

**ORDINANCE # 2004- 29**

**AN AMENDMENT TO ORDINANCE 2002-13 (AN ORDINANCE REGULATING DEVELOPMENT IN FLOOD PLAIN AREAS); AN AMENDMENT TO ORDINANCE 2002-24 (STORMWATER MANAGEMENT PRACTICES AND DESIGN REQUIREMENTS TO COUNTER INCREASES IN STORMWATER QUANTITY, RATE AND THE POTENTIAL IMPAIRMENT OF WATER QUALITY FROM THE IMPACTS OF LAND DEVELOPMENT AND IMPROVEMENT); AN AMENDMENT TO THE KENDALL COUNTY SOIL AND EROSION CONTROL ORDINANCE; AN AMENDMENT TO THE KENDALL COUNTY BUILDING CODE**

*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's interest; and

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

*NOW, THEREFORE, BE IT ORDAINED*, the Kendall County Board hereby amends the following ordinances for the purpose of establishing the procedure for administrative adjudication of violations to the following Ordinances, as indicated in Exhibit "A":

**Kendall County Zoning Ordinance  
Kendall County Building Code  
Kendall County Flood Plain Ordinance  
Kendall County Stormwater Management Ordinance  
Kendall County Soil and Erosion Control Ordinance**

*IN WITNESS OF*, this Amendment to the Kendall County Zoning Ordinance was approved by the Kendall County Board on August 17, 2004.

  
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Attest:

Paul Anderson  
Kendall County Clerk

  
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John A. Church  
Kendall County Board Chairman

**EXHIBIT "A"**

## EXHIBIT "A"

### **PROPOSED ZONING ORDINANCE AMENDMENTS (last revised 8/4/04)**

#### 12.19 VIOLATIONS

- A. Any of the following shall be a violation of this ordinance and shall be subject to the enforcement remedies and penalties in accordance with 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 unless otherwise provided by law. ~~provided by this Section, by the zoning ordinance, and by state law:~~
1. To install, create, erect, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the zoning lot on which the sign is located;
  2. To install, create, erect, or maintain any sign requiring a permit without first securing such a permit;
  3. To fail to remove any sign that is installed, created, erected, or maintained in violation of this ordinance, or for which the sign permit has lapsed; or
  4. Each sign installed, created, erected, or maintained in violation of this ordinance shall be considered a separate violation when applying the penalty portions of this ordinance.

#### 12.20 ENFORCEMENT AND REMEDIES

- A. Any violation or attempted violation of this ordinance, or of any condition or requirement adopted pursuant hereto may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceedings as provided for 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 unless otherwise provided by law. ~~pursuant to state law.~~ A violation of this ordinance shall be considered a violation of the zoning ordinance of the County. The remedies of the County shall include the following:

1. Issuing a stop-work order for any and all work on any signs in the same zoning lot;
  2. Seeking an injunction or other order of restraint or abatement that requires the removal of the sign(s) or the correction of the nonconformity;
  3. Imposing any penalties that can be imposed directly by the County under the zoning ordinance;
  4. Seeking in court the imposition of any penalties that can be imposed by such court under the zoning ordinance; and
  5. In the case of a sign that poses an immediate danger to the public health or safety, taking such measures as are available to the County under the applicable provisions of the zoning ordinance and building code for such circumstances.
  6. Enforcement of building codes.
- B. The County shall have such other remedies as provided for or allowed by state law for the violation of the zoning ordinance and building code.
- C. ~~All such remedies provided herein shall be cumulative.~~ To the extent that state law may limit the availability of a particular remedy as set forth under the applicable County ordinances regarding the administrative adjudication of such violations or herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

### 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.
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 to the Zoning Board of Appeals all applications for the amendments, Planned Developments, or for other matters which under this ordinance require referral to the Zoning Board of Appeals.
- 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.
- h. Receive from the County Clerk all notices of petitions for appeals, variations, amendments and special use permits which have been referred by the County Clerk 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. Assist the office of the State's Attorney in 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. ~~at once issue written notice to the owner and any other responsible party, specifying the nature of the violation and citing the provisions of the ordinance which are violated, and said owner and any other party shall at once take appropriate steps to correct said violation. In case of failure by the owner or other responsible party to correct the violation within a reasonable time, the Zoning Administrator shall initiate action or proceeding as shall secure compliance with the applicable provisions of this ordinance.~~ When compliance is so secured, the Zoning Administrator shall issue an occupancy certificate certifying such compliance.

#### B. ZONING BOARD OF APPEALS

1. Creation and Membership. A Zoning Board of Appeals 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 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. No action of the Board is official, however, unless authorized by a majority of the Board.
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, 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 Board 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.
  - 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 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]*

13.01.

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. The Hearing Officer shall be responsible for:

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 4/20/04]*

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



### 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.
- 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 the Zoning Administrator.

### 13.08 PENALTIES.

Any person, firm or corporation who violates any of the provisions of this ordinance shall be guilty of a petty offense punishable by a fine not to exceed \$500 with each week the violation remains uncorrected constituting a separate offense and shall be assessed in

accordance with 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 unless otherwise provided by law.

## **PROPOSED BUILDING CODE AMENDMENTS**

### **SECTION 1                      IN GENERAL**

#### **VIOLATION PENALTIES**

Violations of this Code shall processed in the manner prescribed for all other ordinance violations as established by the County Board. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a an ordinance violation ~~petty offense~~, punishable by a fine of not less than \$50 nor more than \$1,000. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$50.00 or more than \$1,000.

Nothing herein shall prevent the Kendall County State's Attorney from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

**MEANS OF APPEAL** shall be replaced in its entirety with the following:

Except for violations of this Code cited by a Code Enforcement Official, Aan appeal may be taken to the County Building & Zoning Committee by any person aggrieved, from any order, requirement, decision or determination made by the building Officer in his/her interpretation of this ordinance. Such appeal shall be taken within twenty (20) days of the date of the action from which it is taken by filing with the Code Official and with the County Building & Zoning Committee a notice of appeal, specifying the grounds thereof. The County Building & Zoning Committee shall thereupon set a reasonable date, time, and place for a hearing of said appeal, and shall cause written notice thereof to be mailed

to the appealing party, or his attorney and to the Code Official.

The County Building & Zoning Committee may reverse or affirm, wholly or partially, or may modify the order, requirement, decision or determination as in its opinion ought to be done or made in the premises, and to that end shall have all the powers vested in the Code Official by this Ordinance.

The concurring vote of the majority of the Building & Zoning Committee members shall be necessary to reverse, in whole or part, or to modify, any orders, requirements, decisions or determinations of the Code Official. The County Bldg & Zoning Committee shall keep minutes of its proceedings hereunder, showing the vote of each member upon every question, or, if absent or failing to vote, indication of such fact, and shall also keep records of its examinations and other official actions.

All decisions of the County Building & Zoning Committee hereunder shall be reduced to writing, filed with the clerk of the County Board, and a copy thereof mailed to the appealing party and too the building officer.

## **SECTION 2                      BOCA**

BOCA Section 116.4 "**Violation Penalties**" shall be replaced in its entirety by the following:

Violations of this Code shall processed in the manner prescribed for all other ordinance violations as established by the County Board. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a an ordinance violation ~~petty offense~~, punishable by a fine of not less than \$50 nor more than \$1,000. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Nothing herein shall prevent the Kendall County State's Attorney from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

**MEANS OF APPEAL** shall be replaced in its entirety with the following:

Except for violations of this Code as cited by a Code Enforcement Official, Aan appeal may be taken to the County Building & Zoning Committee by any person aggrieved, from any order, requirement, decision or determination made by the building Officer in his/her interpretation of this ordinance. Such appeal shall be taken within twenty (20) days of the date of the action from which it is taken by filing with the Code Official and

with the County Building & Zoning Committee a notice of appeal, specifying the grounds thereof. The County Building & Zoning Committee shall thereupon set a reasonable date, time, and place for a hearing of said appeal, and shall cause written notice thereof to be mailed to the appealing party, or his attorney and to the Code Official.

The County Building & Zoning Committee may reverse or affirm, wholly or partially, or may modify the order, requirement, decision or determination as in its opinion ought to be done or made in the premises, and to that end shall have all the powers vested in the Code Official by this Ordinance.

The concurring vote of the majority of the Building & Zoning Committee members shall be necessary to reverse, in whole or part, or to modify, any orders, requirements, decisions or determinations of the Code Official. The County Bldg & Zoning Committee shall keep minutes of its proceedings hereunder, showing the vote of each member upon every question, or, if absent or failing to vote, indication of such fact, and shall also keep records of its examinations and other official actions.

All decisions of the County Building & Zoning Committee hereunder shall be reduced to writing, filed with the clerk of the County Board, and a copy thereof mailed to the appealing party and too the building officer.

## **PROPOSED AMENDMENT TO ORDINANCE 2002-13 - AN ORDINANCE REGULATING DEVELOPMENT IN FLOOD PLAIN AREAS**

### SECTION 12. PENALTY

Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a permit or a variance shall be deemed to be a violation of this ordinance.

~~Violations of this ordinance shall processed in the manner prescribed for all other ordinance violations as established by the County Board. Upon due investigation, the Department of Planning Building and Zoning State's Attorney may determine that a violation of the minimum standards of this ordinance exists. The State's Attorney shall notify the owner in writing of such violation.~~

~~a. Any person determined to be guilty of a violation of this ordinance shall be subject to the following penalties:~~

~~a. If such owner fails after ten days notice to correct the violation:~~

~~i. Kendall County shall make application to the circuit court for an injunction requiring conformance with this ordinance or make such other order as the court deems necessary to secure compliance with the ordinance;~~

~~ii.i. Any person who violates this ordinance shall upon conviction thereof be fined of not less than fifty (\$50.00) nor more than five hundred dollars (\$500.00) or each offense; and~~

~~iii.ii.~~ A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

~~iv.iii.~~ Kendall County shall record a notice of violation on the title to the property.

- b. The ~~State's Attorney~~ County shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- c. Nothing herein shall prevent the Kendall County State's Attorney from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

## **PROPOSED AMENDMENT TO ORDINANCE 2002- 24 – STORMWATER MANAGEMENT PRACTICES AND DESIGN REQUIREMENTS TO COUNTER INCREASES IN STORMWATER QUANTITY, RATE AND THE POTENTIAL IMPAIRMENT OF WATER QUALITY FROM THE IMPACTS OF LAND DEVELOPMENT AND IMPROVEMENT**

### **607.0 PENALTIES**

Any person ~~convicted-~~ determined to be guilty of violating any of the provisions or requirements of this ordinance shall be guilty of an ordinance violation ~~misdemeanor~~ and shall be subject to a fine of not more than One Thousand Dollars (\$1,000.00). Each day the violation continues shall be considered a separate offense.

## **PROPOSED AMENDMENT TO THE SOIL AND EROSION CONTROL ORDINANCE**

### **ARTICLE VI – FEE, DEPOSITS, BONDS, APPEALS, EXCEPTIONS AND PENALTIES**

**E. Violations and Penalties.** Violations of this ordinance shall processed in the manner prescribed for all other ordinance violations as established by the County Board. No person, firm or corporation shall construct, enlarge, alter, repair or maintain any grading, excavation or fill, or cause the same to be done, contrary to or in violation of any provision of this Ordinance. Any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of an ordinance violation ~~misdemeanor~~, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Ordinance is committed, continued, or permitted, and upon conviction of any such violation such person shall be punished by a fine of not more than five

hundred dollars (\$500.00), ~~or by imprisonment for not more than one hundred eighty (180) days,~~  
~~or by both such fine and imprisonment.~~

Nothing herein shall prevent the Kendall County State's Attorney from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.