJOR AMENDMENTS: A change to a special use that alters the intent or substantially violates the terms of compliance as specified in the approving ordinance granting the Special Use and which is not otherwise defined above as a minor amendment shall constitute a major amendment to a Special Use. Major Amendments shall be processed in accordance with the provisions of 13.07.C (Processing of Special Uses) of this ordinance. Notice that a major change is being sought shall be provided by the applicant in the manner provided for in 55 ILCS 5/5-12009.5 and additional requirements as specified in the By-Laws of the Zoning Board of Appeals (ZBA). (*Amended 9/15/2009*)

P. 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. Procedures for approval of Residential Planned Developments (RPD) are outlined in Section 8.06 of this zoning ordinance. All other Planned Developments (industrial, commercial, etc.) may be developed in accordance with standards herein.

2. Zoning Map. Approved planned developments shall be delineated and designated by number on the zoning district map. A file, available for inspection by the public, shall be maintained by the Zoning Administrator for each planned development so designated. The file shall contain a record of the approved development plan and all exceptions authorized therein.

3. Procedure.

a. A pre-application conference shall be held with the Zoning Administrator or his or her deputies. At such conference the applicant shall provide information as to the location of the proposed planned development; the uses, and approximate area of use category; a list of any and all exceptions to the subdivision and zoning ordinances of Kendall County and any other information necessary to clearly explain the planned development.

(1) The Zoning Administrator or his or her deputies shall review and consider the proposal as to its compatibility with the Land Resource Management Plan and the goals and policies for planning of the County and advise the applicant on the information, documents, exhibits, drawings, and limitations on the proposal that should be included in the

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application to the County for a special use permit for Planning Development.

- b. The applicant shall request a concept review of the Planned Development/special use , by letter addressed to the Secretary of the Plan Commission, to be placed on the agenda of ZPAC and the next regular meeting of the Plan Commission for a preliminary discussion and concept review of the proposed Planned Development at such meeting, which may be continued from time to time. The applicant shall present such exhibits and written information as may be necessary to fully acquaint the Plan Commission with the proposed development which shall include, but not necessarily be limited to the following:
 - (1) A tentative sketch plan, which may be in freehand sketch form, showing the location and extent of the types of land uses proposed.
 - (2) The existing topography at five foot contour intervals which may be taken from U.S.G.S. information.
 - (3) Existing streets surrounding the subject property.
 - (4) Existing utilities including storm drainage facilities.
 - (5) The following shall be provided by either graphic exhibits or written statement:
 - aa. The density of commercial uses, including maximum lot coverage and building height.
 - bb. The off-street parking and other service facilities proposed.
 - cc. The exception or variations to the Kendall County zoning or subdivision requirements being requested as part of the Planning Development application.
- c. After final adjournment of the meeting, the Plan Commission shall submit to the Planning, Building and Zoning Committee of the County Board, a report in writing containing its recommendations. The PB&Z Committee shall then review the concept at their next regular meeting and shall either:
 - (1) provide the applicant with a recommendation for any suggested modifications and direction to proceed to a formal Planned Development submission; or
 - (2) recommend that the applicant not proceed, along with reasons for the recommendation.

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- d. The formal petition for a Planned Development shall be filed with the Zoning Administrator. The Zoning Administrator or his/her deputies shall be responsible for distributing the complete application to the following at the appropriate time:
 - i. Zoning, Platting and Advisory Committee (ZPAC)
 - ii. Members of the Regional Planning Commission
 - iii. The Hearing Officer
 - iv. The County Board

The applicant shall be responsible for providing copies via certified mail return receipt request to the following as soon as possible after filling the application with the County.

 - i. Township(s) affected by the application
 - ii. All municipalities within 1½ miles of the subject property
 - e. The Hearing Officer shall set a hearing date and shall cause notice of the hearing to be published at least once, no more than thirty days nor less than fifteen days before said hearing date in one or more newspaper of general circulation in the County. If the property is zoned A-1, the applicant shall provide notice of the public hearing at least 5 days prior to the hearing date by certified mail to the tax payer of record for all parcels within five hundred feet (500'), excluding road right-of-way, of the parcel to be rezoned. For all other zoning categories, only adjacent properties must be notified directly.
 - f. The petition shall be heard by the Hearing Officer and reviewed by the Planning Commission and the report of each shall be submitted to the County Board. The Plan Commission shall submit its review to the Hearing Officer prior to the public hearing. The report of the findings and recommendation shall be accompanied by such plats, exhibits and agreements as shall have been presented by the petitioner, each identified for reference by letter or number, together with any suggested changes therein. *[Amended 4/20/04]*
 - g. The County Board may grant a special use for a Planned Development which shall be by specific ordinance and which shall contain or to which shall be appended all terms and conditions of the special use permit, including covenants and agreements, guarantees, performance bonds, plats, and the like.
5. Construction of Improvements. The petitioner shall construct and install the required improvements in accordance with the County Subdivision Regulations and the Special Use Ordinance.

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6. Street Classification. Street classifications, definitions, and specification, shall be in accordance with the regulations as established in the Subdivision Regulations and the Land Resource Management Plan of Kendall County, as may be amended from time to time, as may be modified by the special use permit.

7. Standards. No Planned Development shall be authorized by the County Board unless the Plan Commission shall find and recommend, in addition to those standards established herein for special uses, that the following standards will be met:
 - a. General.
 - (1) The uses permitted by such exceptions as may be requested or recommended are necessary or desirable and appropriate to the purpose of the development.
 - (2) The uses permitted in such development are not of such nature or so located as to exercise an undue detrimental influence or effect upon the surrounding neighborhood.
 - (3) That any industrial park areas established in the Planned Development conforms to all requirements therefore as set forth elsewhere in this ordinance.
 - (4) That all minimum requirements pertaining to commercial, residential, institutional, or other uses established in the Planned Development use.
 - (5) When private streets and common driveways are made a part of the Planned Development or private common open space or recreation facilities are provided, the applicant shall submit as a part of the application, the method and arrangement whereby these private facilities shall be operated and maintained. Such arrangements for operating and maintaining private facilities shall be subject to the approval of the County Board.

SECTION 3.00 RULES AND DEFINITIONS

Add the following:

ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC). An informal,

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strictly advisory committee and not a County Board committee comprised primarily of County staff and advisors. Membership includes, but is not limited to, representatives from the County Planning, Building and Zoning Department, the Highway Department, the Health Department, the Sheriff's Department, Forest Preserve District, Soil and Water Conservation District, and the County Engineer or consultants. The PBZ Chair of the County Board shall also serve on ZPAC.

7.01 A-1 Agricultural District

k. Single Family Dwellings may be authorized under the following conditions:

1. Each such dwelling shall be located on a zoning lot that meets the standards of single-family residential lots, one hundred and thirty thousand (130,000) sq. ft. minimum.
2. Septic suitability is approved by the Health Department.
3. 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.
4. 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 that 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.
5. That such application shall be acted upon by the Zoning Administrator. The Zoning Administrator may, at his or her

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discretion, refer the application to the Planning, Building and Zoning Committee of the County Board for recommendation prior to taking action.

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

16.f. Allocations Registered Prior to December 16, 2003.

Parcels in excess of 60 acres in size which were registered for a single allocation prior to December 16, 2003, may register for additional allocations for each 40 acres of available land for any zoning lot in excess of 40 acres in size that remains within the original parent parcel. These additional allocations will be registered in the same manner as outline in subsection 7.01.C.16.e. (*Amended 7/17/2007*)

Parcels classified as "Existing Approved Lots" under subsection 16.c above shall be registered on or before December 29th, 2005. 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 16c 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 by the Zoning Administrator and approved, denied, or referred to the Planning, Building and Zoning Committee of the County Board. 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. (*AMENDED – 12/16/03*)