

Ordinance Number: ~~2008-~~ 47

**AN ORDINANCE RESCINDING SECTION 4.18 "FLOOD PLAIN REGULATIONS" OF
THE KENDALL COUNTY ZONING ORDINANCE**

WHEREAS, the Kendall County Board, on December 16, 2008, adopted Ordinance Number ~~2008-~~ 49 "Flood Damage Prevention Ordinance" and;


WHEREAS, Section 4.18 "Flood Plain Regulations" of the Kendall County Zoning Ordinance, attached hereto as Exhibit A and incorporated herein by reference, contains a secondary set of provisions which constitute a duplicitous system of floodplain regulation and should therefore be eliminated; and

WHEREAS, the Kendall County Zoning Board of Appeals conducted a public hearing pursuant to 55 ILCS 5/5-12014 on a text amendment that would remove Section 4.18 "Flood Plain Regulations" in its entirety from the Kendall County Zoning Ordinance and;

WHEREAS, The Kendall County Board finds that the adoption of Ordinance Number ~~2008-~~ 49 "Flood Damage Prevention Ordinance" will establish a single set of standards regarding the Regulation of Development in Floodplain Areas that will allow Kendall County to maintain its standing as a participating member in the NFIP;


NOW, THEREFORE, BE IT RESOLVED, the Kendall County Board hereby strikes and removes in its entirety the text of the Kendall County Zoning Ordinance Section 4.18 "Flood Plain Regulations", attached as "Exhibit A" and made a part hereof.

IN WITNESS OF, this Ordinance has been approved on December 16, 2008.



Anne Vickery

Kendall County Board Chairman



Debbie Gillette

Kendall County Clerk

“EXHIBIT A”

4.18 FLOOD PLAIN REGULATIONS [~~Revised 04/18/2000; Amended 11/18/2003~~]

- A. ~~PURPOSE.~~ It is the purpose of these regulations to promote the public health, safety and general welfare and to minimize loss of life and excessive damage to property in areas of flood hazard.
- B. ~~ESTIMATES OF FLOOD THREAT.~~ The uses shall, when required by the Plan Commission:
1. ~~Estimate the discharge of the regional flood which is representative of large floods known to have occurred in this region and which are reasonably characteristic of what can be expected to occur with a 100-year frequency on the particular streams subject to this ordinance.~~
 2. ~~Determine the specific flooding threat at the site of the proposed conditional use and determine whether the use is located in a floodway or flood fringe area by:~~
 - a. ~~Calculations of water surface elevations and flood protection elevations based upon hydraulic analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood. Flood protection elevations shall be one (1) foot above the water surface elevations of the regional flood plus the increase in the flood heights caused by the proposed development as provided in Section 7.02 (B) 2 (b) below.~~
 - b. ~~Computation of the floodway required to convey this flood without increasing flood height to an extent which would cause substantial upstream or downstream damage to existing or reasonably anticipated future development. Computation of increases in flood height caused by any encroachment shall be based upon the reasonable assumption that there will be an equal degree of encroachment on both sides of the stream within that reach. Generally, any increase in flood stages attributable to encroachments on the flood plain of any river or stream shall not exceed 0.5 feet in any one reach or for the cumulative effect of several reaches.~~
- C. ~~PERMITTED USES.~~ The following open space uses shall be permitted within a Flood Plain to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill or storage of materials or equipment. In addition, no use shall adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributary to the main stream, drainage ditch, or any other facility of system:
1. ~~Agricultural uses, including general farming, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, sod farming, provided such uses are permitted in an adjoining district.~~

- ~~2. Open type uses, such as loading and unloading areas, parking lots, storage of motor vehicles for not more than 24 hour periods, airport landing strips, when such uses are permitted in the District in which the flood plain is located.~~
 - ~~3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, ponds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, hiking and horseback riding trails, subject to all other provisions of this ordinance, providing that said use is expressly subject to the terms and conditions of Kendall County Recreational Vehicle Park and Campground Regulations.~~
 - ~~4. Residential uses such as lawns, gardens, parking areas and play areas.~~
- ~~D. SPECIAL USES. All uses other than those specified in 4.18 (C) are permitted only upon application to the Zoning Administrator and the issuance of a special permit as provided in Section 13.07, Special Use Permits of this ordinance.~~

~~The Flood Plain includes both floodway and flood fringe areas. Therefore, the Plan Commission, as provided in Section 4.18 B, shall determine whether the proposed Special Use is located within the floodway, the provisions of Section 4.18 1 of this ordinance shall apply. If it is determined that the proposed use is located within the flood fringe, the provisions of Section 4.18 2 of this ordinance shall apply.~~

~~4.18 1. SPECIAL PROVISIONS (Amended 11/18/2003)~~

~~Special Provisions apply to the floodway portion of the Flood Plain.~~

- ~~A. Uses Permitted in Section 4.18 C are Permitted Uses.~~
- ~~B. Other uses are allowed only as Special Uses within the floodway provided they comply with the provisions of the Section, Section 4.18 1 C (Fill), 4.18 1 D (Structures), 4.18 1 E (Storage of Materials), other standards established in this ordinance, and any conditions attached to the issuance of the Special Use Permit. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other use shall be permitted which acting alone or in combination with existing or reasonably anticipated uses unduly affects the efficiency or the capacity of the floodway or unduly increases flood heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. Special Uses include:
 - ~~1. Uses or structures accessory to open space or Special Uses.~~
 - ~~2. Circuses, carnivals and similar transient amusement enterprises.~~
 - ~~3. Drive-in theaters, new and used car lots, road-side stands, signs and billboards.~~
 - ~~4. Marinas, boat rentals, docks, piers, wharves, and water control structures.~~
 - ~~5. Railroads, streets, bridges, transmission lines and pipelines.~~~~

- ~~6. Storage yards for equipment, machinery or materials.~~
- ~~7. Kennels and stables.~~
- ~~8. Other uses similar in nature to uses described in Section 4.18 or this subsection which are consistent with the provisions set out in this ordinance~~

~~C. FILL.~~

- ~~1. Any fill or materials proposed to be deposited in the floodway will be allowed only upon issuance of a Special Use Permit. The fill or materials must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.~~
- ~~2. Such fill or other materials shall be protected against erosion by riprap, vegetative cover, or bulkheading.~~

~~D. STRUCTURES (temporary or permanent) ACCESSORY TO SPECIAL USES LISTED IN 4.18-B.~~

- ~~1. Structures shall not be designed for human habitation.~~
- ~~2. Structures shall have a low flood damage potential.~~
- ~~3. The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
 - ~~a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and~~
 - ~~b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.~~~~
- ~~4. Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river.~~
- ~~5. Service facilities such as electrical and heating equipment shall be placed at or above the regulatory flood protection elevation for the particular area if adequately floodproofed.~~

~~E. STORAGE OF MATERIALS AND EQUIPMENT.~~

- ~~1. The storage or processing of materials that in time of flooding are buoyant, flammable, explosive or could be injurious to human, animal or plant life, is prohibited.~~
- ~~2. Storage of other material or equipment may be allowed upon issuance of Special~~

~~Use Permits if not subject to major damage by floods and firmly anchored to prevent flotation or readily removable from the area within the time available after flood warning.~~

~~F. GARBAGE AND SOLID WASTE DISPOSAL.~~

- ~~1. No Special Use Permits for garbage and waste disposal sites shall be issued for floodway areas.~~
- ~~2. Provided further, there shall be no further encroachment upon the floodway at existing sites.~~

~~4.18-2 SPECIAL PROVISIONS APPLYING TO THE FLOOD FRINGE. (Amended 11/18/2003)~~

~~A. Permitted Uses. Uses listed in Section 4.18 C as permitted uses are permitted uses within the flood fringe area.~~

~~B. Special Uses. Structural or other uses shall be permitted within the flood fringe as Special Uses to the extent they are not prohibited by any other ordinance and they meet the following applicable standards:~~

- ~~1. Residential Uses. Residence shall be constructed on fill with the first floor or basement floor at one (1') foot above the regulatory flood protection elevation. The finished fill elevation shall be at or above the regulatory flood protection elevation for the particular area and shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon. Where existing streets or utilities are at elevations which make compliance with this provision impractical or in other special circumstances the Plan Commission may recommend other techniques for protection.~~
- ~~2. Non-Residential Uses. Structures other than residences shall ordinarily be elevated on fill as provided in Section 4.18 B-1 but may in special circumstances, be protected as provided in Section 4.18 C to a point at or above the regulatory flood protections elevation.~~
- ~~3. Commercial Uses. Commercial structures generally must be constructed on fill with no first floor or basement floor below the flood protection elevation. Accessory land uses, such as yards, railroad tracks and parking lots may be at lower elevations. However, a permit for such facilities to be used by the general public shall not be granted, in the absence of a flood warning system, if the area is inundated to a depth greater than two feet or subject to flood velocities greater than four feet per second upon the occurrence of the regional flood.~~
- ~~4. Manufacturing and Industrial Uses. Manufacturing and industrial buildings, structures and appurtenant works shall be protected to the flood protection~~

~~elevation. Measures shall be taken to minimize interference with normal plant operations especially for streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 7.02-2-B-3, above. In considering permit applications, the Plan Commission shall give due consideration to needs of an industry whose business requires that it be located in flood plains areas.~~

~~5. Utilities, Railroad Tracks, Streets and Bridges. Public utility facilities, roads, railroad tracks and bridges within the flood plain shall be designed to minimize increases in flood elevations and shall be compatible with local comprehensive flood plain development plans. Protection to the regulatory flood protection elevation shall be provided where failure or interruption of these public facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Where failure or interruption of service would not endanger life or health, a lesser degree of protection may be provided for minor or auxiliary roads, railroads, or utilities.~~

~~6. Waste Treatment and Waste Disposal.~~

~~a. No new construction, addition, or modification to existing waste treatment facilities shall be permitted within the flood plain unless emergency plans and procedures for action to be taken in the event of flooding are prepared, filed with, and approved by the Illinois Environmental Protection Agency. The emergency plans and procedures must provide for measure to prevent introduction of any pollutant or toxic material into the flood waters.~~

~~b. There shall be no disposal of garbage or solid waste materials within flood plain areas except upon issuance of a Special Use permit at sites approved by the Illinois Environmental Protection Agency and subject to the requirements of Section 4.18-F.~~

~~4.18-3 SPECIAL USE PERMITS. (Amended 11/18/2003)~~

~~A. Procedure to be followed by the Plan Commission in passing on Special Use Permits. Upon receiving an application for a Special Use Permit involving the use of fill, construction of structures, or storage of materials, the Plan Commission shall, prior to rendering a recommendation thereon:~~

~~1. Require the applicant to furnish such of the following information as is deemed necessary by the Plan Commission for determining the regulatory flood protection elevation, whether the proposed use is located in the floodway or flood fringe, and other factors necessary to render a decision on the suitability of the particular site for the proposed use.~~

- a. ~~Plans. Ten copies drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the channel.~~
- b. ~~A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.~~
- c. ~~Plans showing elevations or contours of the ground pertinent structure, fill, or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities, photographs showing existing land uses and vegetation upstream and downstream, soil types, and other pertinent information.~~
- d. ~~Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred (500) feet in either direction from the proposed development.~~
- e. ~~Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.~~