

STATE OF ILLINOIS

COUNTY OF KENDALL

ORDINANCE NO. 08-43

**ORDINANCE REVISING THE KENDALL COUNTY AGRICULTURAL
CONSERVATION EASEMENT AND FARMLAND PROTECTION PROGRAM
(REVISED OCTOBER 21, 2008)**

WHEREAS, the County has the authority to purchase real estate for the preservation of forests, prairies and other natural areas pursuant to 55 ILCS 5/5-1005; and

WHEREAS, the County is authorized to acquire land for purposes of flood plain protection, flood water run-off, detention ponds, and other public grounds and may regulate the use of these public grounds for any public purpose pursuant to 55 ILCS 5/5-1049; and

WHEREAS, the County is authorized to acquire land for the purpose of protecting the water supply pursuant to 55 ILCS 5/5-15009; and

WHEREAS, the County is authorized to protect and establish preservation districts including the protection of landscapes in areas of scenic significance pursuant to 55 ILCS 5/5-30004; and

WHEREAS, the State of Illinois has authorized the Illinois Department of Natural Resources to assist local governments in the acquisition of open space pursuant to the Open Space Lands Acquisition and Development Act (525 ILCS 35/1); and

WHEREAS, the Kendall County Board previously determined that the adoption and implementation of the Kendall County Agricultural Conservation Easement and Farmland Protection Program is necessary in order to maintain and preserve the natural beauty of Kendall County; and

WHEREAS, adoption of the Kendall County Agricultural Conservation Easement and Farmland Protection Program will assist in promoting responsible managed growth patterns through intergovernmental planning agreements in conjunction with the Kendall County Land Resource Management Plan, the Kendall County Forest Preserve District Master Plan, the Kendall County Trails and Greenways Plan, the Kendall County Transportation Plan, and the Kendall County Storm Water Management Ordinance; and

WHEREAS, the Kendall County Board previously adopted the Kendall County Agricultural Conservation Easement and Farmland Protection Program by Ordinance Number _____ which created the Kendall County Agricultural Conservation Easement and Farmland Protection Program and By-Laws for the Kendall County Agricultural Conservation Easement and Farmland Protection Program were also adopted subsequent to that date.

WHEREAS, the Kendall County Board desires to amend the Ordinance to reflect the terms of the County Board representatives to correspond with the terms of office for the County Board members.

NOW, THEREFORE, BE IT ORDAINED by the Kendall County Board that it hereby adopts the following amendments to Ordinance number _____ Adopting and Implementing the Kendall County Agricultural Conservation Easement and Farmland Protection Program:

SECTION 1: An Ordinance to create the Kendall County Agricultural Conservation Easement and Farmland Protection Program and to establish the Kendall County Conservation Easement and Farmland Protection program pursuant to the Illinois Property Conservation Rights Act, 765 ILCS 120/0.01 et seq., to read as follows;

1. DEFINITIONS. In this Ordinance:

- A. Board means the Kendall County Board.
- B. Conservation Easement means a holder's nonpossessory interest in real property within Kendall County imposing any limitation or affirmative obligation the purpose of which includes protecting viable farm operations and farmland to maintain the rural character of Kendall County, permanently preserving scenic vistas and environmentally significant areas, including wetlands, lakes, streams and wood lots, creating and preserving "buffer zones" around significant environmental areas and agricultural areas, restricting land divisions, retaining or protecting natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, preserving the historical, architectural, archaeological, archaeological or cultural aspects of real property.
- C. Commission means the Kendall County Agricultural Conservation Easement and Farmland Protection Commission.

- D. Conservation Interest means a holder's interest in a conservation easement, a third-party right of enforcement in a conservation easement or fee title interest in real property.
- E. Nonprofit Conservation Organization means a nonprofit corporation, a charitable trust or other nonprofit association whose purposes include the acquisition of property for conservation purposes and that is described in Section 501(c) (3) of the Internal Revenue Code and is exempt from federal income tax under Section 501(a) of the Internal Revenue Code.

2. LAND TRUST COMMISSION

- A. Creation. There is hereby created the Kendall County Agricultural Conservation Easement and Farmland Protection Commission (hereinafter the "Commission").
- B. Duties. The Commission shall be responsible for general supervision of the Agricultural Conservation Easement and Farmland Protection Program as set forth in this Ordinance, including the following:
 - 1. The Commission shall maintain contact with public and private agencies to maximize the resources and coordinate efforts to preserve the rural character of Kendall County.
 - 2. The Commission shall determine the interest of owners of land within Kendall County at least annually, to donate or sell interests in real property for the purpose of the Agricultural Conservation Easement and Farmland Protection Program.
 - 3. The Commission shall recommend selection criteria and may recommend the acquisition of interests in specific parcels of real property to be acquired by the County of Kendall for agricultural protection purpose.
 - 4. The Commission may recommend changes to the Kendall County Agricultural Conservation Easement and Farmland Protection Program and suggestions as to how the Kendall County Agricultural Conservation Easement and Farmland Protection Fund acquisition program may be integrated with the Kendall County Land Resource Management Plan, the Kendall County Forest Preserve District Master Plan, the Kendall County Trails and Greenways Plan, the Kendall County Transportation Plan, and the Kendall County Storm water Management Ordinance and other local and regional land use plans.

5. The Commission may conduct public meeting or public hearings as it determines necessary.
6. The Commission may prepare any application forms necessary for the Agricultural Conservation Easement and Farmland Protection Program and prepare, review and recommend any grant application for State and Federal grants.

C. Membership. The Commission shall consist of nine (9) voting members consisting of:

1. Three members of the Kendall County Board who shall be appointed by the Chairman of the Kendall County Board with the advice and consent of the County Board.
2. A representative of the Kendall County Farm Bureau who shall be appointed by the President of the Kendall County Farm Bureau with the advice and consent of the Farm Bureau Board.
3. A representative of the Kendall County Soil and Water Conservation District who shall be appointed by the President of the Kendall County Soil and Water Conservation District with the advice and consent of the Soil and Water Conservation District Board.
4. A member of the Kendall County Regional Planning Commission who shall be appointed by the Chairman of the Kendall County Regional Planning Commission with the advice and consent of the Regional Planning Commission.
5. Three members who shall reside in Kendall County who reflect the demographics of Kendall County shall be appointed by the Chairman of the Kendall County Board with the advice and consent of the County Board.
6. The term of membership shall be three years and expire on December 1 following the third anniversary of their appointment except for County Board representatives which term of membership shall be two years and expire on December 1 following the second anniversary of their appointment. All members shall be residents of Kendall County and, to the extent practicable, include persons with backgrounds and experience in agriculture, finance, conservation or planning.

7. Members other than the County Board representatives shall serve 3-year terms on an alternating schedule. County Board members shall serve 2-year terms corresponding with their County Board terms and biennial special assignment appointments.

D. Officers. The Commission shall have the following officers:

1. The Commission Chairman shall be appointed by the Chairman of the Kendall County Board at the initial meeting and shall preside at all meetings of the Commission. The Commission Chairman shall serve for a term of one (1) year, subject to reappointment by the Chairman of the Kendall County Board.
2. A Vice Chairman shall be elected by a majority vote of the Commission at the first meeting of the Commission to serve for a term of one (1) year, subject to reappointment by the Commission. The Vice Chairman shall serve as Commission Chairman in the absence of the Chairman.
3. A Secretary shall be elected by a majority vote of the Commission at the first meeting of the Commission to serve for a term of one (1) year, subject to reappointment by the Commission. The Secretary shall be responsible for keep minutes of meetings.

E. Rules of Procedure.

1. The Commission shall adopt rules of procedure and bylaws to govern its deliberations. In the absence of any other such rules, the Commission shall conduct its proceedings in accordance with Robert's Rules of Order, latest revised edition, the Open Meetings Act (5 ILCS 120/1), and the Freedom of Information Act (5 ILCS 140/1).
2. Under no circumstances shall a rule of procedure or bylaw shall release the Commission from complying with Federal and State Statutes.

3. **AGRICULTURAL CONSERVATION EASEMENT AND FARMLAND PROTECTION PRORAM EXPENDITURES.**

The County Board is authorized to acquire conservation interests in real property or to make payments to nonprofit conservation organizations for the purpose of rural and farmland preservation as provided herein.

- A. **Conservation Easement Purchases.** The County Board may, subject to subsection D, expend funds for costs associated with the purchase or acceptance of donated holders' interests or third party rights of enforcement in conservation easements as defined, respectively, in the Illinois Property Conservation Right Act.
- B. **Payments to Nonprofit Organizations.** The County Board may, subject to subsection D, appropriate money for payment to a nonprofit conservation organization for the conservation of farmland and natural resources within Kendall County or beneficial to Kendall County through the acquisition of conservation interests provided that the recipient organization submits and the County Board approves a detailed plan for the work to be done.
- C. **Voluntary Conveyances.** The County Board may acquire conservation interests only from willing owners and may not exercise its power of eminent domain to acquire such conservation interests.
- D. **Voluntary Contributions:** The County Board may accept voluntary contributions from individuals, organizations, or other government agencies for the purpose of acquiring conservation easements.
- E. **Indirect Costs.** In addition to the purchase price therefore, the County Board may expend funds for the payment of indirect costs associated with the conduct of the program, including costs of administration and acquisition of conservation interests, including but not limited to survey costs, title evidence, attorney's fees, appraisers' fees, environmental assessments, transfer taxes and recording fees.

4. **PROCEDURE FOR ACQUISITION OF CONSERVATION INTERESTS**

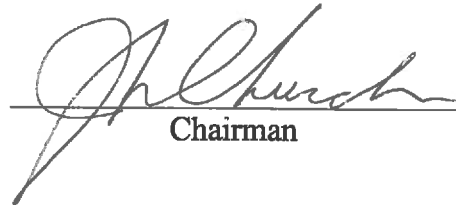
- A. The Commission shall review all applications and make formal recommendations to the County Board as to which conservations interests should be considered.
- B. The County Board may conduct public meetings or public hearings as it determines necessary for consideration of Agricultural Conservation Easement and Farmland Protection conservation interests and/or expenditures.
- C. Final action of the County Board is required to acquire conservation interests either by purchasing the conservation interest or by voluntary conveyance.

5. **ALIENATION OF ACQUIRED INTERESTS.** Except where the intention to reconvey conservation interest is expressly provided for in the Board's authorization to acquire such interest, no conservation interest acquired by the County under the provisions of this Ordinance shall thereafter be alienated.

6. **CONFLICT OF INTEREST.** No person may participate in any deliberation of Commission or of the County Board in the consideration or determination of any expenditure under this Ordinance in which the person, a member of the person's family, or an organization with whom the person is affiliated has a financial interest.
7. **AMENDMENT OR REPEAL.** This Ordinance may be amended or repealed only by affirmative vote of the County Board following a public hearing.
8. **SERVERABILITY.** Should any provision of this Ordinance be adjudged invalid by a court of competent jurisdiction, such Adjudication shall not affect the validity of any other provision of this Ordinance.

SECTION 2. This Ordinance shall take effect immediately upon its passage as provided by law.

Passed and adopted by the County Board of Kendall County, Illinois this 21st day of October, 2008


Chairman

ATTEST: 
County Clerk