

ORDINANCE # 2003- 52

**AMENDMENT TO THE AGRICULTURAL DISTRICT of the
KENDALL COUNTY ZONING ORDINANCE**

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 7.01 - 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 December 16, 2003.



Attest:



John A. Church
Kendall County Board Chairman

Paul Anderson
Kendall County Clerk

7.01 A-1 Agricultural District - (1/26/04 revisions per County Board Action 12/16/03)

A. PURPOSE

It is recognized that the public health and welfare of the citizens of Kendall County are greatly dependent upon the sustenance and economic benefits provided by a viable agricultural industry. This district is intended to ensure that lands within the county which are well suited for agricultural production of food and fiber are retained for such production, unimpeded by the establishment of incompatible uses which would hinder farm operations and irretrievably deplete agricultural lands.

Specific purposes for this district are:

- To establish a zoning district in which agriculture and certain related uses are encouraged as principal uses of the land.
- To preserve fertile, tillable soils as a valuable natural resource.
- To enhance and maintain the sound economic base that agricultural pursuits provide the county and region.
- To provide open areas which contribute to the stability of the environment and enhancement of air and water quality.
- To preserve woodlands and wetlands associated with farms which, because of their natural physical features, are useful as water retention and groundwater recharge areas, and as habitat for plant and animal life, but may not be conducive to the agricultural uses cited in this ordinance.
- To prevent scattered, indiscriminate urban development within areas zoned agricultural.
- To generally limit residential development of agriculturally zoned properties or those areas identified as agricultural uses in the County's Land Resource Management Plan to not more than one dwelling unit per each 40 acres of land.
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B. POLICY

To achieve the purposes of the agricultural district it shall be the policy of the county:

- To allow only those uses of land which are clearly and primarily best suited for agricultural purposes within the A-1 zoning district.
- To prevent mixtures of urban and rural land uses which create or tend to create conflicts and incompatibilities which directly or indirectly impose unbalanced tax loads on agriculture and which require urban services which, in turn, contribute to the premature termination and eventual elimination of agricultural uses.
- That allowance of farm residences under this section shall not change the general character of agricultural use.

C. USES PERMITTED

1. Conservation areas
2. Crop and tree farming
3. Dairy and livestock farming
4. Farming
5. Forest Preserve
6. Forestry
7. Game breeding
8. Gardening
9. Grazing and forage
10. Greenhouses and nurseries
11. Home occupation (Defined as: Any gainful occupation or profession engaged in by an occupant of a dwelling unit as a use which is clearly incidental to the use of the dwelling unit for residential purposes. Tearooms, restaurants, tourist homes, animal hospitals, and kennels, among others, shall not be deemed to be "home occupation".), provided:
 - a. It is conducted entirely within the dwelling or permitted accessory building by a member or members of the family residing in the dwelling and when such home occupation is clearly incidental and secondary to the use of the dwelling as a residence.
 - b. There are no signs, display or activity that will indicate from the exterior of the dwelling that it is being used for any use other than a dwelling except as allowed by the sign regulations for the district in which such "home occupation" is located.
 - c. No article shall be sold or offered for sale on the premises except as is produced by the occupation on the premises.
 - d. No stock in trade shall be kept or displayed on the premises unless such stock is clearly secondary and necessary to the performance of the services provided by the home occupation and at no time shall exterior storage of materials be permitted.
 - e. No person shall be employed other than a member of the family residing on the premises and one person outside the family, providing that additional persons (more than one) outside of the family may be permitted by the Zoning Board of Appeals pursuant to an application for special use filed in accordance with the provisions of this ordinance.
 - f. The number of off-street parking spaces for that use is provided as required by the Off-Street Parking, Loading, and Landscape Requirements of this Ordinance.
 - g. No mechanical equipment is used which may generate obnoxious fumes, excessive noise or other such related nuisances. No offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical disturbance shall be produced which is perceivable at or beyond the lot lines.
12. Horse breeding and raising
13. Horticulture
14. Poultry breeding and raising
15. Research and experimental farms
16. Single Family Residential Use, provided:
 - a. Standard Lot - A new residence shall be permitted on a zoning lot forty (40) acres or larger. Prior to the construction of any new residence, the property owner shall file with the Kendall County Planning, Building and Zoning Department a legal description

detailing the location of the parcel, along with a sketch identifying the location of the proposed residence. The County will maintain records of parcels that have been allocated for single-family residences.

- b. Allocation –Parcels of forty (40) acres or more in size shall be entitled to one allocation for a single-family residence for each forty acres of available land within the overall zoning lot. Available land shall be determined as the total acreage of any parcel regardless of the number of existing residences on the premises or replacement homes for which the parcel may be eligible. The available allocations shall be registered in accordance with the procedures outlined in subsection 7.01.C.16.e. below. Prior to the construction of any new residence, the property owner shall file with the Kendall County Planning, Building and Zoning Department a legal description detailing the location of the 40 acres to which the allocation is being assigned, along with a sketch identifying the location of the proposed residence. The County will maintain records of parcels that have been allocated for single-family residences.
- c. Existing Approved Lots - Single Family Dwellings on zoning lots approved pursuant to the applicable regulations prior to 8th day of March, 1977, which are as follows:
 - i. Any three-quarter (3/4) acre lot, or larger, existing prior to July 17, 1959.
 - ii. Any vacant three (3) acre parcel or larger that existed prior to August 8, 1971.
 - iii. Any vacant five (5) acre parcel or larger that existed prior to August 28, 1972.
 - iv. Any vacant twenty (20) acre parcel or larger that existed prior to March 8, 1977.
 - v. Any lot in a subdivision or group of lots combined to meet the minimum area requirements of a zoning lot except as otherwise permitted under Section 5.07.G of this ordinance.
- d.
 - i. Replacement Home – A replacement home is defined as a residence intended to replace a pre-existing home destroyed or damaged to the extent that it was demolished.
 - ii. A replacement home shall be permitted in those instances where the owner can supply physical evidence documenting the prior existence of a residence on the property and further provided that it is registered in accordance with the procedures and deadlines established below in subsection 7.01.C.16.e. Evidence shall be submitted to the Kendall County Planning, Building and Zoning Department and may include historic aerial photographs, tax records, plat maps or other legal documentation verifying the prior existence of a residential dwelling.
 - iii. Except for those parcels of land created prior to (insert effective date of this amendment) which are improved with existing residences or are eligible for a replacement home, all replacement home lots shall have a minimum area of 130,000 square feet.
 - iv. Lots created prior to (insert effective date of this amendment) which are less than 130,000 square feet in area and are improved with existing residences or are eligible for a replacement home shall be considered legally non-conforming and shall not be further reduced in size except as may result from the required dedication of additional right-of-way for an adjoining roadway.

v. If the Planning, Building and Zoning Department determines that adequate evidence is not provided to support a replacement home, the applicant may appeal the decision to the Planning, Building and Zoning Committee of the County Board. Appeals of the Board's decision shall be reviewed by the Zoning Board of Appeals in accordance with Section 13 of this ordinance.

- e. All existing zoning lots which meet the requirements of 16 a, 16b, 16c or 16d above shall be registered by the property owner with the Kendall County Planning, Building and Zoning Department prior to the issuance of a building permit. One single-family residence shall be permitted on each registered zoning lot. The County will maintain records of parcels that have been allocated and registered for single-family dwellings in the A-1 zoning district.

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 and approved or denied by the Zoning Board of Appeals. 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.

17. Sod farms
18. Truck farming
19. Roadside stands, with not more than six hundred (600) square feet of gross floor area, including outdoor display, and set back at least ninety (90) feet from the center line of all adjacent roads, and with off-street parking for a minimum of five (5) cars, or one space for each fifty (50) square feet of structure, whichever is greater. Sales shall be limited to only those products grown or produced on the premises. Sales only permitted from March 15 through November 15.

D. SPECIAL USES PERMITTED

The following special uses may be permitted only if specifically authorized by the County Board as allowed in Section 13.07 .

1. Agricultural implement sales and service.
2. Agricultural Labor Housing, subject to the following restrictions:
 - i. Shall be used in connection with a use permitted in this district.
 - ii. Shall provide for adequately screened off-road parking for the occupants.
- b. Shall meet all requirements of the Kendall County Health Department.
3. Airports and heliports including aircraft hangers, tied owns and aircraft service and repair.
4. Animal feed; preparation, grinding, mixing and storage.
5. Asphalt and (or) concrete batch mix plants.
6. Bed and breakfast establishments.

7. Cemeteries, including crematoriums and mausoleums provided no building shall be located less than one hundred (100) feet from a lot line.
8. Churches, temples or synagogues.
9. Communication uses, gas regulator stations, telephone exchanges, electric substations and generators.
10. Correctional Facilities.
11. Kennels, and Dog Kennels when located more than 600' from an occupied principal structure other than the owner's residence.
12. Fairgrounds.
13. Golf courses, club houses, country clubs, and membership riding clubs.
14. Fertilizer and seed sales, including bulk storage and mixing.
15. Governmental buildings and facilities.
16. Grain Storage, when not accessory to the pursuit of agriculture.
17. Gun clubs, if located not nearer than one thousand (1000) feet to any residence other than that of the owner or lessee of the site, and if not so operated as to withdraw the land from its primary agricultural use.
18. Living quarters, a residential dwelling unit not to exceed two thousand (2,000) square feet, for a groomsman or an employee-watchman and immediate family in conjunction with a permitted use or an approved conditional or special use. The living quarters shall be limited to one (1) home, apartment or dwelling unit per zoning lot or zoning parcel.
19. Parks.
20. Philanthropic institutions and institutions supported by charity.
21. Private clubs or lodges, except those the chief activity of which is a service customarily carried on as a business.
22. Recreational camps.
23. Retail or wholesale sales yards for agricultural products including, but not necessarily limited to, fruits, vegetables, flowers, plants, etc., that are not grown on the premises.
24. Sanitary landfills and other means of solid waste management, including transfer stations.
25. Schools and Day Care Facilities.
26. Seminaries, convents, monasteries, and similar religious institutions including dormitories and other accessory uses required for operation.
27. Similar and compatible uses to those allowed as "permitted or conditional uses" in this district.
28. Slaughter houses.
29. Storage facilities for motor vehicles, boats, trailers, and other recreational vehicles.
30. The composting of landscape waste.
31. Veterinary establishments.

E. **CONDITIONAL USES:**

2. Single Family Dwellings may be authorized by the County Board under the following conditions:
 - a. 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.
 - b. Septic suitability is approved by the Health Department.
 - c. 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.
 - d. 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.
- e. That such application shall be presented to the Plan Commission and Zoning Board of Appeals for Review. Their recommendations shall be forwarded to the County Board who may grant or deny such application.

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

F. TEMPORARY USES PERMITTED

Upon application and issuance by the Zoning Administrator of a permit thereof, the following uses may be operated as temporary uses. The Zoning Administrator may require that a site plan be submitted with the application to provide a means of evaluating compliance with Ordinance requirements. Any permitted temporary use may be treated as a special use (per the procedures contained in Section 13.07) if the stated time limit is to be exceeded.

16. Temporary building, trailer, or yard for construction materials and/or equipment, both incidental and necessary to construction in the zoning district provided that:
 - b. Each permit shall specify the location of the building, trailer, or yard and the area of permitted operation.
 - c. Each such permit shall be valid for a period of not more than six (6) calendar months and shall not be renewed for more than four (4) successive periods.
17. Trailers or mobile homes may be used for residential purposes only during the construction of a residence and must be removed within thirty (30) days of obtaining a certificate of occupancy or completion of construction. In no case shall a trailer or mobile home be permitted to remain on the premises for more than two years.
18. Christmas Tree Sales; each permit shall be valid for a period of not more than sixty (60) days.
19. Concrete ready-mix or asphalt concrete plants, when necessary and incidental to a major construction project.
 - b. Each such permit shall be valid for a period of not more than one (1) year and shall not be renewed for more than two (2) successive periods at the same

- location.
- c. The plant shall be located a minimum of one thousand (1,000) feet from any occupied principal structure.
 - d. All facilities placed or located on the site shall be removed and the site restored to a clean and vegetated condition within the time frame of the permit. The operator of the facility shall guarantee the proper removal of all facilities with good and sufficient security as approved by the Zoning Administrator.
 - e. The plant shall produce product only for the specific parcel for which the temporary use is permitted. For plants constructed to support a major road project, the plant shall be located adjacent to the roadway.

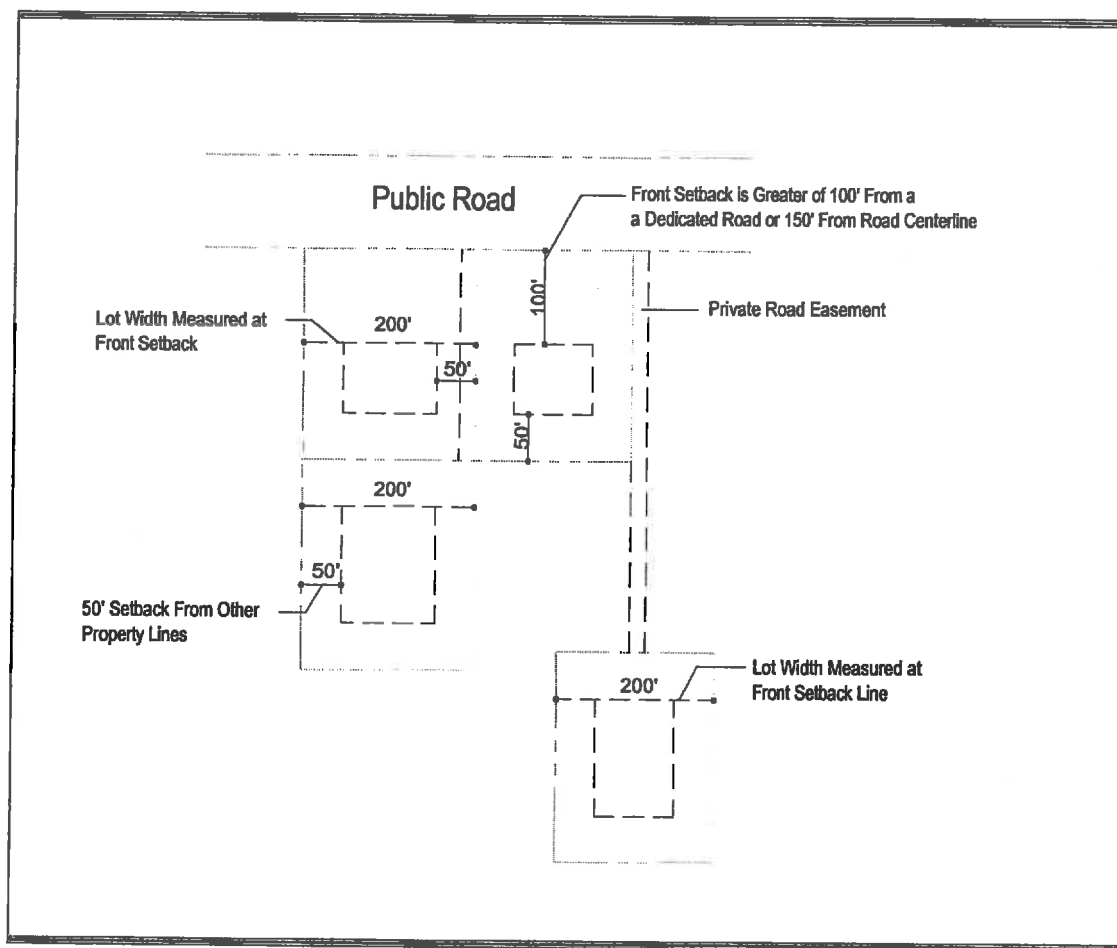
G. ACCESSORY USES PERMITTED

Accessory uses, buildings, or other structures and devices customarily incidental to and commonly associated with a permitted or special use are permitted; provided they are operated and maintained under the same ownership, on the same lot, and do not include structures or structural features inconsistent with the permitted use or special use.

H. SITE AND STRUCTURE REQUIREMENTS

1. Minimum Lot Area and Minimum Lot Width per the following table:

Type of Use	Minimum Lot Area	Minimum Lot Width (measured at the front building setback line)
New Residence	Forty (40) acres	400 feet
Existing Residences or Replacement Homes that is are subdivided from a larger agricultural parcel	130,000 square feet	200 feet
Other Permitted Residences	As provided in Section 7.01C.16a c	No minimum.
Special or Conditional Uses	No minimum, unless specifically listed	200 feet or as approved for the special or conditional use
All Other Permitted Agricultural Uses	No minimum	200 feet measured from the front building setback line



Setbacks

- a. Principal buildings - One hundred (100) feet from a dedicated road right-of-way or one hundred and fifty (150) feet from the center line of all adjacent roads, whichever is greater. Also, fifty (50) feet from all property lines dividing lots held in separate ownership.
- b. Accessory structures - One hundred and fifty (150) feet from the center line of all adjacent roads and ten (10) feet from all property lines dividing lots held in separate ownership.

I. SPECIAL PROVISIONS

1. Parking requirements – in accordance with the applicable regulations set forth in Section 11.00.
2. Sign Requirements - in accordance with the applicable regulations set forth in Section 12.00.
3. Variances to the 40 acre minimum lot size requirement – the Zoning Administrator shall have the authority to administratively grant a variance of less than 10% to the minimum 40 acre lot size requirement for an allocation as set

forth in paragraph 7.01.A.16.b. above. Said variance shall be processed in accordance with the terms of the administrative authority as provided for under the ILCS as amended.