

APPENDIX B¹

ZONING^{2,3}

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1. Editor's Note: This Appendix contains the County's Zoning Ordinance, originally adopted on December 15, 1937, as thereafter amended and readopted by Ord. No. 76-29 on March 9, 1976. The source for this Appendix is such ordinances printed in the compiled copy of the Zoning Ordinance prepared by the County, which is considered authoritative by the County. The editor has placed the term "Sec." prior to each major section's number. Inclusion of the Zoning Ordinance in appendix form was deemed advisable because of the procedures required to enact such an ordinance.

2. See also Buildings and Building Regulations, Ch. 6; Kane County Stormwater Ordinance, Ch. 9; application of flood plain regulation to Zoning Ordinance, § 9-5; Zoning Ordinance saved from repeal, § 1-3; encroachment on certain public rights of way, § 17-4; Subdivisions, Ch. 19; Trailer Coach and Mobile Home Parks, Ch. 22.

3. S.H.A. 55 ILCS 5/5-12001.

APPENDIX B-ZONING

ARTICLE I. TITLE

[Sec. 1.1. Designated.]

This ordinance shall be known, cited and referred to as the "Kane County Zoning Ordinance". It is an ordinance:

- a. Dividing the unincorporated part of the County of Kane into districts;
- b. Regulating and restricting the location and use of buildings, structures and land for residence, agriculture, business, industry, aviation and for other specified uses within said districts;
- c. Regulating and restricting the intensity of such use;
- d. Establishing building lines;
- e. Requiring permits; and
- f. Providing for the administration of said ordinance pursuant to "An Act in Relation to County Zoning" passed by the General Assembly of the State of Illinois, and enacted into law June 28, 1935. (Ord. No. 80-37, § 1, 3-13-80)

ARTICLE II. PURPOSE

[Sec. 2.1. Stated.]

The Kane County Zoning Ordinance is adopted "For the purpose of promoting the public health, safety, morals, comfort, and general welfare; conserving the values of property throughout the county; and reducing or avoiding congestion in the public streets and highways".

The standards and requirements contained in this ordinance and the district mapping reflected on the Kane County Zoning Maps are intended to further the implementation of the objectives and policies of the 2040 Land Resource Management Plan for Kane County, as well as protect all desirable existing structures and uses. (Ord. No. 98-45, 4-14-98; Ord. No. 12-295, 10-9-12)

ARTICLE III. RULES AND DEFINITIONS

[Sec. 3.1. Established.]

In the construction of this ordinance, the rules and definitions contained in this article shall be observed and applied, except when the context clearly indicates otherwise. In further amplification and for clarity of interpretation of the context, the following definitions of word use shall apply:

- a. Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and the plural the singular.
- b. The word "shall" is mandatory and not directory.
- c. The word "may" is permissive.
- d. The word "lot" shall include the words "piece", "parcel", and "plots"; the word "building" includes all other structures of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".

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For the purposes of this ordinance, certain terms and words are hereby defined as follows:

Accessory or Incidental building or use: A building or use which is:

- a. Located or conducted on the same zoning lot as the principal building or use served, except as may be specifically provided elsewhere in this Ordinance;
- b. Clearly incidental to, subordinate in purpose to, and serves the principal use; and
- c. Either in the same ownership as the principal use or is clearly operated and maintained solely for the comfort, convenience, necessity, or benefit of the occupants, employees, customers, or visitors of or to the principal use.

Adult Business: Any establishment having as a substantial or significant portion of its stock in trade or business activity in a use such as, but not limited to the following: Adults-only Bookstores, Adults-only Motion Picture Theaters, Adult Entertainment Centers, Massage Parlors, Rap Parlors, Adults-only Nightclubs or Adults-only Saunas, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Adult Entertainment Business: Synonymous with "Adult Business," as defined herein.

Adult Entertainment Center: An enclosed building or part of an enclosed building, which contains one or more coin-operated mechanisms which when activated permit a customer to view a live person nude or in such attire, costume or clothing as to expose to view the human male or female genitalia; pubic hair; buttocks; perineum; anal or pubic regions; or, female breast, at or below the areola thereof. In addition, the viewing of a live person, in the above described manner, after paying of any admission or fee for the viewing of same activity.

Adults-only: Any items or activities emphasizing, depicting, describing or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity.

Adults-only Bookstore: An adults-only establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity. An establishment, having adults-only items as a substantial or significant portion of its stock, that sells or displays adults-only items for sale to patrons therein.

Adults-only Motion Picture Theater: An enclosed building used regularly and routinely for presenting adults-only material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity, for observation by patrons therein.

Adults-only Nightclub: An establishment or place either occasionally or primarily in the business of featuring topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Adults-only Sauna: An establishment or place primarily in the business of providing a steam bath and/or massage services, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

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Advertising Device: Any advertising sign, billboard, statuary or poster panel which directs attention to a business, commodity, service or entertainment not exclusively related to the premises where such sign is located or to which it is affixed; but does not include those advertising signs, billboards, or poster panels which direct attention to the business on the premises or to a brand name of a product or commodity with which the business is specifically identified and which is sold on the premises.

Agricultural Activities: Means and includes planting, raising or harvesting of any agricultural or horticultural commodities, including the related handling, packing and processing upon the farm where produced or at the point of first processing.

Agriculture: Land, including buildings and structures accessory thereto, used for agricultural purposes, provided; the principal use involves the production, cultivation, or growing of soil crops and the raising of livestock (including poultry, bees, fish, horses...), the lot contains not less than five (5) acres of land area, and only by-products thereof may be sold from the lot. Buildings or structures used, or to be used, for agricultural purposes shall be required to conform to building set back lines. This shall not include buildings used primarily for residences.

Aircraft: Any contrivance now known, or hereafter invented, used or designed for navigation of, or flight in, the air. As used in this ordinance, the term aircraft includes, but is not limited to, airplanes and helicopters.

Airplane: A fixed-wing aircraft heavier than air that is driven by a propeller(s) and supported by the reaction of the air against its wings.

Alley: A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those residential, commercial and industrial properties whose principal frontage is on a street.

Approved: Reference herein to an approved community water supply or an approved community sewerage disposal system shall mean approval of such supply or system by the County of Kane and the Illinois Environmental Protection Agency.

Arcade: Premises and/or place of business whose principal operation consists of the location and/or operation of coin-operated amusement devices, as defined herein, or, a premises and/or place of business wherein the area of the use and/or location of said coin-operated amusement devices exceeds ten (10) percent of the floor area. For determining floor area ratio, the definition for "floor area," as herein defined, shall be used, except that only the floor(s) on which the devices are located and/or used shall be counted in this determination.

Assisted Living Facility: A building and premises where the proprietor furnishes lodging and varying degrees of custodial care to persons who are elderly or who require assistance in daily living, but are otherwise in good health.

Automobile Service Station: Any building or premises used for dispensing or sale of automobile fuels, lubricating oil or grease, tires, batteries, or minor automobile accessories. Services offered may include the installation of tires, batteries and minor accessories; minor automobile repairs; and greasing or washing of individual automobiles.

Auto-wrecking Yard: Any place where motor vehicles not in running condition, or the parts thereof, are stored in the open and are not being restored to operation, or any land, building, or structure used for the wrecking or storing of such motor vehicles or the parts thereof. (See "junk (or salvage) yard").

Balcony: An exterior floor system projecting from a structure and supported by that structure, with no additional independent supports.

Based Aircraft: An "aircraft", as defined herein, is based at a facility and is a based aircraft for purposes of this Ordinance if such aircraft operates out of such facility in the sense that such facility is the point of origin of its operation or general maintenance of the aircraft is conducted there.

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Basement: That portion of a building below the first or ground floor level with its entire floor below exit discharge grade.

Bed and Breakfast Establishment: An owner-occupied, single-family detached dwelling, or portion thereof, where overnight accommodations are available for compensation for a temporary time period. This shall not include a restaurant establishment, hotel, motel, lodging house or lodging rooms. No guest room shall have any kitchen facilities. Further, the establishment must satisfy all requirements of the Kane County Health Department and the Kane County Building Code prior to the issuance of a permit to establish use.

Block: A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, municipal boundary lines, township lines or county lines.

Boat Marina: "Boat marina" shall include the term "boat livery", and shall mean and describe establishments for the sale, rental, repair, storage, and servicing of boats, boating equipment, accessories and supplies, and products and services related thereto.

Booth: Any enclosure that is specifically offered to patrons of an adult business for the private viewing of any adults-only item or movie. Said definition does not include enclosures that are used as private offices by any operator, employee or agent for attending to the tasks of their employment and are not offered for use by the public.

Building: Any structure which is designed, used or intended for the support, enclosure, shelter, or protection of persons, animals, or other property and which is, permanently affixed to the land.

Building, attached: A building attached to another building when the buildings share at least 8 feet of a common wall. Also, the attachment must be constructed on a minimum of a forty-two (42) inch deep foundation and be enclosed by a roof and permanent walls.

Building, detached: A building surrounded by open space on the same lot as a principal building.

Building Height: The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.

Building, principal: A building which is designed, used, or intended to be occupied and maintained for the principal use on a zoning lot.

Bulk: The term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another, and includes:

- a. Height and area of buildings.
- b. Location of exterior walls in relation to lot lines, streets, or other buildings.
- c. Gross floor area of buildings in relation to lot area (floor area ratio).
- d. All open spaces allocated to buildings.
- e. Amount of lot area required for each dwelling unit.

Campgrounds: (See "Recreational Camps").

Car Wash: A building, or portion thereof, containing facilities for washing one or more automobiles, using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices; or providing space, water, equipment, or soap for the complete or partial hand-washing of such automobiles, whether by operator or by customer.

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Certificate, zoning: The written approval of the Zoning Enforcing Officer certifying that the applicant's plans and drawings comply with all applicable provisions of this Ordinance. The "zoning certificate" may consist of a standardized independent form bearing the signature of the Zoning Enforcing Officer. It may be represented as a part of the building permit or application.

Clinic: An individual or organization offering medical, psychological and/or dental services.

Club or Lodge, private (nonprofit): A nonprofit association of persons, who are bona fide members paying dues, which owns, hires, or leases a building, or portion thereof; the use of such premises being restricted to members and their guests. The affairs and management of such "private club or lodge" are conducted by a board of directors, executive committee, or similar body chosen by the members. It shall be permissible to serve meals and beverages on such premises, and where licensing is required, such license shall be prerequisite to the issuance of a permit.

Coin-operated Amusement Device: The term "coin-operated amusement device" as used herein shall mean any machine which upon monetary exchange between patron and owner and/or his employee or upon the insertion of a coin, slug, token, plate, or disc, may be operated by the public generally for the use as a game, entertainment, or amusement, whether or not registering a score. It shall include such devices as marble machines, pinball machines, electronic games, skill balls, mechanical grab machines, pool tables, coin-operated music players and all games, operations or transactions, similar thereto under whatever names games may be known.

Convalescent or Nursing Home: A private home for the care of the aged or infirm, or a place of rest for those suffering bodily disorders.

Cubicle: Synonymous with "booth," as defined herein.

Decibel: A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in "decibels".

Deck: An exterior floor system supported on at least two opposing sides by an adjoining structure and/or posts, piers, or other independent supports

District, zoning: A section of the County within which the regulations governing the use of land are uniform.

Door: Full, complete, non-transparent closure device that obscures the view or activity taking place within the enclosure.

Drive-in and/or Take-out Establishment: A place of business being operated for the sale and purchase at retail of food and other goods, services or entertainment, which is laid out and equipped so as to allow its patrons to be served or accommodated while remaining in their automobiles, or which allows the consumption of food or beverage in automobiles on the premises or elsewhere on the premises but outside any completely enclosed structures. If, in addition to the consumption of any food or beverages in automobiles or elsewhere on the premises outside any completely enclosed structure, an establishment also allows for the consumption of such products within a completely enclosed structure, it shall be considered a drive-in and/or take-out establishment. The term "drive-in and/or take-out establishment" shall include, but is not limited to: automobile service stations; car washes; drive-in restaurants, diners, grills, luncheonettes, sandwich stands, snack shops, soda fountains or short order cafes; drive-in banks; and drive-in theaters.

Dustless surface: Surface constructed of concrete, asphalt, or smooth grass turf.

Dwelling: A building, or portion thereof designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, multiple-family dwellings and apartment hotels, but not including hotels, motels, trailer coaches or mobile homes.

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Dwelling, attached: A dwelling which is joined to another dwelling at one or more sides by party walls.

Dwelling, detached: A dwelling which is entirely surrounded by open space on the same lot.

Dwelling, multiple-family: A building, or portion hereof, containing three (3) or more dwelling units.

Dwelling, single-family: A building containing one dwelling unit only.

Dwelling, two-family: A building containing two (2) dwelling units.

Dwelling Unit: Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities that are used, or intended to be used, for living, sleeping, cooking and eating.

Erected: Set up, raised, built or moved into place.

Establishment, Business: A place of business carrying on operations which is separate and distinct from those of any other place of business located on the same zoning lot.

Exit Discharge Grade: The elevation of finished exterior surface of paved or unpaved ground at any exit discharge doorsill.

Extended Medical Care Facilities: Those medical facilities designed to accommodate inpatients in need of recuperative periods requiring nursing attention and periodic medication.

Family: Excepting domestic employees, any number of persons related by blood or marriage, or not to exceed five (5) persons not so related, using common cooking facilities and living and eating together on the premises as a single housekeeping unit.

Floor Area (for determining floor area ratio): The sum of the gross horizontal area of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings. The "floor area" of a building shall include basement floor area, elevator shafts, and stairwells on each floor, floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof), penthouses, attic space having headroom of seven (7) feet or more, interior balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses. However, any space devoted to off-street parking or loading shall not be included in "floor area".

The "floor area" of structures devoted to bulk storage of materials including, but not limited to, grain elevators and petroleum storage tanks shall be determined on the basis of height in feet; i.e., ten (10) feet in height shall equal one floor.

Floor Area (for determining off-street parking and loading requirements): The sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space such as counters, racks or closets, and any floor area devoted to retailing activities, to the production or processing of goods or to business or professional offices.

However, "floor area" for the purposes of measurement for off-street parking spaces shall not include: floor area devoted primarily to storage purposes (except as otherwise noted herein); floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space, or mechanical or storage floor area other than area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

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Floor Area Ratio (FAR): The floor area of the building or buildings on a zoning lot divided by the area of such zoning lot, or, in the case of planned unit developments, by the net site area. The "floor area ratio" requirements—as set forth under certain zoning districts—shall determine the maximum floor area allowable for the building or buildings (total floor area of both principal and accessory buildings) in direct ratio to the gross area of the zoning lot.

Frequency: The number of oscillations per second in a sound wave and is an index of the pitch of the resulting sound.

Frontage, block: The length of all the property fronting on one side of a street between the two (2) nearest intersecting streets, measured along the right-of-way line of the street, or if dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

Frontage, zoning lot: The width of all the property of such zoning lot fronting on a street, measured between side lot lines at the street right-of-way line.

Garages, private: A detached accessory building or portion of a main building housing the automobiles of the occupants of the premises.

Garages, public: A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing or parking motor-driven vehicles. The term "repairing" shall not include an automotive body repair shop or the rebuilding, dismantling, or storage of wrecked or junked vehicles, unless expressly authorized.

Garage, storage: A building or portion thereof designed or used exclusively for term storage, by prearrangement, of motor-driven vehicles, as distinguished from daily storage, furnished transients, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired, or sold.

Garbage: Putrescible animal or vegetable waste resulting from the handling, preparation, cooking, or consumption of foods.

Garbage Disposal: Collected or community garbage disposal by covered burial or incineration within a fully-enclosed building.

Grade: The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

Ground Floor: The lowest habitable level of a building, excluding the basement, regardless of its relation to the surrounding exterior grade.

Group Home: A dwelling occupied by no more than eight (8) persons with a handicap as the word "handicap" is defined in the Federal Fair Housing Act as amended (42 U.S.C. 3602(h)).

Guest, permanent: A person who occupies or has the right to occupy a hotel or motel or apartment hotel accommodation as his domicile and place of permanent residence.

Health and Recreation Club or Association: An organization engaged in the business of providing for its members, services and facilities related to encouraging and promoting the health and well-being of its members, by providing recreational facilities of swimming pool, tennis courts, handball and racquetball courts, and weight control facilities of sauna and steam baths, weight lifting equipment, exercise equipment, whirlpool and massage, and such other services and facilities consistent with and directly related to fostering the health and well-being of its members.

Helicopter: An aircraft that is supported in the air by one or more rotors revolving on a substantially vertical axis.

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Heliport: Any area of land which is used or intended for use for the landing and taking off of helicopters and any appurtenant areas, including rights-of-way, which are used or intended for use for buildings or other facilities related to the operation, service and storage of helicopters on said area of land.

Home Occupation: A gainful occupation, profession, business or commercial activity engaged in by the occupant of a dwelling as an accessory use, incidental and secondary to the principal use of the dwelling and shall meet the following requirements: shall be operated entirely within the dwelling and only by the occupant of the dwelling; shall not permit the conduct of retail business, other than by mail, manufacturing business or repair shop of any kind; shall not be operated in any accessory building; shall not include any outside employees; shall not include the arrival and/or departure of outside employees from the residence and/or property; shall not permit any commercial vehicles in excess of 3/4 ton inside or outside of any buildings on the property; shall not permit more than one (1) commercial vehicle under 3/4 ton; shall not permit the parking of more than three (3) cars simultaneously on the property, outside of the road right-of-way, for customers or clients; shall not permit delivery by other than private passenger vehicles, parcel service, or letter carrier; shall not permit teaching, with musical, dancing and/or other instruction and counseling of more than one (1) person at a time; shall not permit any exterior display, storage or evidence of the home occupation, except for one (1) sign, not over two (2) square feet in area; shall not allow the operation of a barber shop or beauty parlor with more than one (1) chair. Any home occupation that creates objectionable noise, fumes, odor, dust, vibrations, or electrical interference outside the structure, or more than normal residential traffic, or a nuisance to neighboring property, shall be prohibited.

Hospital or Sanitarium: An institution open to the public in which patients or injured persons are given medical or surgical care; or for the care of contagious diseases.

Hotel or Motel: An establishment consisting of a group of attached living or sleeping accommodations with individual bathrooms and designed for use by transients in contradistinction to a boarding, rooming, or lodging house.

Incidental Building or Use: (See "Accessory" or "Incidental Building or Use").

Incompatible Use: A use or service which is unsuitable for direct association with certain other uses because it is contradictory, incongruous, or discordant.

Industrial Park: A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.

Itinerant Aircraft: "Aircraft", as defined herein, en route between two (2) or more points but not based aircraft at a given facility.

Junk (or salvage) Yard: Any place where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A "junk or salvage yard" includes an auto wrecking yard (see definition).

Kennel: An establishment where household pets, such as, dogs and cats, are bred, trained, boarded or groomed.

Limited Access Highway: A public highway or street, including a toll highway, duly designated as a "freeway" pursuant to the provisions of the Illinois Highway Code.

Livestock: Domestic animals, such as, horses, sheep, hogs or goats, raised for home use or for profit.

Lodging House (including boarding and rooming house): A residential building, or portion thereof, other than a motel, apartment hotel, or hotel, containing lodging rooms which accommodate persons, not exceeding twenty (20) in number, who are not members of the keeper's family. Lodging with or without meals is provided for compensation.

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Lodging Room (rooming unit): A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one "lodging room" for the purposes of this Ordinance.

Lot: A parcel of land which is either a "lot of record" or a "zoning lot".

Lot area, gross: The area of a horizontal plane bounded by the front, side, and rear lot lines, but not including any area occupied by the waters of a duly recorded lake or river.

Lot, corner: A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty-five (135) degrees.

Lot Depth: The mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.

Lot, interior: A lot other than a corner or reversed corner lot.

Lot Line, front: That boundary of a lot which is along an existing or dedicated public street, or where no public street exists, is along a public way. The owner of a corner lot may select either street lot line as the front lot line. In the case of land-locked or partially land-locked land, the front lot line shall be that lot line that faces the access to the lot.

Lot Line, rear: That boundary of a lot which is most distant from, and is, or is most nearly, parallel to, the front lot line.

Lot Line, side: Any boundary of a lot which is not a front lot line or a rear lot line.

Lot of Record: A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Kane County, or a parcel of land, the deed to which was recorded in the office of said County Recorder.

Lot, reversed corner: A corner lot the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.

Lot, through: A lot having a pair of opposite lot lines along two (2) more or less parallel public streets, and which is not a corner lot. On a "through lot" both street lines shall be deemed front lot lines.

Lot Width: The horizontal distance between the side lot lines of a lot, measured at the required setback line.

Lot, zoning: A single tract of land located within a single block, which is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. Therefore, a "zoning lot or lots" may or may not coincide with a lot of record.

Marquee: A roof-like structure of a permanent nature which projects from the wall of a building.

Massage Parlor: An establishment or place primarily in the business of providing massage services, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Mezzanine: An intermediate story between the floor and ceiling of a main story and extending over only part of the main floor.

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Migrant Labor Camp: As defined in the Illinois Migrant Labor Camp law 210 ILCS 110/, one or more buildings, structures together with the land appertaining thereto established, operated or maintained as living quarters for (10) ten or more migrant workers or (4) or more families containing migrant workers who are engaged in agricultural activities.

Migrant Worker: Any person who moves seasonally from one place to another, within or without the state, for the purpose of employment in agricultural activities.

Mixed use: A building under one ownership which contains dwellings either located above the ground floor or to the rear of the building and permitted restricted business uses, per this ordinance, located on the ground floor or to the front of the building.

Mobile Home: A dwelling unit designed to be transported on streets and highways to the place where it is to be occupied as a dwelling unit complete and ready for year-round and permanent occupancy; except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, and connection to electrical, water, and sewer systems in a mobile home park.

Mobile Home Park: A parcel or tract of land developed with facilities for locating mobile homes, provided each mobile home contains a kitchen, flush toilet, and shower or bath. It shall not include a sales lot in which automobiles or unoccupied mobile homes are parked for the purpose of inspection or sale. Mobile home parks shall comply with all Kane County Ordinances.

Motel: (See "Hotel or Motel").

Motor Freight Terminal: A building or area in which freight, shipped by motor truck or railroad, is received, assembled, sorted, and/or rerouted for local, intrastate, or interstate shipment by motor truck.

Museum: A place or building in which works of artistic, historical or scientific value are cared for and exhibited.

Nightclub: An establishment serving food and/or liquor and providing music and space for dancing by patrons only. A nightclub shall not include an "adult business."

Nonconforming Building or Structure: Any building or structure, lawful at the time of enactment of this ordinance, which:

- a. Does not comply with all of the regulations of this ordinance or of any amendment hereto governing bulk for the zoning district in which such building or structure is located; or
- b. Is designed or intended for a nonconforming use.

Nonconforming Use: Any use of land, buildings, or structures, lawful at the time of the enactment of this Ordinance, which does not comply with all of the regulations of this ordinance or of any amendment hereto governing use of the zoning districts in which such use is located.

Nudity: The display of the human male or female genitalia; pubic hair, buttocks; perineum; anal or pubic regions; female breast, at or below the areola thereof, with no covering or with a less than fully opaque covering; or, male genitalia, in a discernible turgid state, with or without covering.

Nursery School/Pre-School/Child Care Center: Any establishment which regularly provides supplemental parental care and supervision, and/or educational instruction for less than twenty-four (24) hours per day to more than eight (8) children in a facility other than a single-family home. In addition, the establishment shall conform to all other licensing standards and requirements for day care centers adopted by the State of Illinois.

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Nursing and Convalescent Home: A building and premises for the care of sick, infirm, aged, or injured persons to be housed; or a place of rest for those who are bedfast or need considerable nursing care, but not including hospitals, assisted living facilities or group homes.

*Obscene*¹: Any material or performance is obscene if:

1. The average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and
2. The average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and
3. Taken as a whole, it lacks serious literary, artistic, political or scientific value.

Octave Band: A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

Odorous Matter: Any matter or material that yields an odor which is offensive in any way.

Operator: Any person, (whether said persons be an individual, partner, corporation, joint stock company, fiduciary, officer, director, stockholder, employee, or manager), that conducts, maintains or owns any Adult Business.

Owner/Applicant: The person, firm, corporation, company, limited liability corporation or other entity seeking County approval under this Section, as well as its successor(s), assign(s) or transferee(s), for a Wind Energy Turbine (WET). An owner/applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate the WET. The duties and obligation regarding building permit approval for any approved WET shall be with the owner/applicant of the WET, and jointly and severally with the owner and operator or lessee of the WET if different than the owner/applicant.

Parking Space: An enclosed or unenclosed surfaced area permanently reserved for the temporary storage of one (1) automobile and appropriately connected with a street or alley by a surfaced driveway affording adequate ingress and egress. Such space shall be at least nine (9) feet in width and eighteen (18) feet in length and meet all other requirements of this Ordinance.

Particulate Matter: Dust, smoke, or any other form of airborne pollution in the form of minute separate particles.

Patio: A paved ground area near the house.

Patron: Any customer, patron or visitor to an Adult Business who is not employed by any operator of said establishment.

Pets: Animals kept for amusement or companionship, such as dogs and cats.

Planned Unit Development: A parcel of land or contiguous parcels of land of a size sufficient to create its own environment, controlled by a single landowner or by a group of landowners in common agreement as to control, to be developed as a single entity, and the environment of which is compatible with adjacent parcels; the developer or developers may be granted relief from specific land-use regulations and design standards in return for assurances of an overall quality of development, including any specific features which will be of exceptional benefit to the County as a whole.

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Porch, open: A covered platform at an entrance to a house which is not enclosed wholly or in part.

Poultry Farm: Any tract of land on which poultry or poultry products are raised or produced for sale.

Private Landing Strip: Any area of land which is used or intended for use for landing and taking off of airplanes and any appurtenant land areas which are used or intended for use as housing for such airplanes or storage facilities connected therewith.

Property Lines: The lines bounding a lot of record or a zoning lot, as defined herein.

Public Use Airport: An area of land which is used or intended for use for the landing and taking off of aircraft and any appurtenant areas, including right-of-ways, which are used or intended for use for buildings or other facilities related to the operation, service and storage of aircraft on said area of land.

Public Way: Any sidewalk, street, alley, highway, or other public thoroughfare.

Rap Parlor: An establishment or place primarily in the business of providing non-professional conversation or similar services for adults, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Recreational Camp: A "recreational camp" is any area of land where one or more tents, travel trailers, or other nonpermanent type shelters are erected or maintained primarily for recreational camping activities. It shall include all related buildings and facilities and may include not more than one permanent residence for manager or caretaker. Related buildings and facilities may include an office and delicatessen and/or grocery store to be operated during the camping season for patrons of camp only. Individual sites for tents, travel trailers, or other temporary shelters shall be not less than one thousand (1,000) square feet in area, not including any required roadways, walkways or screening.

Research Laboratory: A building or group of buildings in which are located facilities for scientific research, investigation, testing or experimentation, but no facilities for the manufacture of products for sale.

Reservoir Parking Facilities: Those off-street parking spaces allocated to automobiles awaiting entrance to a particular establishment.

Restaurant: A business establishment within which food is offered for sale and consumption within the structure on the premises, or, on the premises.

Restaurant Drive-in: (See "Drive-in and/or Take-out Establishment").

Restaurant Takeout: (See "Drive-in and/or Take-out Establishment").

Restricted Landing Field: Any area of land which is used or intended for use for the landing and taking off of aircraft authorized in an A-1 District and any appurtenant areas, including right-of-ways, which are used or intended for use for buildings or other facilities related to the operation, service and storage of aircraft based on said area of land.

Ringelmann Chart: A chart which is described in the U. S. Bureau of Mines Information Circular 8333 and on which are illustrated graduated shades of grey for use in estimating the light obscuring capacity of smoke and smoke density.

Ringelmann Number: The number of the area on the Ringelmann Chart that coincides most nearly with the visual density of emission or the light obscuring capacity of the smoke.

Roadside Stand: A structure for the display and sale of agricultural products, with no space for customers within the structure itself.

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Room: Synonymous with "booth," as defined herein.

Rooming Unit: A term used in this ordinance to regulate residential density in boarding, lodging, and rooming houses. "Rooming unit" is synonymous with "lodging room."

Sadomasochistic Activity: Flagellation or torture by or upon a nude person; a person clad in undergarments, a mask or bizarre costume. In addition, the condition of being fettered, bound or otherwise physically restrained with the intent to stimulate or arouse sexually the initiator and/or the recipient.

Sell: Includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

Setback: The minimum distance, maintained between a street right-of-way and the nearest supporting member of any structure on the lot.

Sexual Conduct: Ultimate sex acts (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity. In addition, physical contact, intended to stimulate or arouse sexually the initiator and/or the recipient, with a person's unclothed genitalia, buttocks, perineum, anal or pubic regions, or female breast.

Sign: A name, identification, description, display, or illustration which is affixed to, or represented directly or indirectly upon, a building, structure, or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization, or business. However, a "sign" shall not include any display of official court or public office notices nor shall it include the flag, emblem, or insignia of a nation, political unit, school, or religious group. A "sign" shall not include a sign located completely within an enclosed building, which sign is not visible from outside the building.

Sign, advertising, billboard: A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at any location other than upon the premises where such sign is located or to which it is affixed. For the purpose of definition, an advertising sign or billboard may be single faced, double faced or a V-type structure.

Sign, business: A sign which directs attention to a business or profession conducted, or to a commodity, service or entertainment sold or offered, upon the premises where such sign is located or to which it is affixed.

Sign Display Area: Shall mean the advertising display surface area (copy area) encompassed within any regular geometric figure which would enclose all parts of the sign. The structural support for a sign, whether they be columns, pylons, or a building, or a part thereof, shall not be included in the advertising area.

Sign, flashing: Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this Ordinance, any moving, illuminated sign shall be considered a "flashing sign."

Sign, monument: An identification sign which is so designed and constructed as to complement the premises being identified. Ordinarily, the letters or numbers of such sign are engraved into or raised upon natural stone, heavy lumber, or masonry.

Sign, obsolete: Any sign which no longer correctly directs or exhorts any person or advertises a business, service, product, tenant, or activity no longer conducted, available, or in existence.

Sign, political: Any temporary sign which supports the candidacy of any candidate for public office or urges action on any other matter on the ballot of primary, general, or special elections.

Sign, projecting: A sign which extends more than six (6) inches from the face of the wall of the structure to which it is affixed.

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Sign, roof: A sign erected upon or above a roof or parapet wall of a building and which is wholly or partially supported by said building.

Sign, temporary or seasonal: A temporary or seasonal sign shall include signs displayed in F District Farming, only for the purpose of identifying activities or products associated with the farming operations during appropriate seasons of the year, to be removed at end of said season.

Sign, wall: Any flat sign which is placed against a building or other structure and attached thereto in such manner that only one side is visible.

Sign, window: Any temporary sign affixed to the interior or exterior of a window, or any sign located inside a building within six (6) feet of the interior side of a window and displayed so as to attract the attention of persons outside the building. Merchandise which is included in a window display shall not be considered as part of window sign.

Small Structure Mounted Wind Energy Turbine (SSM-WET): A structure-mounted wind energy system that converts wind energy into electricity through the use of equipment (wind turbine, a tower or post, and associated control or conversion electronics). SSM-WETs are attached to a structure's roof, walls, foundation, or another elevated surface. SSM-WETs have nameplate capacities that do not exceed ten (10) kilowatts and are intended to primarily reduce on-site consumption of utility power.

Small Tower Mounted Wind Energy Turbine (STM-WET): A tower-mounted wind energy system that converts wind energy into electricity through the use of equipment (wind turbine, a tower, and associated control or conversion electronics). STM-WETs have nameplate capacities that do not exceed one-hundred (100) kilowatts and are intended to primarily reduce on-site consumption of utility power.

Stable, boarding: A building or structure where horses are kept for remuneration but limited to not more than ten (10) horses and not including the sale of any products.

Stable, private: A building or structure which is located on a lot on which a dwelling is located, and which is designed, arranged, used or intended to be used, for housing horses for private use of occupants of the dwelling.

Stable, public: A building or structure where horses are kept for remuneration, hire or sale, and may include sale of riding equipment.

Story: That part of a building between any floor and the floor next above, and if there be no floor above, then the ceiling above. A basement is a story if its ceiling is six (6) feet or more above the level from which the height of the building is measured, or if it is used for business purposes, or if it contains any dwelling units other than one dwelling unit for the caretaker of the premises.

Street: A public or private right-of-way which affords a primary means of vehicular access to abutting property, whether designated as a street, avenue, highway, road, boulevard, lane, throughway, or however otherwise designated, but does not include driveways to buildings.

Structure: Anything erected, the use of which requires a location on or in the ground, or attached to something having a location on or in the ground, including advertising signs and billboards and supports and frames thereof.

Structural Alterations: Any change in the supporting members of a building or structure, including any change in bearing walls, columns, beams, girders, and supports and frames of signs and billboards.

Telephone Booth: A small, enclosed, structure usually accommodating a single person, and equipped with a telephone for use by the public.

Telephone, pedestal mounted: A small, semi-enclosed structure mounted on a pedestal-type support and containing a telephone for use by the public.

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Tourist Court and Motor Lodge: A group of detached buildings containing individual sleeping or living units, including bathrooms, designed for or used temporarily by automobile tourists or transients, with garage attached or parking space conveniently located to each unit, including auto courts, motor lodges, or other similar type facilities, provided that there is allotted to each living unit not less than one thousand two hundred (1,200) square feet of lot area not including driveway and service areas.

Tower Height. The vertical distance as measured from the ground level of the base of a STM-WET tower to the uppermost vertical extension of a rotor blade, or the maximum height reached by any part of a STM-WET.

Townhouse: A multiple-family dwelling which is normally two (2) but can be one to three (3) stories in height, usually with the living room, dining room, and kitchen on the ground floor, with sleeping rooms on the upper floor(s). Townhouses provide flexibility by allowing several single-family dwelling units with additional living space in the basement to be constructed in one structure around a street or court. This type of construction provides low-lot coverage with open space and landscaping.

Trailer coach: (See "Mobile Home.")

Trailer park: (See "Mobile Home Park.")

Travel Trailer: A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses. A "travel trailer" shall include the following: self-contained travel trailer, pickup coach, motorized home and camping trailer.

Trucks: For the purpose of this ordinance, a truck will be any vehicle that exceeds the standards of the State of Illinois licensure classification of "B," which is a second division vehicle weighing up to 8,000 lbs.

Underage²: Any person under eighteen (18) years of age, the legally minimum age at which one can purchase or view adults-only items.

Use: The purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

Use, interim special: A special use that may be granted on zoning lots in the F and F-2 Districts which might remain unused or unoccupied by uses otherwise permitted in the district. An "interim special use" may be granted for only a limited period of time, not to exceed (5) years.

Use, interim for cultivation of controlled substances licensed by the State of Illinois: An interim use that may be granted on zoning lots in the F, F-2, B-3, LI and I specifically for the cultivation of controlled substances licensed by the State of Illinois. An "interim special use" may be granted for only a limited period of time, not to exceed (5) years.

Use, interim for dispensing of controlled substances licensed by the State of Illinois: An interim use that may be granted on zoning lots in the RB, B-1, and B-3 specifically for the dispensing of controlled substances licensed by the State of Illinois. An "interim special use" may be granted for only a limited period of time, not to exceed (5) years.

Use, permitted: A use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such district.

Use, principal: The main use of land or buildings as distinguished from a subordinate or accessory use. A "principal use" may be "permitted" or "special".

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Use, special: A use, either public or private, which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district or districts. After due consideration, in each case, of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, such "special use" may or may not be granted, subject to the terms of this ordinance.

Vibration: The periodic motion of particles or elastic body.

Vibration Frequency: The number of oscillations per second of a vibration.

Yard: An unoccupied open space on the same zoning lot with a building or structure. A "yard" extends along a lot line, and to a depth or width specified in the yard requirements for the zoning district in which such zoning lot is located.

Yard, corner side: A side yard which adjoins a public street.

Yard, front: A yard extending along the full length of the front lot line between the side lot lines.

Yard, interior side: A yard which is located immediately adjacent to another recorded or zoning lot or to an alley separating such side yard from another lot.

Yard, rear: A yard extending along the full length of the rear lot line between the side lot lines.

Yard, side: A yard extending along a side lot line from the front yard to the rear yard.

Yard, transitional: That yard which must be provided on a zoning lot in a Commercial District which adjoins a zoning lot in a Residential District, or that yard which must be provided on a zoning lot in an Industrial District which adjoins a zoning lot in either a Residential or Commercial District.

Zoning Enforcing Officer: The officer designated by the County Board as the officer responsible for enforcing and administering the requirements of this Zoning Ordinance. (Ord. No. 78-79, § 1, 6-13-78; Ord. No. 80-37, § 2, 3-13-80; Ord. No. 82-66, 5-11-82-1 Ord. No. 83-15, 1-11-83; Ord. No. 88-62, 5-10-88; Ord. No. 90-176, 8-14-90; Ord. No. 92-187, 9-8-92; Ord. No. 97-46, 2-13-97; Ord. No. 97-240, 9-9-97; Ord. No. 02-81, 3-12-02; Ord. No. 08-07, 1-8-08; Ord. No. 14-200, 7-8-14)

ARTICLE IV. ADMINISTRATION AND ENFORCEMENT

[Sec. 4.0. Generally.]

The primary administration and enforcement responsibilities of this Ordinance is hereby vested in the Zoning Enforcing Officer, the Zoning Board of Appeals and the County Board of Kane County, Illinois.

Sec. 4.1. Zoning Enforcing Officer.

There is hereby created the position of Zoning Enforcing Officer, whose office shall be located in the County Government Center, and said person to be selected by the County Board shall be designated as the Zoning Enforcing Officer. It shall be his duty to administer and enforce the provisions of this Ordinance, and to that end he shall have the power to make such orders, requirements, decisions, and determinations as are necessary with respect to applications for permits and the enforcement of this Ordinance.

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Sec. 4.2. Zoning Board of Appeals.

4.2-1 Creation and Membership.

A Zoning Board of Appeals, hereafter referred to by the term Zoning Board or Board of Appeals, is hereby authorized to be established. Such Zoning Board shall consist of seven (7) members appointed by the Chairman of the County Board and confirmed by the members of the County Board of Kane County. All members shall be appointed for a 5-year term.

Vacancies shall be filled by the Chairman of the County Board for the unexpired terms only subject to confirmation by the County Board at its next meeting. The Chairman of the County Board shall have power to remove any members of the Zoning Board, for cause, after a public hearing upon giving ten (10) days written notice thereof. (Ord. No. 78-3, 1-10-78)

4.2-2 Chairman and Meetings.

The Chairman of the County Board of Kane County shall name one of the members of the Zoning Board as chairman upon his appointment and in case of vacancy shall name the chairman. All meetings of the Zoning Board shall be held at the call of its chairman or any three (3) members of the Zoning Board, at such times and places within the County as the Zoning Board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board shall be open to the public.

The Zoning Board shall keep minutes of its proceedings showing the vote of each member upon every question, or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board shall immediately be filed in the office of the Zoning Board located in the Development and Community Services Department and shall be a public record. In the performance of its duties, the Zoning Board may incur such expenditures as shall be authorized by the County Board of Kane County. The Zoning Board shall adopt its own rules of procedure not in conflict with the statute or this Ordinance.

4.2-3 Jurisdiction.

The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Enforcing Officer charged with the enforcement of this Ordinance. It shall also hear and decide all matters referred to it or upon which it is required to pass under this Ordinance.

The concurring vote of five (5) members of the Board of Appeals shall be necessary to reverse any orders, requirements, decisions or determinations of the Zoning Enforcing Officer or to decide in favor of the applicant any matter upon which it is required to pass under this ordinance, or to effect any variations in this ordinance.

The Board of Appeals shall also have the power to exercise such other powers as are or may be vested in the Board of Appeals.

4.2-4 Rules.

In addition to the rules specified in sections 4.2-1 through 4.2-3 of this Ordinance as well as in the state statutes, the following Rules of the Kane County Zoning Board of Appeals, as adopted on May 26, 1938, and amended from time to time shall apply.

- a. Acting Chairman. The ranking member of the Zoning Board shall act as Chairman in the absence of the Chairman.

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- b. Points of Order. All points of order, not otherwise covered, shall be decided by the Chairman, subject to appeal to the Zoning Board.
- c. Zoning Board of Appeals Records. The Director of the Development and Community Services Department shall be responsible for the keeping of the minutes of the proceedings of the Zoning Board and to direct the keeping of its records in the Development and Community Services Department. Each case coming before the Zoning Board shall be numbered consecutively and all records of the Zoning Board relating thereto shall carry such number and be filed together.
- d. Publications and Notices. The Chairman, or in his absence the acting Chairman, shall determine the time and place of each meeting and hearing. Official publications and notices of the Zoning Board shall be prepared and processed by the Director of the Development and Community Services Department, in the name of the Zoning Board.
- e. Meetings and Hearings. Four members shall be necessary in order to vote on (1) the granting of a variation, (2) reversing any order, requirement, decision or determination of the Enforcing Officer, or (3) recommending passage of a proposed amendment. Any two or more members may, upon the stipulation of all parties present at any public hearing, consent to sit for the purpose of hearing and taking evidence for submission to a subsequent hearing of the Zoning Board at which formal action may be taken.
- f. Time Limit for Appeal. Notice of intention to appeal from any order, requirement, decision or determination made by the Enforcing Officer shall be made within thirty (30) days.
- g. Withdrawals. Any appeal or application may be withdrawn prior to action with the consent of the Zoning Board, but in no case shall fees received be returned without proper action of the Kane County Development Committee.
- h. Rehearings. No rehearing on an appeal or application for a variation or amendment previously denied by the Zoning Board, or reconsideration of the vote thereon, may again be entertained unless in the judgment of the Zoning Board new plans or new conditions materially change the aspect of the case or new evidence should be heard. In case of a reversal, the rights of others to appeal to a court shall not be prejudiced. All petitions for a rehearing shall be presented within ten (10) days after decision of the Zoning Board of Appeals.
- i. Annual Report. A report of the activities of the Zoning Board as of November 30 shall be made to the County Board of Kane County at their December meeting each year.
- j. Rules of Order. Robert's Rules of Order shall govern the procedure of the Zoning Board where they apply and do not conflict with these rules, the Zoning Ordinance or the statutes.
- k. Suspension of Rules. These rules may be suspended only upon the affirmative vote of five (5) members of the Zoning Board.
- l. Amendment. These rules may be amended at any meeting by a majority vote of the Zoning Board, provided the notice of the meeting contains the proposed amendment.
- m. Investigations. Upon the filing of an application for an amendment or for a variation and the payment of the required fee, the Enforcing Officer shall immediately make or direct such inspections, studies, photographs and drawings of the existing conditions involved and the effect of the proposed building, structure or use as may be necessary for careful consideration of the proposal by the Zoning Board, and after each member is encouraged to visit the site before the hearing. (Ord. No. 78-141, 10-10-79; Ord. No. 05-304, 9-13-05; Ord No. 12-295. 10-9-12)

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Sec. 4.3. Permits.

4.3-1 A written permit shall be obtained from the Building Enforcing Officer, located in the County Government Center, Geneva, Illinois, before starting:

- a. To establish any new use of property;
- b. To excavate for or build any foundation;
- c. To erect, construct, reconstruct, enlarge, alter or move any building or structure;
- d. To change the use of any building, structure, or land from one classification to another, or
- e. In the case of nonconforming uses, to change from one use to another;
- f. To dig or drill any well; and
- g. To install, add to or repair any sewerage disposal system.

4.3-2 Signs (except as herein provided) and fences which cannot be viewed through, and concrete, stone or masonry walls, shall require permits. Each permit issued for a main building shall also cover any accessory buildings constructed at the same time. Any new use or change in use authorized by permit but not started or made within ninety (90) days shall require a renewal permit.

4.3-3 Applications for the permits shall be filed in written form with the Enforcing Officer, shall state the legal description of the property as of public record and the name of owner and applicant and shall describe the uses to be established or extended, and shall give the estimated cost and such other information as may be required for the enforcement of this ordinance. Each copy of the application shall be accompanied by a dimensioned drawing of the building plot showing the location of buildings and structures, lot areas to be used, auto parking areas, and other pertinent information. All applications for permits and copies of permits issued shall be systematically kept for ready public reference by the Enforcing Officer.

4.34 No building permit as required by this ordinance shall be issued for a building to be constructed on any lot, piece, parcel or tract of land that does not conform with the provisions of Chapter 109, Illinois Revised Statutes, in force from time to time, and the subdivision regulations and other applicable ordinances in force from time to time in this county, and also the Building Ordinance of Kane County, Illinois, adopted December 15, 1954, as amended from time to time.

4.3-5 No building or structure, except advertising signs as permitted herein, shall be constructed on land which is unsuitable for such construction by reason of flooding, bad drainage, adverse earth or rock formation or topography, or any other feature likely to be harmful to the health, safety or welfare of the future inhabitants of said land. Where such condition can be corrected or where construction can be designed to overcome such condition, such correction or construction shall be designed by a registered engineer or architect, qualified for such work, prior to issuance of permit. (Ord. No. 88-62, 5-10-88)

Cross reference—Buildings, Ch. 6.

Sec. 4.4. Variances.

4.4-1 Purpose.

Whenever in a specific case, after an application for a permit has been made to the Zoning Enforcing Officer, an appeal is made to the Zoning Board that there are practical difficulties or particular hardship in the way of carrying out the strict letter of any regulations relating to the construction, alteration or location of buildings or structures, the Zoning Board may determine and vary their application in harmony with the general purpose and intent of such

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regulations, upon such conditions as may be considered appropriate and in the public interest, and in accordance with the rules herein set forth.

4.4-2 Public Hearing.

No variation shall be made except after a public hearing before the Zoning Board of which there shall be at least fifteen (15) days notice of the time and place of such hearing published in a newspaper of general circulation published in the township where property is located. If no newspaper is published in such township, then such notice shall be published in a newspaper of general circulation published in the county where such property is located. Said notice shall contain the particular location for which the variation is requested as well as a brief statement of what the proposed variation consists. However, the Zoning Board may consider an appeal for and decline to grant a variation without a duly advertised hearing upon seven (7) days written notice to petitioner.

4.4-3 Standards for Variances.

No variation shall be made unless the Zoning Board of Appeals finds that there is a practical difficulty or some particular hardship upon the property if the regulations are applied, and shall further find that such variations will not:

- a. Impair an adequate supply of light and air to adjacent property;
- b. Increase the hazard from fire and other dangers to adjacent property;
- c. Diminish the value of adjacent land and buildings;
- d. Increase the congestion or traffic hazards in the public streets and highways; and
- e. Otherwise impair the public health, safety, comfort, morals and general welfare.

4.4-4 Decision of the Zoning Board.

The Board of Appeals shall reach its decision within thirty (30) days from the date of the public hearing on the request for variance. Four (4) of the seven (7) members of the Board of Appeals must concur in order to grant a variance. If the variance is granted, the action of the Zoning Board in granting a variation shall contain or be accompanied by a finding or fact specifying the reason for making such variation.

4.4-5. [Petitions for variations of ten (10) percent or less.]

All petitions for variances which seek a variation of ten (10) percent or less of the requirements of the Kane County Code regarding the location of structures or bulk requirements shall be reviewed and decided upon by the Kane County Zoning Enforcement Officer without a hearing before the Zoning Board of Appeals. However, before such variation may be granted, a Notice of the Intent to Grant such variation shall be sent by certified mail to all adjoining landowners. If any adjoining landowner files a written objection with the Zoning Enforcement Officer within fifteen (15) days of the receipt of such notice, the variation shall not be considered by the Zoning Enforcement Officer under this section, but shall be considered pursuant to Section 4.4-2. (Res. No. 91-52, 3-12-91; Ord. No. 05-304, 9-13-05)

Sec. 4.5. Appeals.

4.5-1 Scope of Appeals.

Any person aggrieved or any officer, department, board or bureau of the county may appeal to the Zoning Board to review any order, requirement, decision or determination made by the Enforcing Officers or to interpret the regulations. Such appeal shall be taken within such time as shall be prescribed by the Zoning Board by general rule as set forth in Section 4.2-4, by filing with the Enforcing Officers from whom the appeal is taken and with the Zoning

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Board, a notice of appeal, specifying the grounds thereof. The Enforcing Officer shall forthwith transmit to the Zoning Board all the papers constituting the record upon which the action appealed from was taken.

4.5-2 Stay of Any Action.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Enforcing Officer certifies to the Zoning Board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board, or by a court of record on application, on notice to the Enforcing Officer and on due cause shown.

4.5-3 Notice of Hearing.

The Zoning Board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent or by attorney. The Zoning Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the Enforcing Officer.

4.5-4 Decision of the Zoning Board.

The Board of Appeals shall reach its decision within thirty (30) days from the date of the public hearing on the appeal. The concurring vote of four (4) members of the Zoning Board shall be necessary to reverse any order, requirement, decision or determination of the Enforcing Officer. (Ord. No. 05-304, 9-13-05)

Sec. 4.6. Appeals to courts.

All final administrative decisions of the Board of Appeals are subject to judicial review pursuant to the provisions of the "Administrative Review Act", approved May 8, 1945, and all amendments and modifications thereof and the rules adopted pursuant thereto.

State law reference—Administrative review act, Ill. Rev. Stat. Ch. 110, § 264 et seq.

Sec. 4.7. Amendments.

4.7-1 Initiation of Amendments.

For the purposes of this section, the term "text amendment" means an amendment to the text of this ordinance, which affects the whole county, and the term "map amendment" means an amendment to the zoning map which affects an individual parcel or parcels of land. Amendments may be proposed by the County Board, the Zoning Board of Appeals or by any person, firm, corporation, or other legal entity having a freehold interest in the subject property, or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest and which is specifically enforceable. Proposed amendments shall be directed to the Zoning Board of Appeals for consideration and report to the County Board.

4.7-2 Public Hearing.

No amendment to this ordinance shall be made without a hearing before the Zoning Board of Appeals. At least 15 days notice of the time and place of such hearing shall be published in a newspaper of general circulation in Kane County. Hearings on text amendments shall be held in the court house or other county building with more adequate facilities for such hearings. Hearings on map amendments shall be held in the township or road district affected by the terms of such proposed amendment or in the court house, or other county building with more adequate facilities for such hearings. 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 or road district affected by the terms of such proposed amendment. Within 30 days after the final hearing, the Zoning Board shall file a report with the County Board.

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4.7-3 Action by the County Board.

- a. *Text Amendments:* Text amendments may be passed at a county board meeting by a simple majority of the elected county board members, unless-
1. written protests against the proposed text amendments are signed by 5% of the land owners of the County,
 2. a written protest by resolution of the corporate authorities of a zoned municipality is filed with the County Clerk, or
 3. in the case of a text amendment affecting an unincorporated area of a township having a plan commission, written objections are submitted by the township board of trustees to the County Board within 30 days after the hearing before the Zoning Board of Appeals,

in which case such amendments shall not be passed except by the favorable vote of 3/4 of all the members of the County Board.

- b. *Map Amendments:* Map amendments may be passed at a County Board meeting by a simple majority of the elected County Board members, except that in case of written protest against any proposed map amendment that is either
1. Signed by the owner or owners of at least 20% of the land to be rezoned; or
 2. Signed by the owner or owners of land immediately touching, or immediately across a street, alley, or public right-of-way from at least 20% of the perimeter of the land to be rezoned; or
 3. In cases where the land affected lies within 1¹/₂ miles of the limits of a zoned municipality, by resolution of the corporate authorities of the zoned municipality filed with the county clerk, or
 4. In the case of a map amendment affecting an unincorporated area of a township having a plan commission, written objections are submitted by the township board of trustees to the County Board within 30 days after the hearing before the Zoning Board of Appeals,

such amendment shall not be passed except by the favorable vote of 3/4 of all members of the County Board.

- c. *Written protests:* The original copy of a written protest must be filed with the Kane County Clerk not later than the Friday preceding the county board meeting. A copy of the written protests shall be served by the protestor or protestors on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment. Notwithstanding any other provision of this section, if a map amendment is proposed solely to correct an error made by the county as a result of a comprehensive rezoning by the county, the map amendments may be passed at a county board meeting by a simple majority of the elected board.

4.7-4 Optional Revocation.

In the case of property zoned by the County Board of Kane County but not used within one year from date of said zoning, for purposes permitted in classification to which said property has been zoned, or, if the use of said property has been discontinued for a continuous period of three (3) years, the Zoning Board of Appeals shall have the power to institute proceedings, on its own motion, to consider the rezoning of said property to another classification. (Ord. No. 78-79, §§ 3, 4, 6-13-78; Ord. No. 79-229, § 1, 12-11-79; Ord. No. 82-66, 5-11-82; Ord. No. 92-187, 9-8-92; Ord. No. 97-214, 8-12-97; Ord. No. 97-240, 9-9-97; Ord. No. 02-81, 3-12-02)

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Sec. 4.8. Special uses.

4.8-1 Purpose.

The development and execution of this Ordinance is based upon the division of the County into districts within which districts the use of land and buildings, and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use in the particular location.

To provide for the location of special classes of uses which are deemed desirable for the public welfare within a given district or districts, but which are potentially incompatible with typical uses herein permitted within them, a classification of "special uses" is hereby established.

4.8-2 Public Hearing.

Uses as hereinafter enumerated, which may be proposed for classification as "special uses", shall be considered at a public hearing before the Zoning Board, and its report of findings or fact and recommendations shall be made to the County Board following the public hearing; provided, that the County Zoning Board, in its report of findings or facts and recommendations to the County Board, shall not recommend a special use unless the Zoning Board shall find:

- (a) That the establishment, maintenance or operation of the special use will not be unreasonably detrimental to or endanger the public health, safety, morals, comfort or general welfare;
- (b) 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;
- (c) That the establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
- (d) That adequate utility, access roads, drainage and/or other necessary facilities have been or are being provided;
- (e) 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 and roads;
- (f) 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 recommendations of the Zoning Board of Appeals.

4.8-3 Conditions and Guarantees.

Prior to the granting of any special use, the Zoning Board may recommend and the County Board shall stipulate such conditions and restrictions, upon the establishment, location, construction, maintenance and operation of the special use as is deemed necessary for the protection of the public health, safety and welfare. In all cases in which special uses are granted, the County Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

It shall be required that a detailed plat of all improvements (site plan) shall be submitted to the Zoning Board of Appeals for approval or amendment at the public hearing. Such plat, when approved by the County Board, shall become a part of this Ordinance and development of the site shall be in accordance with said plat. Minor

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variations in the development of the approved plat may be authorized by the Development Committee.

4.8-4 Effect of Denial of a Special Use.

No application for a special use, which has been denied wholly or in part by the County Board, shall be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Zoning Board or County Board.

4.8-5 Revocation.

In any case where a special use has not been established (substantially under way) within one year from the date of granting thereof, then, without further action by the County Board, the special use or authorization thereof shall be null and void, unless in the opinion of the Zoning Enforcing Officer, circumstances beyond the control of the permittee indicate that establishment of the use has been impossible.

If the special use has been established and subsequently discontinued, the Zoning Board of Appeals shall have the power to institute proceedings on its own motion to consider revocation of said special use.

4.8-6 Action by the County Board

a. A Special Use may be passed at a county board meeting by a simple majority of the elected county board members.

Sec. 4.9. Fees.

4.9-1 Fee Schedule.

The fee schedule for activities associated with the enforcement of the requirements of this Zoning Ordinance shall be established by the Kane County Board, as amended from time to time.

4.9-2 Exemptions.

None of the fees established by the Kane County Board shall be collected from any municipal, public or governmental body or corporation. (Ord. No. 97-240, 9-9-97)

Sec. 4.10. Enforcement and penalties.

4.10-1 Any person, firm, company or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of the ordinance, shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each offense. Each week that a violation remains uncorrected constitutes a separate offense.

4.10-2 In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance, the proper authorities of the County, or any person, the value or use of whose property is or may be affected by such violation, in addition to other remedies, may institute any appropriate action or proceedings in the circuit court:

- (a) To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;
- (b) To restrain, correct or abate such violation;
- (c) To prevent the occupancy of said building, structure or land; or
- (d) To prevent any illegal act, conduct, business or use in or about the premises. (Ord. No. 76-29, 3-9-76;

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Ord. No. 94-79, 4-12-94; Ord. No. 97-240, 9-9-97)

ARTICLE V. GENERAL PROVISIONS

Sec. 5.1. Interpretations, purposes and conflicts.

In interpreting and applying the provisions of this Ordinance, they shall be held to being the minimum requirements for the promotion of the public health, safety, morals, comfort and general welfare.

Due allowance shall be made for existing conditions, the conservation of property values and the directions of building development to the best interests of the entire County of Kane.

It is not intended by this Ordinance to interfere with or abrogate or annul any ordinance, resolution, rules, regulations or permits, previously adopted or issued and not in conflict with any of the provisions of this Ordinance relative to the use of buildings, structures or land, nor is it intended by this Ordinance to interfere with, abrogate or annul any easements, covenants or other agreements between parties; provided, however, that wherever this Ordinance imposes a greater restriction upon the use of buildings, structures, land, or requires greater setback, then the provisions of this Ordinance shall control.

Sec. 5.2. Conflicting ordinances.

All ordinances or resolutions or parts thereof in conflict with the provisions herein set forth are hereby repealed insofar as they conflict.

Sec. 5.3. Validity.

- a. Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.
- b. No section, clause or provision of this Ordinance is intended, nor shall be construed, to be contrary to the Federal Fair Housing Act as amended. (42 USC 3601 et seq.), including but not limited to those provisions contained in the Federal Fair Housing Act which may apply to "group homes" as defined herein. (Ord. No. 90-176, 8-14-90)

Sec. 5.4. Scope of regulations.

5.4-1 Things regulated.

Hereafter outside the limits of cities, villages and incorporated towns, the erection of any new building or structure, or the relocation, enlargement or structural alteration of any existing building or structure, or any change in use or new or additional use made of any tract of land or existing building or structure:

- a. Shall be for only those principal uses as permitted in the district in which such building, structure or land is located, including any use or activity customarily incidental or accessory thereto unless otherwise restricted or prohibited;
- b. Shall conform to the provisions of this Ordinance concerning population density;
- c. Shall provide and preserve the required setback distance from adjoining roads or streets, the required side-yards, and the required parking space;
- d. Shall observe the regulations of the Illinois Department of Transportation, Division of Highways, concerning "freeways"; and the Kane County Division of Transportation Access Control Regulations;

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e. Shall be done only after obtaining a zoning permit, all as specified in this Ordinance.

5.4-2 *Jurisdiction limited.*

This Ordinance shall not apply to territory within the limits of cities, incorporated towns and incorporated villages.

5.4-3 *Public utility exemption.*

As required by statute, the type or location of any poles, towers, wires, cables, conduits, vaults, laterals or any similar distributing equipment of a public utility are exempt from the requirements of this Ordinance with the following exception:

55ILCS5/5.12001.1. gives counties the authority to regulate certain specified facilities of a telecommunications carrier. A "telecommunications carrier" is defined in the Public Utilities Act as of January, 1, 1997. A "facility" means that part of the signal distribution system used or operated by a telecommunications carrier under a license from the FCC consisting of a combination of improvements and equipment including (i) one or more antennas; (ii) a supporting structure (tower) and the hardware by which antennas are attached; (iii) equipment housing; and (iv) ancillary equipment such as signal transmission cables and miscellaneous hardware.

The following restrictions shall apply to a facility of a telecommunications carrier unless a variance is obtained in accordance with Section 4.4 of this Ordinance.

1. A facility is not permitted in residentially zoned lots that are less than two (2) acres in size.
2. Height:
 1. Residential Zoned District - The height of the facility shall not exceed seventy-five (75) feet.
 2. Non-Residential Zoned District - The height of the facility shall not exceed two hundred (200) feet.
3. Setbacks:
 1. Residential Zoning District - The setback distance to the nearest residentially zoned lot shall be at least fifty (50) percent of the height of the tower.
 2. Non-Residential Zoning District - The setback distance to the nearest principal residential building shall be at least equal to the height of the tower.
 3. Any Zoning District - The setback distance of a facility shall be at least ten (10) feet to the side and rear lot lines, thirty five (35) feet to the road right-of-way line, and fifty (50) feet to any limited access highway right-of-way line.

In designing a facility, a telecommunications carrier shall comply with the following guidelines:

1. No building or tower that is part of a facility shall encroach onto any recorded easement prohibiting the encroachment unless the grantees of the easement have given their approval.
2. Lighting shall be installed for security and safety purposes only. Except with respect to lighting required by the FCC or FAA, all lighting shall be shielded so that spillover lighting onto adjacent property shall not exceed 0.5 lumens per square foot.
3. No facility shall encroach onto an existing septic field or expansion area.
4. No facility shall be located in a special flood hazard area or wetland without meeting the legal

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requirements for those lands.

5. Existing trees more than three (3) inches in diameter shall be preserved if reasonably feasible during construction. If any tree more than three (3) inches in diameter is removed during construction, a tree three (3) inches or more in diameter of the same or similar species shall be planted as a replacement. Tree diameter shall be measured at a point three (3) feet above ground.
6. If any elevation of a facility faces an existing, adjoining residential use, low maintenance landscaping shall be provided on or near the facility lot to provide at least partial screening of the facility. Landscaping shall be done in accordance with Section 14.1-2,d.
7. Fencing shall be installed around the facility.
8. Any building that is part of a facility located adjacent to a residentially zoned lot shall be designed with exterior material and colors that are reasonably compatible with the residential character of the area.

5.4-4 Agricultural exemption.

Buildings, structures or land used or to be used principally for "agriculture" as herein defined, are exempt from the requirements of this ordinance, except that such buildings or structures must comply with applicable setback requirements.

5.4-5 Underground installation exemption.

Pipe lines and other underground installations, to the extent that the same are completely buried beneath the surface of the soil, are exempt from the requirements of this Ordinance, provided that any incidental or associated structures, installations or equipment, except markers, used in connection with such pipe lines or other underground installations, and which protrude or are extended above the surface of the soil, shall to the extent of such protrusion or extension be subject to all of the applicable provisions thereof.

5.4-6 Small Tower Mounted – Wind Energy Turbine (STM-WET) exemption

Illinois State Statute, 55 ILCS 5/5-12020, gives counties the authority to regulate the siting of electric-generating wind devices.

STM-WETs shall be permitted in all zoning districts and subject to the following general provisions, unless a variance is obtained in accordance with Section 4.4 of this Ordinance:

1. Accessory Use. STM-WETs shall only be permitted as an accessory use to an existing principal building, but will not add to the number of detached accessory structures as limited in Section 5.5.
2. Building Permit. A building permit must be submitted and approved prior to construction, installation, relocation, or modification. The Owner/Applicant or Operator must apply for and receive the building permit.
3. Lot Size. STM-WETs shall not be permitted on any parcel that is less than 2 acres.
4. Tower Height.
 - a. Residential Uses. Tower Heights up to 76 feet shall be allowed on residentially zoned parcels between 2 - 5 acres.
 - b. Non-Residential Uses. So long as the Tower Height meets setback requirements, there shall be no specific height limitation, except as imposed by Federal Aviation Administration (FAA regulations).

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5. Setbacks applying to all districts:
 - a. The base of the tower shall be setback 1.1 times the Tower Height from all property lines.
 - b. The base of the tower shall be setback 1.1 times the Tower Height from any public road right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road.
 - c. The base of the tower shall be setback 1.1 times the Tower Height from any overhead utility lines, unless written permission is granted by the affected utility;
 - d. Ancillary parts of the turbine system, including guy wires, shall follow the setback in the subject zoning district.
6. Lighting. STM-WETs shall not be artificially illuminated unless required by the FAA.
7. Visual Appearance.
 - a. STM-WETs shall be finished in a single non-reflective, unobtrusive color, such as off-white, light gray, or other neutral color that conforms to the surrounding natural environment.
 - b. The appearance of the STM-WET and all accessory structures shall be maintained throughout the life of the unit.
8. Electrical Wires. All electrical wires associated with an STM-WET, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
9. Sound. Any nuisance noise from a STM-WET shall comply with Chapter 15, Section 3.4 *Harsh, Prolonged or Unusual Noise*, of the County Code, Nuisances & Property Maintenance.
10. Access. Public access shall be restricted through the use of a fence with locked gates, non-climbable towers or other suitable methods.
11. Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification, appropriate warning signs, or owner identification on a tower, wind energy system, building, or other structure associated with a small wind energy turbine visible from any public road shall be prohibited.
12. Soil Conditions. A soil analysis is recommended and may be required by the Building Officer as part of the building permit application and inspection process to confirm that the soils meet the minimum bearing capacity assumed by the structural design of the tower and the foundation.
13. Performance and Safety Standards. The manufacturer and model of the proposed small wind energy system must be on an approved list by the California Energy Commission or the New York State Energy Research and Development Authority until the Small Wind Certification Council becomes mainstream. The Zoning Enforcing Officer has the ability to review other wind energy system models to determine their adequate performance and safety.
14. Quantity.
 - a. Residential Uses. One (1) STM-WET is allowed per zoning lot.
 - b. Non-Residential Uses. Five (5) STM-WETs are allowed per zoning lot.

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15. Utility Notification and Interconnection. No STM-WET shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
16. Abandonment:
 - a. A STM-WET that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Zoning Enforcing Officer may issue a Notice of Abandonment to the owner of a STM-WET that is deemed to have been abandoned.
 - b. If the STM-WET is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator from the tower at the Owner's sole expense within 3 months of receipt of Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the Zoning Enforcing Officer shall enforce this as a violation of the Kane County Zoning Ordinance subject to Administrative Adjudication Hearings.
17. Violation. It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with Section 5.4-6.
18. Review Fee. Flat fee, two hundred and fifty dollars (\$250.00) per tower.

5.4-7 Small Structure Mounted Wind Energy Turbine (SSM-WET) exemption

55 ILCS 5/5-12020. Gives counties the authority to regulate the siting of electric-generating wind devices.

SSM-WETs shall be permitted in all zoning districts and subject to the following general provisions, unless a variance is obtained in accordance with Section 4.4 of this Ordinance:

1. Accessory Use. A SSM-WET shall only be permitted as an accessory use to an existing principal building, but will not add to the number of detached accessory structures as limited in Section 5.5.
2. Mounting. All rooftop wind energy systems shall be controlled in a manner consistent with the Building Code and as approved by the Zoning Enforcing Officer.
3. Height. The maximum height of a SSM-WET shall be fifteen (15) feet above the highest point of the roofline of the structure it is mounted upon.
4. Diameter. The maximum diameter of the blades or rotor shall be ten (10) feet.
5. Lighting. SSM-WETs shall not be artificially illuminated unless required by the FAA.
6. Visual Appearance.
 - a. SSM-WETs shall be finished in a single non-reflective, unobtrusive color, such as off-white, light gray, or other neutral color that conforms to the surrounding natural environment.
 - b. The appearance of SSM-WETs and all accessory structures shall be maintained throughout the life of the unit.
7. Sound. Any nuisance noise from SSM-WETs shall comply with Chapter 15, Section 3.4 *Harsh, Prolonged or Unusual Noise*, of the County Code, Nuisances & Property Maintenance.
- 8.. Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or

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owner identification, appropriate warning signs, or owner identification on a tower, wind energy system, building, or other structure associated with a small wind energy turbine visible from any public road shall be prohibited.

9. **Performance and Safety Standards.** The manufacturer and model of the proposed small wind energy system must be on an approved list by the California Energy Commission or the New York State Energy Research and Development Authority until the Small Wind Certification Council becomes mainstream. The Zoning Enforcing Officer has the ability to review other wind energy system models to determine their adequate performance and safety.
10. **Quantity.**
 - a. **Residential Uses.** Only five (5) rooftop wind energy systems are allowed per zoning lot.
 - b. **Non-Residential Uses.** The number of rooftop wind energy systems shall not be restricted.
11. **Structure Mounting.** A structural analysis of the existing structure is recommended and may be required by the Building Officer as part of the building permit application and inspection process to confirm that the structure is capable of supporting the minimum loads assumed by the structural design of the turbine and mounting system.
12. **Utility Notification and Interconnection.** No SSM-WET shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
13. **Review Fee.** Flat fee, one hundred dollars (\$100.00) per structure mounted turbine.
(Ord. No. 82-66, 5-11-82; Ord. No. 92-187, 9-8-92; Ord. No. 98-45, 4-14-98; Ord. No. 10-140, 5-11-10)

Sec. 5.5. Number of buildings on a recorded or zoning lot in residential districts.

Except in the case of a planned unit development, not more than one residential building shall be located on a recorded zoning lot, and not more than two (2) detached structures accessory to a dwelling shall be located on a recorded or zoning lot. However, two (2) or more accessory or incidental structures to a dwelling which are deemed to be of unique historical value as described in the Preservation Ordinance No. 88-99 are permitted. (Ord. No. 82-66, 5-11-82; Ord. No. 92-187, 9-8-92)

Sec. 5.6. Minimum lot size.

Every residential building hereafter erected on a lot or parcel of land created subsequent to the effective date of this Ordinance shall provide a lot or parcel of land in accordance with the lot size requirement of the district within which it is located. (Ord. No. 78-79, § 5, 6-13-78; Ord. No. 79-229, § 2, 12-11-79)

Sec. 5.7. Existing vacant substandard lots.

In any residential or estate district, a one-family detached dwelling and its accessory structures may be erected on any vacant legal lot or parcel subdivided and recorded before December 11, 1979, provided that the lot area, lot width, and yard requirements are not less than fifty percent (50%) of the minimums required by this Ordinance and that all other applicable zoning, wastewater disposal, and building ordinance requirements are complied with. (Ord. No. 82-66, 5-11-82)

Sec. 5.8. Contiguous parcels.

When two (2) or more parcels of land, each of which lacks adequate area and dimension to qualify for a

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permitted use under the requirements of the use district in which they are located or the above provision, are contiguous and are held in one ownership, at the time of or subsequent to the adoption of this Ordinance or amendment, they shall be used as one zoning lot for such use. (Ord. No. 79-229, § 3, 12-11-79)

Sec. 5.9. Accessory buildings.

5.9-1 Time of construction.

No accessory or incidental building or structure may be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

5.9-2 Percentage of required yard occupied.

No detached accessory building or buildings shall occupy more than twenty five percent (25%) of the area of a required yard for a principal building.

5.9-3 On reversed corner lots.

On a reversed corner lot in a residential district, no accessory building or portion thereof shall be located within five feet (5') of any part of a rear lot line which coincides with the side lot line or portion thereof of property in any residential district.

No accessory building shall be erected in or encroach upon the required side yard of a corner lot which is adjacent to the street, nor upon the required side yard of a reversed corner lot which is adjacent to the street.

5.9-4 Separation between buildings.

Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than five feet (5').

5.9-5 Maximum size of residential accessory buildings.

On lots of two (2) acres or less in size, none of the detached accessory buildings or structures shall exceed a combined total of nine hundred (900) square feet in total floor area under roof.

On lots greater than two (2) acres in size but less than five (5) acres in size, none of the detached buildings or structures shall exceed a combined total of one thousand eight hundred (1,800) square feet in total floor area under roof. (Ord. No. 79-229, § 3, 12-11-79; Ord. No. 92-187, 9-8-92; Ord. No. 95-60, 3-14-95)

Sec. 5.10. Bulk regulations.

5.10-1 Continued conformity with bulk regulations.

The maintenance of yards and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. In the event of a reduction of the size of a parcel due to the sale of a portion of the property to a government entity for public benefit, which results in either a loss of a grandfathered status, a size smaller than the minimum required in the parcel's current zoning district or a parcel smaller than was approved in the parcel's subdivision a rezoning would be required. The Zoning Enforcing Officer shall have the discretion to determine that in the event an existing home was damaged resulting in a loss more than 50% of its market value and prior to any rezoning being granted, that a permit to rebuild could be obtained, subject to all current and applicable regulations. Rezoning of the parcel would be encouraged, with the County waiving the rezoning application fee. Furthermore, no legally required yards, other open space, or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, other open space, or minimum lot area requirements for any other building.

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5.10-2 Division of zoning lots.

No lot shall hereafter be divided into two (2) or more lots and no portion of any lot shall be sold, unless all lots resulting from each such division or sale shall conform with all the applicable bulk regulations of the zoning district in which the property is located.

5.10-3 Location of required open space.

All yards and other open spaces allocated to a building or dwelling group shall be located on the same lot as such building or dwelling group.

5.10-4 Required yards, existing buildings.

No yards, now or hereafter provided for a building existing on the effective date of this Ordinance, shall subsequently be reduced below, or further reduced if already less than, the minimum yard requirements of this Ordinance for equivalent new construction.

5.10-5 Permitted obstructions in required yards.

The following shall not be considered to be obstructions when located in the required yards specified:

- a. In All Yards. Decks and patios not over three feet (3') above the average level of the adjoining ground, but not including a permanently roofed-over deck, patio, or porch; steps four feet (4') or less above grade which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting twenty four inches (24") or less into the yard; approved free-standing signs; arbors and trellises; flagpoles; window unit air-conditioners projecting not more than eighteen inches (18") into the required yard; overhanging eaves, gutters and awnings projecting three feet (3') or less into the yard.
- b. In Front Yards. One story bay windows projecting three feet (3') or less into the yards.
- c. In Rear Yards. Open off-street parking spaces; balconies; breezeways and open porches; one story bay windows projecting three feet (3') or less into the yard.

Permitted obstructions and detached accessory structures shall not, in the aggregate, occupy more than twenty five percent (25%) of any required yard. (Ord. No. 79-229, § 3, 12-11-79; Ord. No. 97-240, 9-9-97; Ord No. 12-295, 10-9-12)

Sec. 5.11. Existing special uses.

Where a use is classified as a special use under this Ordinance, and exists as a special use at the date of the adoption of this Ordinance, it shall be considered to be a legal special use. (Ord. No. 79-229, § 3, 12-11-79)

Sec. 5.12. Regulations along limited access highways.

Along all limited access highways, the setback of all buildings and structures shall be not less than fifty feet (50') from the existing or recorded proposed right-of-way line. (Ord. No. 79-229, § 3, 12-11-79)

Sec. 5.13. Public use airports, restricted landing fields, private landing strips and heliports.

The provisions of this Ordinance are in addition to the rules and regulations of the Illinois Department of Transportation, Division of Aeronautics, which rules and regulations are the minimum standards for purposes of this ordinance. In the event of conflict between the provisions of this ordinance and the rules and regulations of the Illinois Department of Transportation, Division of Aeronautics, the more restrictive of the two (2) shall prevail.

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The definitions of the words and phrases used herein shall be the same as the definitions of like words and phrases contained in the rules and regulations of the Illinois Department of Transportation, Division of Aeronautics, unless otherwise defined herein.

Restricted landing fields, private landing strips and heliports, as defined in the provisions of this ordinance are included in the term "Restricted Landing Areas" as used in the rules and regulations of the Illinois Department of Transportation, Division of Aeronautics, and also within that term as it is used in this section.

Public Use Airports as defined in the provisions of this ordinance are included in the term "Commercial Airports" as used in the rules and regulations of the Illinois Department of Transportation, Division of Aeronautics.

Public use airports, restricted landing fields, private landing strips and heliports shall be subject to the regulations and restrictions in this Article V, Section 5.12 and applicable succeeding sections of this ordinance and subsequent amendments thereto.

5.13-1. Restrictions on Location.

No public use airport, restricted landing field, private landing strip, heliport, or any other facility designated as a restricted landing area of any kind in the rules and regulations of the Department of Transportation, Division of Aeronautics, or any part thereof, shall be located:

- a. Within one and one-half ($1\frac{1}{2}$) miles of any incorporated city or village or any unincorporated area within any circle drawn from any point on the subject property with a radius of two thousand (2,000) feet that contains more than two hundred (200) dwelling units.
- b. Within five (5) miles of the boundary of any public use airport as defined herein.
- c. In a location which is inconsistent with the plans, policies, and ordinances of Kane County which are now and may from time to time be in effect.

5.13-2 Distance Between Restricted Landing Areas.

The minimum distance between restricted landing areas shall be not less than three (3) miles measured from the nearest points of the landing strips, and when approach planes are located in one extended straight line, the distance shall be not less than four (4) miles.

5.13-3 Distance from Highway or Railroad Right-of-Way.

Runways shall not be located within one thousand (1,000) feet of any highway, street or railroad right-of-way if the runway is perpendicular to such right-of-way and shall not be located within five hundred (500) feet of such right-of-way if the landing strip is parallel with such right-of-way.

5.13-4 Obstructions.

Any obstructions, such as power lines, trees and buildings, shall be cleared from the landing area by a five (5) percent approach plane or five (5) feet in height to every one hundred (100) feet distance measured from the level of the runway.

5.13-5 Distance Between Property Lines and Blast Areas.

No run up area or blast area shall be located within a distance of two hundred (200) feet from any residence or property line except a residence or property line within the boundaries of an A-1 or A-2 District or a residence adjacent to and owned by the state licensee of a private landing strip.

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5.13-6 Dustless Surface.

Every land area used by any aircraft under its own power shall be provided with a dustless surface, as defined herein. (Ord. No. 80-37, § 3, 3-13-80)

Sec. 5.14. Development of air rights.

The development of air rights above land located in any zoning district and utilized for public or private use, shall be permitted subject to all the requirements of the zoning district within which such development is located. However, plans for all such air rights development shall be submitted to the Zoning Enforcing Officer for recommendations as to the appropriateness of the development in regard to the location of structures, traffic control, placement of utilities, and all other matters related to the physical development of said air rights. Such recommendations shall be forwarded to, and shall be subject to the approval of, the County Board. (Ord. No. 79-229, § 3, 12-11-79)

Sec. 5.15. Interpretation of use lists.

The Enforcing Officer may allow land-uses which, though not contained by name in a zoning district list of permitted or special uses, are deemed to be similar in nature and clearly compatible with the listed uses. However, such non-listed uses shall not be approved until the application for such use has been reviewed by the County Development Department staff and a favorable report has been received by the Enforcing Officer. The non-listed uses which are approved shall be added to the appropriate use list at the time of periodic updating and revision. (Ord. No. 79-229, § 3, 12-11-79)

ARTICLE VI. NONCONFORMING BUILDINGS, STRUCTURES, AND USES

Sec. 6.1. Purpose.

This ordinance establishes separate districts, each of which is an appropriate area for the location of the uses which are permitted in that district. It is necessary and consistent with the establishment of those districts that those nonconforming buildings, structures, and uses which substantially and adversely affect the orderly development and taxable value of other property in the district not be permitted to continue without restriction.

The purpose of this Article (VI) is to provide for the regulation of nonconforming buildings, structures, and uses and to specify those circumstances and conditions under which those nonconforming buildings, structures, and uses shall be permitted to continue.

Sec. 6.2. Authority to continue nonconforming buildings, structures, and uses.

Any nonconforming building, structure, or use which existed lawfully at the time of the adoption of this ordinance and which remains nonconforming, and any such building, structure, or use which shall become nonconforming upon the adoption of this ordinance, or of any subsequent amendments thereto, may be continued subject to the regulations which follow.

Sec. 6.3. Restrictions on nonconforming buildings, structures, and uses.

Any lawfully existing building or structure which does not conform to the regulations of the district in which it is located may be continued, subject to the provisions of this Article VI, Section 6.3.

6.3-1 Repairs and Alterations.

So long as a building, structure, advertising sign, or business sign is used or is eligible for use in a nonconforming manner, only ordinary repairs and maintenance, including replacement of roof covering and veneering of outer walls, shall be permitted. In no case shall such repairs include structural alterations, or other

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work which will extend appreciably the normal life of the building, structure, advertising sign, or business sign.

For the purpose of this section, repairs shall include the replacement of storage tanks where the safety of operation of the installation requires such replacement, and other replacements of, or substitutions for, machinery or equipment not involving structural alterations to the building or structure, except as herein above provided.

6.3-2 Relocation of Building or Structure.

No building or structure shall be moved in whole or in part to any other location on the same or any other lot unless every portion of such building or structure which is moved, and the use thereof, is made to conform to all of the regulations of the district in which it is to be located.

6.3-3 Restoration of Damaged Building or Structure.

Any building or structure devoted to a nonconforming use which may be destroyed or damaged by fire or otherwise which requires reconstruction or repairs which are valued at fifty percent (50%) or more of the market value of the building before it was damaged or replaced, shall not be repaired or rebuilt, and no building or structure shall be hereafter erected and used upon any land devoted to a nonconforming use, except in conformity with the regulations of this ordinance.

6.3-4 Discontinuance of a Nonconforming Use.

If the nonconforming use of a building, structure, or premises is discontinued for a continuous period of six (6) months, it shall not be renewed, and any subsequent use of the buildings structure, or premises shall conform to the use regulations of the district in which such building, structure, or premises is located.

6.3-5 Expansion of Nonconforming Use.

- a. Building or Structure. A nonconforming use occupying a part of a building or structure may be extended only throughout that part of the building or structure originally designed for such use, but in no case shall an addition be made which will provide for an expansion of the nonconforming use. A use customarily incidental to a residence shall not expand beyond an area that is clearly incidental to the amount used for residence. A nonconforming use of land shall not be expanded beyond the area actually so used at the time of the passage of this ordinance, or at the time, of a later amendment creating the nonconformity.
- b. Land. The nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall not be expanded or extended beyond the area it occupies,

6.3-6 Change of Nonconforming Use.

- a. Building or Structure. A nonconforming use may be changed to another nonconforming use of the same or higher classification, provided the provisions of paragraph "b" of this section relating to expansion are complied with, or nonconforming use may be changed to a conforming use. In neither case, however, shall a change in use again be made to one of lower classification.
- b. Land. The nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall not be changed to any other use, except to a use permitted in the district in which the land is located. (Ord. No. 88-62, 5-10-88; Ord. No. 97-240, 9-9-97)

Sec. 6.4. Elimination of nonconforming buildings and structures.

In any district, any building or structure, all or substantially all of which is designed or intended for a use allowed only in a less-restricted district, and any nonconforming sign in any zoning district; shall be removed or shall be

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altered, remodeled or converted for a permitted use within six (6) months after the amortization period of such building or structure, which is hereby established and set forth below:

- a. Full fair cash value of buildings or structures of five thousand (\$5,000) dollars or less as appears on the books of the assessor at the time of enforcement proceedings.

Three (3) years from the effective date of this ordinance.

- b. Full fair cash value of buildings or structures of five thousand one (\$5,001) dollars to twelve thousand (\$12,000) dollars as appears on the books of the assessor at the time of enforcement proceedings.

Six (6) years from the effective date of this ordinance.

- c. The provisions of this Section 6.4 shall not be applicable to any building or structure having a full fair cash value in excess of twelve thousand (\$12,000) dollars as appears on the books of the assessor at the time of enforcement proceedings.

Sec. 6.5. Elimination of nonconforming uses.

This section is intended to gradually eliminate inappropriate uses of buildings or structures designed or intended for uses allowed within the district in which it is located, but is not intended to eliminate any use not permitted in the district if such use is appropriate to the design or intent of such building or structure.

6.5-1 In all Residential and Farming Districts, any use of a building or structure, all or substantially all of which is designed or intended for a use permitted only in a Residential or Farming District, but is being used for a use permitted only in a Business or an Industrial District, shall be terminated within five (5) years of the effective date of this ordinance.

6.5-2 In all Business Districts, any use of a building or structure, all or substantially all of which is designed or intended for a use permitted only in a Business District, but is being used for a use permitted only in a Residential or an Industrial District, shall be terminated within ten (10) years of the effective date of this ordinance.

6.5-3 In all Industrial Districts, any use of a building or structure, all or substantially all of which is designed or intended for a use permitted only in an Industrial District, but is being used for a use permitted only in a Residential or a Business District, shall be terminated within fifteen (15) years of the effective date of this ordinance.

6.5-4 The nonconforming use of land shall be discontinued and cease three (3) years after March 9, 1976, in each of the following cases:

- a. Where no buildings or structures are employed in connection with such use.
- b. When the only buildings or structures or other physical improvements are accessory or incidental to such use.
- c. A nonconforming use of land which is accessory to the nonconforming use of building or structure shall be discontinued on the same date the nonconforming use of the building or structure is discontinued.
- d. Improvements underground or substantially at ground level, which comprise all or substantially all of the improvements employed in a nonconforming use of land, and which have a full fair cash value of five thousand (\$5,000) dollars or less, as it appears on books of the assessor at the time of enforcement proceedings, shall be deemed a nonconforming structure and shall be subject to the applicable provisions of this Article.

The provisions of this Section 6.5 shall not be applicable to any nonconforming use associated with any building or structure, a substantial portion of which is designed or intended for such a nonconforming use regardless of the

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district in which such building or structure is located. (Ord. No. 82-66, 5-11-82)

Sec. 6.6. Performance and protective standards for nonconforming uses.

All nonconforming uses shall conform to the performance and protective standards, including but not limited to screening, noise levels, air pollution and vibration levels, within a period of one year after the effective date of this ordinance.

Sec. 6.7. Restrictions on nonconforming airports, restricted landing areas and heliports.

Any airport, restricted landing area, or heliport lawfully in existence prior to the date of passage of this ordinance, which does not conform to the applicable provisions of Article V, Section 5.13, Article VIII, Section 8.1-2 as amended, and Article XIII shall be deemed nonconforming, but shall be allowed to continue subject to the provisions of this Article VI, Sections 6.3 and 6.7.

Notwithstanding the provisions of Article V, Section 5.13-1(a) and (b), no public use airport, restricted landing field, private landing strip or any other area designated as a restricted landing area by the Illinois Department of Transportation, Division of Aeronautics shall be rendered nonconforming by municipal annexation or unincorporated residential development subsequent to the passage of this amendment.

a. Certificate of Nonconforming Aviation Use.

- (1) The state certificate holder of any restricted landing field, private landing strip or heliport which does not conform with the provisions of this ordinance regulating aviation uses shall apply for a "Certificate of Nonconforming Aviation Use" within sixty (60) days of the enactment of this ordinance.
- (2) Such application shall be made to the Zoning Enforcement Officer, shall be verified by affidavit and shall describe in detail or provide:
 - (a) The specific uses made of the premises;
 - (b) The number of aircraft based thereon;
 - (c) Whether the aircraft so based are in hangar facilities or tie-down facilities; and
 - (d) The time such use has continued.
- (3) Failure to comply with the requirements of this section shall automatically suspend the nonconforming use until such time as there is compliance with the provisions of this Section 6.7.
- (4) Upon compliance with the terms of this Section 6.7 a Certificate of Nonconforming Aviation Use shall issue.

b. Increased Intensity or Volume of Nonconforming Airport Use.

A nonconforming use as restricted landing area shall not be intensified by increasing the number of aircraft based at such restricted landing area. The number of aircraft to be housed in hangars lawfully under construction at the date of the enactment of this ordinance shall be included in the number of aircraft based at a nonconforming restricted landing area for purposes of this Section 6.7(b). (Ord. No. 80-37, § 4, 3-13-80)

Sec. 6.8. Records.

The Zoning Enforcing Officer shall make and keep a record, including photographs, of all buildings, structures and land-uses which do not conform to the use regulations of the districts in which they are located.

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ARTICLE VII. ZONING DISTRICTS

Sec. 7.1. Classification.

For the purpose of this ordinance, all the land in Kane County lying outside the limits of cities, villages and incorporated towns is hereby divided and classified into the following districts:

7.1-1 Farming District.

- F District-Farming
- F1 District-Rural Residential
- F2 District-Agricultural Related Sales, Service, Processing, Research, Warehouse and Marketing

7.1-2 Residential Districts.

- E1 District-Estate Residential
- E2 District-Estate Residential
- E2-A District-Estate Residential
- E3 District-Estate Residential
- R1 District-One-Family Residential
- R2 District-One-Family Residential
- R3 District-One-Family Residential
- R4 District-One-Family Residential
- R5 District-Two-Family Residential
- R6 District-Two-Family Residential
- R7 District-Two-Family Residential
- R8 District-Two-Family Residential
- R9 District-Multiple-Family Residential

7.1-3 Business Districts.

- RB District-Restricted Business
- B1 District-Business
- B2 District-Business
- B3 District-Business
- B4 District-Business
- B5 District-Business
- B6 District-Business

7.1-4 Industrial Districts.

- LI District-Light Industry
- I District-General Industry

7.1-5 Special District.

- PUD District-Planned Unit Development

7.1-6 Airport Districts.

- A-1 District-Airport-Restricted Landing Field
- A-2 District-Airport-Public Use

(Ord. No. 79-229, § 4, 12-11-79; Ord. No. 80-37, § 5, 3-13-80; Ord. No. 82-66, 5-11-82)

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Sec. 7.2. Zoning maps.

Such land and the classification thereof shall be as shown on maps designated the "Zoning Maps of Kane County, Illinois". These maps shall be filed as part of this ordinance in both digitized electronic and printed copy format with the County "Clerk" on September 10, 2003. The maps are ordered by township and section number. These zoning maps, and all notations, colors dimensions, references and symbols shown thereon, pertaining to such districts, shall be as much a part of this ordinance as if fully described herein. Such maps, or copies thereof showing the districts or other classifications created and approved as amended from time to time as provided in this ordinance, shall be available for public reference in the office of the Clerk and the County Zoning Enforcing Officer and shall be annually updated and filed at the Clerk's office. The maps shall be maintained in digitized electronic format in the office of the County Zoning Enforcing Officer. Any ordinance granting a map amendment shall be similarly signed, dated, filed with the Clerk, and made available for public reference. (Ord. No. 03-277, § 9-9-03)

Sec. 7.3. Additional areas.

Any addition to the area regulated by this ordinance as shown on the zoning maps, resulting from disconnection by municipalities or otherwise, shall be automatically placed in the F District Farming until otherwise classified by amendment. Within these districts, no building, structure or land shall be used, nor shall any building or structure be erected, moved, enlarged, or the structural members thereof be altered for any use other than those as permitted in such F District Farming and in conformance with the other provisions of this ordinance. Any use customarily incidental or accessory to a permitted use is also permitted unless otherwise restricted or prohibited.

If any territory is disconnected from a municipality pursuant to the provisions of Section 7-3-1, Section 7-3-4 or Section 7-3-6 of the Illinois Municipal Code, as amended, 65 ILCS 5/7-3-1, 7-3-4 and 7-3-6, or is included within the boundaries of a municipality which has been dissolved pursuant to Division 6 of Article 7 of the Illinois Municipal Code, as amended, 65 ILCS 5/7-6-1 et seq. , then upon the entry of a final order of disconnection, or dissolution, or passage of an ordinance of disconnection, as the case may be, such territory shall be zoned and the zoning map of the County shall be amended to reflect the zoning classification, including as applicable any special uses, that applied to the disconnected territory or to the territory of the dissolved municipality immediately prior to the disconnection or dissolution, unless the County zoning classification or special uses applicable immediately prior to the incorporation are more restrictive than the municipally approved land use, in which case the more restrictive provision shall apply. Such zoning shall not preclude any party from applying for any further zoning relief or amendment subject to the other provisions of this Ordinance. This amendatory ordinance shall apply to any property disconnected after December 1, 2007 and to any property incorporated into a municipality which is dissolved subsequent to July 1, 2008. (Ord. No. 79-229, § 6, 12-11-79; Ord No. 08-07, 1-8-08; Ord. No. 08-251, 8-12-08)

Sec. 7.4. Boundaries of districts.

When uncertainty exists with respect to the boundaries of the various districts as shown on the zoning maps, the following rule shall apply:

District boundary lines are either the center lines of railroads, highways, streets, alleys, or boundary lines of sections, quarter sections, tracts or lots or such lines extended unless otherwise indicated.

Sec. 7.5. Restrictions applying in all districts.

The restrictions applying to all uses in all districts are as follows:

7.5-1 Minimum Width of Yard Along Adjoining Property Lines. No part of a main building or structure in any district shall be located nearer than ten (10) feet to an adjoining property line, or zone line, except as follows:

- a. In the case of a lot or lots with a total of fifty (50) feet or less in width, officially on record at the time of the

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passage of this ordinance or subsequently officially approved by the Development Committee of the County Board of Kane County, Illinois, in common ownership and located in an R or F District, the minimum width of yard shall be five (5) feet.

- b. In the case of a lot or lots with a total of fifty (50) feet or less in width, officially on record at the time of the passage of this ordinance or subsequently officially approved by the Development Committee of the County Board of Kane County, Illinois, in common ownership and located in a B1, B2, B3, B4, B5, B6, or I District, no side yard is required.
- c. Within seventy-five (75) feet of the front property line of all lots and/or lands, in any district, the minimum width of yard of all buildings shall be the same as that provided for the main building. On that portion of all lots and/or lands lying not less than seventy-five (75) feet from the front property line of said lots or lands, the minimum width of yard of accessory buildings shall be not less than three (3) feet. The minimum distance between a main building and such accessory building shall be not less than five (5) feet.
- d. In Business or Industrial Districts adjacent to railroad rights-of-way, the yard widths for loading platforms only shall conform to the clearances for such platforms as established by public regulatory agencies.
- e. Pumping stations and other utility structures may be constructed on recorded plat easements for that purpose, provided a sideyard of not less than three feet (3') is allowed from said structure to the easement lines and provided any structure constructed on any lot immediately adjoining such easement shall be not less than three feet (3') from such easement boundary lines. Provided, further, that this provision shall not be in conflict with Section 7.5-1c of this Ordinance, with regard to property lines other than those contained in the recorded easement area.

The minimum yard space required for one building or structure shall not again be considered as yard space for another adjoining building or structure. No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this Ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations herein established for the district in which such building is located.

7.5-2 Minimum Setbacks of Buildings and Structures from Road or Street.

Except as provided in subparagraphs a; b; c; d; e; f and g hereof, no building, structure (other than fences and walls), sign or billboard, shall be erected, structurally altered or placed so any part thereof, disregarding steps and unroofed porches, is nearer than thirty five feet (35') to the road right-of-way line; provided, however, that if forty percent (40%) or more of the frontage on the same side of the street between two (2) intersecting streets in recorded subdivisions containing three (3) or more lots is improved with buildings that have observed a front setback of greater or less distance from the existing or proposed road right-of-way line, and the variation of depth setback of such buildings is not more than fifteen feet (15'), then the average of the front setbacks of such buildings shall establish the front setback depth for the entire frontage. In no case, however, shall a front setback of more than fifty feet (50') be required.

Provided, further, that buildings existing at the time of this amendatory Ordinance and which may have a setback depth of less than thirty five feet (35'), but which do have a setback depth of twenty feet (20') or more, and buildings which may hereafter be erected or placed in such a manner as to comply with an established average setback depth of less than thirty five feet (35'), but which setback depth is twenty feet (20') or more may have such alterations or additions made thereto as will not have a setback depth of less than that of the building to which alterations or additions may be made.

Exceptions:

- a. Advertising signs and billboards, when attached to a building, which said building is located at less than the required minimum distance from the right-of-way line of any public street or highway, and only connected with products sold in the business then being conducted on the premises, may be permitted at not less than the

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distance of said building from the right-of-way line of any public street or highway.

- b. Along all full access controlled highways, the minimum setback for advertising signs and billboards not connected with products sold in the business then being conducted on the premises and not advertising for sale the premises upon which they are displayed, shall be three hundred feet (300') from the right-of-way line except as provided in Section 7.5-2a.
- c. A canopy of awning not supported from the ground by posts or pillars set at any distance from a building proper and not projecting over four feet (4') from building proper may be permitted, provided such canopy or awning does not come closer than three feet (3') from any adjoining property line, or closer than twenty feet (20') from any adjoining public or private street or highway right-of-way line.
- d. Telephone booths as provided for in estate districts and the residential districts.
- e. In LI District, the setback from right-of-way line shall be fifty feet (50').
- f. Light poles and standards for the lighting of the business areas, such as gasoline service stations and parking lots may be placed immediately outside the right-of-way line, providing no portion of said pole or standard or any bracket or any part attached thereto extends over the right-of-way line, and providing that the lights so supported are directed on to the business area and not toward the road or neighboring property in such fashion as would constitute a nuisance or a traffic hazard and provided the requirements of Article XIV, Section 14.1-6 of this Ordinance are met.
- g. Along all limited access roads, the setback of all buildings and structures shall be not less than fifty feet (50') from the existing or proposed road or street right-of-way line, except public informational sign permitted under Section 8.1-1, q., shall be not less than five feet (5') from existing road or street right-of-way line.

In the case of a corner lot officially on record at the time of passage of this Ordinance, or subsequently officially approved by the Development Committee of the County Board of Kane County, Illinois, this requirement shall not reduce the building area to less than twenty five feet (25') by eighty feet (80'), except that the minimum setback from the property lines of said lot, adjoining any public or private street or highway or right-of-way, shall in no case be less than the sideyard for said lot, as provided in Section 7.5-1 of this Ordinance.

7.5-3 Minimum Setback for Fences and Hedges at Intersections.

Within one hundred feet (100') of the center line of any intersecting road, street or railroad at grade, no fence or hedge which cannot be viewed through or over from a three foot (3') height above the traveled roadway shall be constructed, planted or allowed to grow nearer to the road or street center line than the dimensions set forth above in Section 7.5-2.

No fence equipped with or having barbed wire, spikes or any similar device, or any electrically charged fence, sufficient to cause shock, shall be erected, placed or maintained on or within any lot used for residential purposes. (Ord. No. 78-79, § 6, 6-13-78; Ord. No. 82-66, 5-11-82; Ord. No. 88-62, 5-10-88; Ord. No. 93-338, 12-14-93; Ord 02-81, 3-12-02)

Cross reference—Special setbacks for certain streets, § 17.4.

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ARTICLE VIII. FARMING DISTRICT

Sec. 8.1. F District—Farming.

8.1-1 Permitted Uses.

In the F District, the following uses are permitted:

- a. The uses as permitted in the R-1 District except for Section 9.5-1 a. and p. thereof. However single-family residential uses are permitted provided:
 - (1) The one-family residential use was an existing residential structure on December 11, 1979; provided, that the size of the zoning lot may not be reduced after December 11, 1979, unless done in compliance with this Ordinance;
 - (2) The land on which the one-family residential use is proposed is a parcel of land recorded with this County Recorder of Deeds prior to December 11, 1979, whether the recording is by a deed or deeds, or by a contract to purchase or memorandum of purchase on which there is a detailed legal description; provided the parcel contains a minimum of twenty thousand (20,000) square feet and is at least seventy five feet (75') in width; provided further that all other zoning, waste water disposal and building ordinance requirements are complied with; or
 - (3) The residence is located on a parcel of not less than fifteen (15) acres in area which parcel has been recorded with the Kane County Recorder between December 11, 1979 and 12:00 o'clock noon (CDT), September 8, 1992.
 - (4) The residence is located on a parcel of not less than forty (40) acres in an area recorded with the Kane County Recorder and with two hundred fifty feet (250') of frontage on a public right of way and the principal use of said zoning lot is agricultural as defined in this Ordinance.
- b. Agriculture as defined herein (see definition Article III), except that neither animals nor poultry may be housed; stabled, kenneled or yarded closer than one hundred feet (100') from any residence other than that of the owner or user of the property. Sale of seed shall also be permitted.
- c. Carnivals and circuses (temporary) operating not longer than ten (10) days, and not including the sale of beer or alcoholic liquors.
- d. Hunting, fishing, fish and game preserves.
- e. Governmental and judicial centers.
- f. Picnic grounds, groves and temporary refreshment and amusement stands.
- g. Produce stand (one portable) for the display and sale of only products which are produced on the premises, provided:
 - (1) That such stand shall comply with the setback requirements.
 - (2) That adequate parking space be provided for the motor vehicles of customers off the highway right of way. (See Article XIV of this Appendix, Off Street Parking.)
 - (3) That the lot from which the sale of products are produced and sold shall contain not less than five (5) acres of land area.
- h. Pigeon lofts and poultry farms as herein defined.

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- i. Pipelines, electric substations, or transformer stations, telephone repeater stations and automatic exchanges, radio stations and towers, etc. (See Sections 5.4-3 and 5.4-5 of this Appendix.)but shall not include electrical generation plants, “peaker” plants, and ancillary transmission and distribution facilities.
- j. Sign, one, not larger than twenty (20) square feet in area, pertaining to the sale, lease, or identification of the premises upon which it is located or the sale of farm products produced thereon.
- k. Sign, one, temporary and seasonal, not larger than two (2) square feet, which directs attention to and identifies different varieties of seeds and plants used in the production of food for animal and human use or identifies special conservation practices. Such sign must conform to established setback provisions and may only be displayed during the period between June 1 and December 1 of any given year.
- l. Stables, boarding, as defined herein.
- m. Stables, private, as defined herein.
- n. Truck gardening, nurseries, greenhouses, mushroom barns and apiaries.
- o. Waterways and such hydraulic power plants and terminals as may be erected by the County, State or Federal Government or public utilities for the use of the public.
- p. Weighing stations operated by the State of Illinois.
- q. Forest Preserve uses and activities at the Kane County Events Center, located at the corner of Kirk Road and Cherry Lane in Geneva Township, Illinois, related to educational, cultural, recreational, and sporting events, including public informational signs accessory to the use, provided said informational signs are not more than one hundred and fifty (150) square feet in display area per side and thirty feet (30') in height and are located on public property owned by the Forest Preserve District of Kane County. Furthermore, the size and setback of the public informational signs shall be reviewed by the Kane County Division of Transportation and a determination made that said signs do not interfere with any anticipated public highway improvements and do not create a hazard to public highway safety.
- r. Portable concrete plants, only for Kane County public road improvement projects, and approved by the Kane County Board, located on or immediately adjacent to the County public road right-of-way, and for a specified time period not to exceed one-hundred eighty (180) days.
- s. Country clubs, provided the country club use was existing prior to March 9, 1976.
- t. Migrant labor camps as defined in Section 3.1-1 and that are licensed by The State of Illinois Department of Public Health and comply with the Migrant Labor Camp Code 77 ILL. ADM. Code 935, and have established use with the Kane County Development Department in accordance with Section 4.3 of this Ordinance. The residence must comply with Section 8.1-1 a. of this Ordinance.
- u. Identification signs, deemed by the Kane County Board to be of interest to the general public, of an area not to exceed 6 square feet at the property line, which identify farmland that has been preserved through the Agricultural Conservation Easement Program. The location at the property line of these signs shall be reviewed by the Kane County Division of Transportation and a determination made that said signs do not interfere with any anticipated public highway improvements and do not create a hazard to public highway safety.

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8.1-2 *Special Uses.*

- a. Special uses allowed in the R1 District are allowed in the F District.
- b. Private Landing Strips, as defined herein, subject to the following restrictions:
 - (1) Shall be located and be of such area, runway length and design as prescribed by the Illinois Department of Transportation, Division of Aeronautics and the provisions of Article V, Section 5.13 of this Ordinance;
 - (2) Shall be used in connection with a use permitted in this District;
 - (3) Shall base no more than two (2) airplanes; and
 - (4) Shall not be used by itinerant aircraft as defined herein except in cases of emergency.
- c. Asphalt plants, provided the principal ingredient is gravel mined on the premises where the plant is located, and operated from an active, licensed mining operation. Upon the exhaustion of the substance being mined for the aggregate, all mixing apparatus and equipment and other buildings and structures accessory thereto shall be removed from the premises.
- d. Bins, warehouses and other facilities for the storage of surplus grain by the Federal Government, or any of its duly designated agencies.
- e. Boat marinas and boat liveries, as herein defined.
- e.5. Burial grounds, private, for family members only. This is the only district in which this use shall be permitted.
- f. Cemeteries for human beings, including therein mausoleums and/or crematory.
- g. Commercial swimming pools and beaches.
- h. Commercial tennis courts.
- h.5. Commercial TV and radio towers.
- i. Country clubs.
- j. Fair grounds.
- k. Garbage disposal, as defined herein, shall be conducted in accordance with the Kane County Sanitary Landfill Control Ordinance and in accordance with all other applicable ordinances and resolutions of the County of Kane.
- l. Golf courses, public, semi-public and private, including ancillary uses normally provided, such as, restaurants, including the sale and consumption of alcoholic beverages, pro-shops, swimming pools and tennis courts, but not including continually operating driving ranges or miniature golf courses.
- m. Government military reservations.
- n. Health and recreation clubs, as defined herein, and provided that a detailed plat of the proposed club and all proposed improvements shall be submitted to the Zoning Board for approval or amendment at the public hearing. Such plat, when approved by the County Board, shall become a part of this Ordinance and development of the site shall be in strict accordance with said plat.
- o. Kennels, as defined herein.

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- p. Mining of topsoil, earth, clay, gravel, peat, sand and stone, and structures incidental to loading the same, also processing, screening and washing yards and plants of a quasi-temporary nature which are commonly removed when the available deposits are worked out, but not including plants, building and yards for the manufacture of clay or concrete products. If such mining operations are conducted upon a lot, piece, parcel or tract of land by the owner thereof for the purpose of improving said lot, piece parcel or tract of land, and the owner thereof shall file with and to the satisfaction of the Enforcing Officer his affidavit that the foregoing conditions are applicable, such mining operations may be conducted without a hearing before the Zoning Board, without approval for the County Board, provided the area involved does not exceed two (2) acres. Restrictions relative to the mining of topsoil, earth, clay, gravel, peat, sand, and stone set forth in Article XV hereof and the Kane County Soil Erosion and Sediment Control Ordinance are applicable to all mining operations.
- q. Monasteries, nunneries, religious retreats, nursing and convalescent homes, assisted living facilities, boarding schools and orphanages.
- r. Penal institutions.
- s. Pet cemeteries and crematory facilities for animals.
- t. Polo fields
- u. Pony riding tracks.
- v. Practice pistol and rifle ranges, skeet or trap shooting.
- w. Recreational camps, as defined herein, and provided that a detailed plat of the proposed camp and all proposed improvements shall be submitted to the Zoning Board for approval or amendment at the public hearing. Such plat, when approved by the County Board, shall become a part of this Ordinance and development of the site shall be in strict accordance with said plat.
- x. Repair of farm machinery and sales of feed and seed; provided, that these activities are accessory to the primary activity of farming, but not including sales of farm machinery.
- y. Sawmill operations.
- z. Sewage treatment works, publicly and/or privately owned.
- aa. Stables, public, as defined herein.
- bb. The sale and/or consumption of alcoholic beverages in conjunction with a permitted use or another special use.
- cc. In order to utilize land, lots, buildings or structures, which might remain unused or unoccupied by uses otherwise permitted in this district, an "interim special use" may be established in accordance with the requirements set forth in Section 4.8 of this Ordinance. In addition to the standards set forth in Section 4.8-2 (a) through (f), the interim special use must be compatible with the character and intensity of other structures and uses permitted in this District. In its recommendation to the County Board, in addition to the standards set forth in Section 4.8-2 (a) through (f), the Zoning Board of Appeals shall also find that the proposed interim special use would be compatible with other uses permitted in this District. An interim special use shall be authorized for a limited period of time only, not to exceed five (5) years.
- dd. Other uses similar to those permitted herein as special uses.
- ee. In submitting a petition for any of the above special uses, a detailed plat of all improvements shall be

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submitted to the Zoning Board of Appeals for approval or amendment at the public hearing. Such plat, when approved by the County Board, shall become a part of this Ordinance and development of the site shall be in accordance with said plat.

- ff. Minor variations in the development of the approved plat may be authorized by the Development Committee.
- gg. Produce stand (one) for the display and sale of a minimum of five (5) products which are produced on the premises, plus, a maximum of ten (10) farm produce products, not grown on the site and not including any processed items of any kind, subject to the following restrictions:
 - (1) A temporary use permit upon proper application by such owner or operator is issued by the Zoning Enforcing Officer.
 - (2) Such permit shall not be valid for more than six (6) months (May 1 to November 1) out of each calendar year and a new permit shall be obtained each year during which the granted special use is in effect.
 - (3) Such permit shall require compliance with Article VIII, Section 8.1-1(g), subsection (1) and (2) of this Ordinance.
 - (4) Such permit shall not allow the serving or consumption of food on said premises.
 - (5) At the time the temporary use permit is applied for, the applicant shall submit a plot plan and sketch portraying an open-air structure, in detail, showing the construction of said structure for approval for the display and retail sale of the farm products.
 - (6) The application for such permit shall list the types of produce to be sold, or offered for sale, which are grown or are to be grown on said parcel and shall also list the types of produce proposed to be imported for sale.
 - (7) Such special use, when granted, shall apply only to the original applicant.
 - (8) Where all produce sold or offered for sale is produced on the immediate premises, see subsection 8.1-1(g).
- hh. Concrete mixing plants, provided the principal ingredient is gravel mined on the premises where the plant is located, and operated from an active, licensed mining operation. Upon the exhaustion of the substance being mined for the aggregate, all mixing apparatus and equipment and other buildings and structures accessory thereto shall be removed from the premises.
- ii. Interim use for a limited period of not more than five (5) years specifically for the cultivation of controlled substances licensed by the State of Illinois.

8.1-3 *Uses Expressly Prohibited.*

Uses prohibited in the R1 District are prohibited in the F District. (Ord. No. 78-79, § 9, 6-13-78; Ord. No. 79-229, §§ 7, 9, 12-11-79; Ord. No. 80-37, §§ 6, 7, 3-13-80; Ord. No. 82-66, 5-11-82; Ord. No. 92-187, 9-8-92; Ord. No. 92-214, 10-13-92; Ord. No. 93-338, 12-14-93; Ord. No. 94-79, 4-12-94; Ord. No. 97-240, 9-9-97; Ord. No. 02-81, 3-12-02; Ord. No. 07-299, 9-11-07; Ord. No. 14-200; 7-8-14)

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Sec. 8.2. F1 District–Rural residential.

8.2-1 Purpose.

The Kane County Board has established and adopted as a long-range goal, the preservation of prime agricultural land and has implemented this long-range goal through the adoption of a Comprehensive Plan and a Zoning Ordinance. However, the County Board is aware that some of the land indicated as agriculture in the Comprehensive Plan and zoned for agriculture will not be utilized as such because of soil productivity, vegetation, topography, man-made barriers, etc. The Rural Residential District is intended only for single-family residences and only for those areas indicated in the Comprehensive Plan for agriculture and for those areas therein shown to be unsuitable for such use.

8.2-2 Permitted Uses.

The following uses are permitted:

- a. Agricultural uses, as defined herein.
- b. One-family dwellings.
- c. Accessory uses to one-family dwellings.
- d. Signs permitted and as regulated in Section 9.5-1(b).

8.2-3 Conditions for Rezoning.

The Zoning Board of Appeals shall not recommend a rezoning to this zone district classification unless the applicant shall present clear and convincing evidence to the Zoning Board of Appeals that the property sought to be rezoned is not suitable for agricultural use.

The Zoning Board of Appeals in determining suitability of property for agricultural use shall make findings of fact with respect to the following:

- a. Existence of nonprime farmland based on the Kane County Soil Survey and the Important Farmlands Map, prepared by the U.S. Department of Agriculture, Soil Conservation Service and other applicable sources;
- b. Topography;
- c. Man-made and physical features which may serve as barriers;
- d. Vegetative cover;
- e. Parcel size;
- f. Adjacent land uses.

8.2-4 Lot Size.

Every one-family detached dwelling hereafter erected shall be located on a tract of land having an area of not less than one acre/nor more than forty (40) acres. The exact amount of acreage for each lot shall be determined in each individual case by the County Board after receipt of recommendations from the Zoning Board of Appeals. In determining the specific lot size to be required, the County Board and the Zoning Board of Appeals shall take into consideration (and the Zoning Board of Appeals shall make findings of fact with respect thereto) the following factors in each individual case:

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- a. Existing topography and proposed topographical changes;
- b. Suitability of the subject property for subsurface sanitary disposal system;
- c. Soil types and soil characteristics;
- d. Existing conditions and proposed changes with respect to drainage of surface and subsurface waters;
- e. Existing and proposed vegetation and ground cover;
- f. Suitability of access, traffic conditions and congestion;
- g. Diminishing property values in the area or injury to the use and enjoyment of other property;
- h. Such other conditions and factors as to the Zoning Board of Appeals and the County Board shall appear relevant in each individual case.

8.2-5 Width and Frontage of Lot on Right-of-Way.

Excessive depth in relation to width shall be avoided. A proportion of two and one-half ($2\frac{1}{2}$) to one shall normally be considered as a desirable maximum for lot widths of one hundred (100) feet or more. Side lot lines shall be substantially at right angles or radial to street lines.

8.2-6 Uses Expressly Prohibited

Uses prohibited in the R-1 District are prohibited in the F-1 District. (Ord. No. 82-66, 5-11-82; Ord. No. 97-240, 9-9-97; Ord.02-81, 3-12-02)

Sec. 8.3. F2 District-Agricultural related sales, service, processing, research, warehouse and marketing: Special uses.

The purpose and intent of this district is to provide for the proper location and regulation of agriculturally related sales, services, processing, research, warehousing and marketing activities and other related uses that are dependent upon, or closely allied to, the agricultural industry.

Any use established in the F2 District hereafter shall be operated in such a manner as to comply with the applicable performance standards as set forth in Article XI, Section 11.1-5 of this ordinance.

8.3-1 Permitted Uses.

All uses in this district are special uses and must be approved in accordance with procedures and requirements of Section 4.8, Special Uses, of this ordinance.

8.3-2 Special Uses.

The following special uses may be allowed in the F2 District:

- a. Agriculturally related research and facilities;
- b. Contract sorting and grading services for grains, fruits, vegetables and other agricultural products;
- c. Shelling, drying, baling and threshing of agricultural crops;

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- d. Horticultural services;
- e. Preparation of feeds for animals and fowl;
- f. Livestock sales facilities, including auctions;
- g. Grain elevators and bulk storage of feed grains;
- h. Fertilizer production, sales, storage, mixing and distribution;
- i. Transportation related activities primarily serving the basic agricultural industry;
- J. Repair of farm machinery, implements and related farming equipment.
- k. In order to utilize land, lots, buildings or structures, which might remain unused or unoccupied by uses otherwise permitted in this district, an "interim special use" may be established in accordance with the requirements set forth in Section 4.8 of this Ordinance. In addition to the standards set forth in Section 4.8-2 (a) through (f), the interim special must be compatible with the character and intensity of other structures and uses permitted in this District. In its recommendation to the County Board, in addition to the standards set forth in Section 4.8-2 (a) through (f), the Zoning Board of Appeals shall also find that the proposed interim special use would be compatible with other uses permitted in this District. An interim special use shall be authorized for a limited period of time only, not to exceed five (5) years.
- l. Interim use for a limited period of not more than five (5) years specifically for the cultivation of controlled substances licensed by the State of Illinois.

8.3-3 Uses Expressly Prohibited.

Residences and apartments are prohibited, except those required for watchman or attendant whose continual presence on the premises is necessary. In this connection, trailers or mobile homes shall not be permitted. (Ord. No. 82-66, 5-11-82; Ord. No 92-187, 9-8-92; Ord. No. 14-200, 7-8-14)

ARTICLE IX. RESIDENTIAL DISTRICTS

Sec. 9.1. EI District—Estate.

9.1-1 Permitted Uses.

In the EI District, the following uses are permitted:

- a. Single-family residence, each one on a building lot or tract of not less than two hundred fifty (250) feet of width at the recorded setback line and four (4) acres in area not including any portion of any public or private highway, street or alley.
- b. Churches.
- c. Public and private parks, playgrounds and forest preserves, excluding commercial enterprises therein, provided that the Zoning Board of Appeals may, upon written application made therefore, grant temporary seasonal permits, terminable by said Zoning Board at such time or times as may be determined by it, for the selling and dispensing of food, refreshments and non-alcoholic beverages in certain designated areas, and as shall be compatible with the general purposes of the classification of this district. No right or privilege to continue the selling or dispensing of any such products beyond the period of time designated by the Zoning Board or beyond the time when such right or privilege is terminated by it shall accrue by reason of the

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issuance of any such permit.

- d. Public and community waterworks, police stations and fire stations.
- e. Public and private nursery schools, grade schools and high schools incorporated and operated not for profit.
- f. Storage of gasoline for private, domestic use, in underground tanks, installation approved by the State Fire Marshal, provided said storage tank is:
 - (1) not less than twenty-five (25) feet from side and rear lot lines, the setback to meet requirements as provided in Section 7.5-2 of this ordinance;
 - (2) not less than twenty-five (25) feet from any well;
 - (3) not less than twenty-five (25) feet from any septic system; and
 - (4) not less than ten (10) feet from any building, and, further, provided that the location of any pump used in connection therewith be in accordance with the above requirements.
- g. Agriculture, which in this district shall mean the cultivation of the soil principally for the production of food products, but shall not include the following:
 - (1) The feeding or other disposal of community or collected garbage.
 - (2) The raising or dealing in poultry, or any animals for business or commercial purposes, except as incidental to a bona fide general farming operation. Said animals or poultry shall not be housed, stabled, kenneled or yarded closer than one hundred (100) feet from any residence other than that of the owner or user of the property.
 - (3) Buildings or structures, and the sale of agricultural products produced solely on the premises, are considered agricultural if located on a lot containing not less than five (5) acres of land area.
- h. One sign not over six (6) square feet in area pertaining only to the sale, lease or, identification of the premises upon which it is displayed, which may be illuminated by such lighting as, in the opinion of the Enforcing Officer, shall not constitute a traffic hazard, or a nuisance to neighboring property, except that a single temporary sign, not over three (3) square feet in area, advertising the premises upon which it is displayed, for sale or lease, may be permitted without a permit and must be removed when the premises are sold or leased. One sign for the purpose of identifying the premises upon which it is displayed or the occupants thereof, located outside the public right-of-way, may be erected or installed without a permit, and such signs shall conform to the following size limitations:
 - (1) Upon premises having two hundred (200) feet or less of frontage on the public right-of-way, a sign not more than one square foot in area; and
 - (2) Upon premises having more than two hundred (200) feet of frontage on the public right-of-way, a sign not more than three (3) square feet in area.
- i. Telephone booths and pedestal-mounted phones for use by the public. Said booths, or pedestal-mounted phones may be permitted at less than the required distance from the right-of-way line of public or private right-of-way as provided in Section 7.5-2 of this ordinance, provided, however, that if such booth or pedestal-mounted phone is installed near an intersection of two (2) streets or rights-of-way, the minimum setback from one of such intersecting right-of-way lines shall be twenty (20) feet, and provided also that no part of any such booth or pedestal-mounted phone shall be permitted on any such right-of-way, unless approved by the proper highway authority.

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- j. Dogs and cats, as pets, are permitted, but not more than three (3) of each over four (4) months of age, in any dwelling unit.
- k. Filling and leveling of holes, pits and low land requiring not more than five hundred (500) cubic yards of fill, with nonodorous and noncombustible material, free from any garbage and food wastes and in compliance with the Kane County Erosion and Sedimentation Control Ordinance.
- l. Waiting stations for bus passengers. Said stations may be permitted at less than required setback distance from center line of public or private right-of-way as provided in Section 7.5-2 of this ordinance, provided, however, that if such station is constructed near an intersection of two (2) streets or rights-of way, the required setback as set forth in said Section 7.5-2 of this ordinance shall be observed from one of such intersecting streets or rights-of-way, and provided also that no part of any such station shall be permitted on any such right-of-way, except a railroad right-of-way in use by a railroad. Upon discontinuance of the use of any such structure as a waiting station for bus passengers, such structure must be removed within thirty (30) days from such discontinuance.
- m. In connection with subdivision developments, a single temporary office building and off-street parking area shall be permitted on such development for a period not to exceed six (6) years. In this connection, a single sign or double-faced sign on a common support or structure, not exceeding one hundred (100) square feet in area for each sign face, shall be permitted on the premises being developed, for a period not to exceed six (6) years. Such use, structures and signs shall require permits as set forth herein.

If a temporary office, in connection with a subdivision development, is located within a "model home," it shall be permitted in the area for a period not to exceed six (6) years.

- n. Lights for illuminating entrance driveways may be installed outside the public right-of-way as, in the opinion of the Enforcing Officer, shall not constitute a traffic hazard or a nuisance to neighboring property.

9.1-2 Special Uses.

- a. Community buildings and social and recreational centers of a community nature incorporated and operated not for profit.
- b. Golf courses and country clubs incorporated and operated not for profit.
- c. Bed and Breakfast Establishments.

9.1-3 Uses Expressly Prohibited.

The following uses are prohibited in E1 Estate Districts:

- a. The storage or keeping of a truck or other commercial vehicle in excess of three-quarter tons or the storage or keeping of commercial equipment and supplies.
- b. The storage or keeping of more than one (1) truck or other commercial vehicle or the storage or keeping of commercial equipment and supplies in connection with each family dwelling unit within or without any building located on the premises.
- c. Garages or other accessory buildings shall not be permitted in this district except as accessory to a residential use.
- d. Storage of boats, recreational vehicles and recreational trailers of any kind closer than required setback line and required sideyard width.
- e. Mobile homes as defined herein. Storage of unoccupied mobile homes and/or conversion of mobile homes to

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another use. Occupied travel trailers or recreations vehicles. (Ord. No. 79-229, § 7, 12-11-79; Ord. No. 82-66, 5-11-82; Ord. No. 92-187, 9-8-92; Ord. No. 97-240, 9-9-97; Ord. No. 98-45, 4-14-98)

Cross reference—Erosion and sedimentation control ordinance, § 9-16 et seq.

Sec. 9.2. E2 District-Estate.

9.2-1 Permitted Uses.

In the E2 District, the following uses are permitted:

- a. Any use permitted in the E1 Districts.
- b. Single-family residence, each one on a building lot or tract of not less than two hundred (200) feet in width at the recorded setback line and two and one-half (2¹/₂) acres in area not including any portion of any public or private highway, street or alley.

9.2-2 Special Uses.

Special Uses allowed in the E1 District are allowed in the E2 District.

9.2-3 Uses Expressly Prohibited.

The uses expressly prohibited in the E1 District are expressly prohibited herein. (Ord. No. 79-229, § 7, 12-11-79)

Sec. 9.3. E2-A District-Estate.

9.3-1 Permitted Uses.

In the E2-A District, the following uses are permitted:

- a. Any use permitted in the E-1 District and the E-2 District.
- b. Single-family residence, each one on a building lot or tract of not less than one hundred sixty-five (165) feet in width at the recorded setback line and two (2) acres in area not including any portion of any public or private highway, street or alley.

9.3-2 Special Uses.

Special Uses allowed in the E1 District are allowed in the E2-A District.

9.3-3 Uses Expressly Prohibited.

The uses expressly prohibited in the E-1 District are expressly prohibited herein. (Ord. No. 82-66, 5-11-82)

Sec. 9.4. E3 District-Estate.

9.4-1 Permitted Uses.

In the E3 District, the following uses are permitted:

- a. Any use permitted in the E1 District, E2 District and E2-A District.
- b. Single-family residence, each one on a building lot or tract of not less than one hundred thirty-two (132) feet

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of width at the recorded setback line and one and one quarter ($1\frac{1}{4}$) acres in area not including any portion of any public or private highway street or alley.

9.4-2 Special Uses.

Special uses allowed in the E1 District are allowed in the E3 District.

9.4-3 Uses Expressly Prohibited.

The uses expressly prohibited in the E1 District are expressly prohibited herein. (Ord. No. 77-46, § 2, 4-12-77; Ord. No. 79-229, § 7, 12-11-79; Ord. No. 82-66, 5-11-82)

Sec. 9.5. R1 District—One-family residential.

9.5-1 Permitted Uses.

In the R1 District, the following uses are permitted:

a. One family residence.

- (1) The building lot must be not less than one hundred twenty-five (125) feet in width at the recorded building setback line and the lot area shall be not less than forty thousand (40,000) square feet. Said dimensions and lot area requirement shall not include any portion of any public or private highway, street, or alley.
- (2) If the zoning lot is part of an approved recorded subdivision which met County zoning standards at the time of recording (on or after December 15, 1937), a one-family detached dwelling unit would be permitted provided that all other applicable zoning, wastewater disposal, stormwater ordinance, and building ordinance requirements are complied with.

b. The following uses shall be permitted as incidental or accessory to one family residences:

- (1) Displaying of one sign not over six (6) square feet in area pertaining only to the sale, lease, or identification of the premises upon which it is displayed, which may be illuminated by such lighting as, in the opinion of the Enforcing Officer shall not constitute a traffic hazard or nuisance to the neighboring property.

A single temporary sign not over three (3) square feet in area, advertising the premises upon which it is displayed, for sale or lease, may be permitted without a permit and must be removed when the premises are sold or leased. One sign for the purpose of identifying the premises upon which it is displayed or the occupants thereof, located outside the public right-of-way, may be erected and installed without a permit, and such signs shall conform to the following size limitations:

- (a) upon premises having two hundred (200) feet or less of frontage on the public right-of-way, a sign not more than one square foot in area: and
- (b) upon premises having more than two hundred (200) feet of frontage on the public right-of-way, a sign not more than three (3) square feet in area.

- (2) Home occupations, as defined herein.

c. Agriculture, which in this district shall mean the cultivation of soil principally for the production of food products, but shall not include:

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- (1) The feeding or other disposal of community or collected garbage.
- (2) The sale or distribution, for profit, of any food products.
- (3) The raising of poultry, rabbits and other small animals commercially.

The raising of poultry, rabbits and other small animals for private use shall be permitted on tracts of land of one acre or more provided said poultry and animals are housed and yarded no closer than one hundred (100) feet from any residence other than that of the owner or user of the property.

- d. Churches and libraries.
- e. Dogs and cats, as pets, are permitted, but not, more than three (3) of each, over four (4) months of age, in any dwelling unit.
- f. Filling and leveling of holes, pits and low land requiring not more than two hundred fifty (250) cubic yards of fill, with nonodorous and noncombustible material, free from any garbage and food wastes.
- g. Forest preserves and picnic grounds, but not including business facilities.
- h. Garage sales, limited to two (2) sales per year.
- i. Lights for illuminating entrance driveways may be installed outside the public right-of-way as, in the opinion of the Enforcing Officer, shall not constitute a traffic hazard or a nuisance to neighboring property.
- j. Public and community waterworks, police stations and fire stations.
- k. Public and private parks, playgrounds, athletic fields and swimming pools.
- l. Railroad and bus passenger stations.
- m. Railroad right-of-way and tracks, but not including industrial yards and team tracks.
- n. Schools and colleges (either public or religious), not operated for profit.
- o. Storage of gasoline for private, domestic use, in underground tanks; installation approved by the State Fire Marshall, provided said storage tank is:
 - (1) Not less than twenty-five (25) feet from side and rear lot lines, the setback to meet requirements as provided in Section 7.5-2 of this ordinance,
 - (2) Not less than twenty-five (25) feet from any well,
 - (3) Not less than twenty-five (25) feet from any septic system and
 - (4) Not less than ten (10) feet from any building and further provided that the location of any pump used in connection therewith be in accordance with the above requirements.
- p. Subdivision developments. In connection with subdivision developments, a single temporary office building and off-street parking area shall be permitted on such development for a period not to exceed six (6) years. In this connection, a single sign or double-faced sign on a common support or structure, not exceeding one hundred (100) square feet in area for each sign face shall be permitted on the premises being developed, for a period not to exceed six (6) years. Such use, structures and signs shall require permits as set forth herein.

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If a temporary office, in connection with a subdivision development is located within a "model home," it shall be permitted in the area for a period not to exceed six (6) years.

- q. Telephone booths, as defined herein, for use by the public. Said booths may be permitted at less than the required distance from the center line of public or private right-of-way as provided in Section 7.5-2 of this ordinance, provided, however, that if such booth is installed near an intersection of two (2) streets or rights-of-way, the minimum setback from one of such intersecting right-of-way lines shall be twenty (20) feet and provided, also, that no part of any such booth shall be permitted on any such right-of-way unless approved by the proper highway authority.
- r. Waiting stations for bus passengers. Said stations may be permitted at less than required setback distance from center line of public or private right-of-way as provided in Section 7.5-2 of this ordinance, provided, however, that if such station is constructed near an intersection of two (2) streets or rights-of-way, the required setback as set forth in Section 7.5-2 of this ordinance shall be observed from one of such intersecting streets or rights-of-way and provided also that no part of any such station shall be permitted on any such right-of-way, except a railroad right-of-way in use by a railroad. Upon discontinuance of the use of any such structure as a waiting station for bus passengers, such structure must be removed within thirty (30) days from such discontinuance.

9.5-2 Special Uses.

The following special uses may be allowed in the R1 District, subject to the provisions of Section 4.8:

- a. Clubs and fraternal lodge halls, not-for-profit, but not including those whose chief activity is rendering services customarily provided as a business, or whose activities may endanger life or property or constitute a public nuisance.
- b. Community buildings and social and recreational centers of a community nature.
- c. Hospitals, general, for human beings. This may include power plants, residence for nurses, and similar facilities.
- d. Kennels, private, not-for-profit, for pets as defined herein on tracts of land not less than one acre and where permitted said animals shall not be housed, kenneled or yarded closer than one hundred (100) feet from any residence other than that of the owner or user of property.
- e. Museums as defined herein.
- f. Nursery Schools/pre-schools and/or child care centers as defined herein.
- g. Parking areas to be used in connection with an existing business in an adjoining Business District. No buildings or structures, except necessary lighting, shall be permitted in such areas.
- h. Stray and abandoned animal homes (State licensed).
- 1. Bed and Breakfast establishments

9.5-3 Uses Expressly Prohibited.

The following uses are prohibited in R1 Residential Districts:

- a. Storing of lumber or other building materials and/or equipment, not in connection with an authorized building project in progress on the immediate premises.

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- b. Mobile homes, as defined herein. Storage of unoccupied mobile homes and/or conversion of mobile homes to another use. Occupied travel trailers or recreational vehicles.
- c. The storage or parking of one or more trucks or other commercial vehicles in excess of three-quarter ton, or the storage or keeping of commercial equipment and supplies.
- d. Reserved
- e. Garages or other accessory buildings shall not be permitted in this district except as accessory to a residential use.
- f. Storage of boats, recreational vehicles and trailers of any kind closer than required setback lines.
- g. Private electrical generation plants, “peaker” plants, and ancillary transmission and distribution facilities. (Ord. No. 78-79, § 7, 6-13-78; Ord. No. 79-229, § 7, 12-11-79; Ord. No. 82-66, 5-11-82; Ord. No. 92-187, 9-8-92; Ord. No. 97-240, 9-9-97; Ord. No. 98-45, 4-14-98; Ord. No. 02-81, 3-12-02; Ord. No. 08-07, 1-8-08)

Sec. 9.6. R2 District–One-family residential.

9.6-1 Permitted Uses.

In the R2 District, the following uses are permitted:

Any use permitted in the R1 District shall be permitted in the R2 District except that the building lot for one-family residences in the R2 District shall be not less than one hundred twenty-five (125) feet in width at the recorded building setback line and the lot area shall be not less than thirty thousand (30,000) square feet. Said dimensions and lot area requirements shall not include any portion of any public or private highway, street, or alley.

9.6-2 Special Uses.

Special uses allowed in the R1 District are allowed in the R2 District.

9.6-3 Uses Expressly Prohibited.

Uses prohibited in the R1 District are prohibited in the R2 District. (Ord. No. 79-229, § 7, 12-11-79)

Sec. 9.7. R3 District–One-family residential.

9.7-1 Permitted Uses.

In R3 Districts, the following uses are permitted:

Any use permitted in the R2 District shall be permitted in the R3 District except that the building lot for one family residences in the R3 District shall be not less than one hundred (100) feet in width at the recorded building setback line and the lot area shall be not less than twenty thousand (20,000) square feet. Said dimensions and lot area requirements shall not include any portion of any public or private highway, street, or alley.

9.7-2 Special Uses.

Special uses allowed in the R1 District are allowed in the R3 District.

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9.7-3 Uses Expressly Prohibited.

Uses prohibited in the R1 District are prohibited in the R3 District. (Ord. No. 79-229, § 7, 12-11-79)

Sec. 9.8. R4 District–One-family residential.

9.8-1 Permitted Uses.

In R4 Districts, the following uses are permitted:

Any use permitted in the R3 District shall be permitted in the R4 District except that the building lot for one-family residences in the R4 District shall be not less than seventy-five (75) feet in width at the recorded building setback line and the lot area shall be not less than ten thousand (10,000) square feet. Said dimensions and lot area requirements shall not include any portion of any public or private highway, street, or alley.

9.8-2 Special Uses.

Special uses allowed in the R1 District are allowed in the R4 District.

9.8-3 Uses Expressly Prohibited.

Uses prohibited in the R1 District are prohibited in the R4 District. (Ord. No. 79-229, § 7, 12-11-79)

Sec. 9.9. R5 District–Two-family residential.

9.9-1 Permitted Uses.

In the R5 District, the following uses are permitted:

- a. Any use permitted in an R4 District shall be permitted in the R5 District, except home occupations. The building lot for one-family residences in the R5 District shall be not less than one hundred fifty (150) feet in width at the recorded building setback line and the lot area shall be not less than sixty thousand (60,000) square feet. Said dimensions and lot area requirements shall not include any portion of any public or private highway, street, or alley.
- b. Two-family residence.

The building lot shall be not less than one hundred fifty (150) feet in width at recorded building setback line and the lot area shall be not less than sixty thousand (60,000) square feet.

9.9-2 Special Uses.

Special uses allowed in the R1 District are allowed in the R5 District.

9.9-3 Uses Expressly Prohibited.

Uses prohibited in the R1 District are prohibited in the R5 District. (Ord. No. 79-229, § 7, 12-11-79)

Sec. 9.10. R6 District–Two-family residential.

9.10-1 Permitted Uses.

In the R6 District, the following uses are permitted:

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- a. Any use permitted in an R5 District except that the building lot for one-family residences in the R6 District shall be not less than one hundred forty (140) feet in width at the recorded building setback line and the lot area shall be not less than forty thousand (40,000) square feet. Said dimensions and lot area requirements shall not include any portion of any public or private highway, street, or alley.

- b. Two-family residence.

The building lot shall be not less than one hundred forty (140) feet in width at the recorded building setback line and the lot area shall be not less than forty thousand (40,000) square feet.

9.10-2 Special Uses.

Special uses allowed in the R1 District are allowed in the R6 District.

9.10-3 Uses Expressly Prohibited.

Uses prohibited in the R1 District are prohibited in the R6 District. (Ord. No. 79-229, § 7, 12-11-79)

Sec. 9.11. R7 District—Two-family residential.

9.11-1 Permitted Uses.

In the R7 District, the following uses are permitted:

- a. Any use permitted in an R6 District except that the building lot for one-family residences in the R7 District shall be not less than one hundred twenty-five (125) feet in width at the recorded building setback line and the lot area shall be not less than twenty-five thousand (25,000) square feet. Said dimensions and lot area requirements shall not include any portion of any public or private highway, street, or alley.

- b. Two-family residence.

The building lot shall be not less than one hundred twenty-five (125) feet in width at the recorded building setback line and the lot area shall be not less than twenty-five thousand (25,000) square feet.

9.11-2 Special Uses.

Special uses allowed in the R1 District are allowed in the R7 District.

9.11-3 Uses Expressly Prohibited.

Uses prohibited in the R1 District are prohibited in the R7 District. (Ord. No. 79-229, § 7, 12-11-79)

Sec. 9.12. R8 District—Two-family residential.

9.12-1 Permitted Uses.

In the R8 District, the following uses are permitted:

- a. Any use permitted in an R7 District except that the building lot for one-family residences in the R8 District shall be not less than one hundred (100) feet in width at the recorded building setback line and the lot area shall be not less than twenty thousand (20,000) square feet. Said dimensions and lot area requirements shall not include any portion of any public or private highway, street, or alley.

- b. Two-family residence.

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The building lot shall be not less than one hundred (100) feet in width at the recorded building setback line and the lot area shall be not less than twenty thousand (20,000) square feet.

9.12-2 Special Uses.

Special uses allowed in the R1 District are allowed in the R8 District.

9.12-3 Uses Expressly Prohibited.

Uses prohibited in the R1 District are prohibited in the R8 District. (Ord. No. 79-229, § 7, 12-11-79)

Sec. 9.13. R9 District—Multiple family.

9.13-1 Permitted Uses.

In the R9 District, the following uses are permitted:

- a. The uses permitted in the R1 Districts except subsections a, b (2), j and n.
- b. Residential apartment buildings and multiple dwellings for not less than three (3) families, provided:
 - (1) The height of the building shall not be more than three (3) stories above the floor level of the lowest apartment. Such lowest apartment shall be construed to mean either that apartment, any part of which is below the lowest finished grade of the ground adjacent to the building, or if no apartment is below said finished grade, then the apartment nearest said finished grade.
 - (2) The maximum building height shall not exceed forty (40) feet above the lowest finished grade of the ground adjacent to the building.
 - (3) The building plot is improved with an approved community water supply and an approved community sewerage disposal system as defined herein.
- c. Also provided, further, that the following use will be permitted as incidental or accessory to the residential use:

Displaying of one sign not over six (6) square feet in area pertaining only to the sale, lease, or identification of the premises upon which it is displayed, which may be illuminated by such lighting as, in the opinion of the Enforcing Officer, shall not constitute a traffic hazard or a nuisance to neighboring property.

9.13-2 Density.

- a. There shall in no case be more than eight (8) dwelling units per acre, not including any portion of any public or private highway, street or alley.
- b. Where buildings for less than eight (8) dwelling units are to be constructed, the area for each dwelling unit shall not be less than the proportion of eight (8) units per acre.

9.13-3 Special Uses.

Special uses allowed in the R1 District are allowed in the R9 District.

9.13-4 Uses Expressly Prohibited.

Uses expressly prohibited in the R1 District shall be prohibited in the R9 District. (Ord. No. 79-229, § 7, 12-11-79)

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ARTICLE X. BUSINESS DISTRICTS

Sec. 10.1. RB District–Restricted business.

10.1-1 Permitted Uses.

In the RB District, the following uses are permitted:

- a. Banks.
- b. Delicatessens (not including consumption of food or beverages on the premises).
- c. Medical clinics for human beings.
- d. Personal service shops such as shoe repair, beauty parlors, barbershops, dry cleaning receiving stations. Cleaning must be done elsewhere.
- e. Postal sub-stations.
- f. Prescription drugstores (not including serving of any food or beverages).
- g. Retail sale of foods, drugs, wearing apparel, hardware, furniture, household goods and supplies, office equipment and supplies, camping and recreational equipment (not self-propelled), garden supplies and other similar products, goods and merchandise is permitted so long as the aforesaid goods and/or merchandise is sold from a permanent structure. Temporary seasonal sales may be permitted for a period not to exceed six (6) months without erecting a structure providing a temporary use permit is obtained from the zoning enforcing officer. In the case of temporary food sales, a temporary food service license must be obtained from the Kane County Environmental Health Department.
- h. Mixed Uses, as defined herein.
- i. Business and Professional Offices.
- j. Personal service shops such as shoe repair, beauty parlors, barbershops, and similar services.
- k. Business signs defined herein not to exceed eight (8) square feet in display area per side.

10.1-2 Special Uses.

- a. Special uses compatible with other uses permitted in this District may be considered in the manner prescribed, as outlined in Section 4.8
- b. Interim use for a limited period of not more than five (5) years specifically for the dispensing of controlled substances licensed by the State of Illinois. (Ord. No. 08-07, 1-8-08; Ord. No. 14-200, 7-8-14)

Sec. 10.2. B1 District–Business.

10.2-1 Permitted Uses.

In the B1 District, the following uses are permitted:

- a. The uses as permitted in the R1, R2, R3, and R4 Districts (except subsections a and j thereof).

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- b. Business signs as defined herein not to exceed thirty-two (32) square feet in display area per side and twenty (20) feet in height. Business signs lawfully in place prior to May 10, 1988 may be continued subject to the regulations for nonconforming buildings, structures and uses set forth in Article VI of this ordinance.
- c. Apartments in a building used principally for a business use permitted herein except those uses permitted in subsections a, b, g, and l, and provided:
 - (1) That any such apartment located on the first floor of such building shall be located only in the rear twenty-five (25) percent of said building.
 - (2) That the lot area per apartment is not less than one thousand five hundred (1,500) square feet, exclusive of required business and residential parking.
- d. Bakeries (retail), print shops, laundry and dry cleaning receiving stations. Cleaning must be done elsewhere.
- e. Banks.
- f. Business and professional offices.
- g. Coin-operated amusement devices, as defined herein, provided that said coin-operated devices shall be licensed, operated, and located pursuant to "An Ordinance Requiring a License for and Imposing a Tax on the Operation of Coin-Operated Amusement Devices," as amended. This shall not include "arcades," as defined herein.
- h. Commercial swimming pools and beaches.
- i. Dental laboratories.
- j. Garage buildings for the repair, servicing, storage, sale or rental of new or used motor vehicles and vehicle parts, but not including "Auto Wrecking Yards" as herein defined, and not including open air lots for parking or display for sale or rental of motor vehicles.
- k. Hotels and motels.
- l. Laundry and cleaning facilities provided for the public by coin operated or attended machines having a single load capacity of not more than twenty (20) pounds and using nonflammable liquids.
- m. Motor vehicle parking lots not including truck storage or truck terminals.
- n. Personal service shops such as shoe repair, beauty parlors, barbershops, and similar services.
- o. Pet shops, not including boarding of animals.
- p. Plumbing shops (retail).
- q. Post offices.
- r. Private music, dancing, business and vocational schools and colleges.
- s. Retail sale of foods, drugs, wearing apparel, hardware, furniture, household goods and supplies, office equipment and supplies, camping and recreational equipment (not self-propelled), garden supplies and other similar products, goods and merchandise is permitted so long as the aforesaid goods and/or merchandise is sold from a permanent structure. Temporary seasonal sales may be permitted for a period not to exceed six (6) months without erecting a structure providing a temporary use permit is obtained from the zoning

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enforcing officer. In the case of temporary food sales, a temporary food service license must be obtained from the Kane County Environmental Health Department.

- t. Rooming houses, or boarding houses, or combinations thereof, including one apartment accessory to the operation thereof.
- u. Serving of meals and non-alcoholic drinks, but not including drive-in establishments as defined in Section 3.1 of this Ordinance.
- v. Theaters, indoor.
- w. Undertaking establishments.
- x. Upholstery shops.

10.2-2 Special Uses.

The following special uses may be allowed in a B1 District, subject to the provisions of Section 4.8 of this Ordinance:

- a. The retail sale of packaged beer and alcoholic liquors, but not for consumption on the premises. However, in any application for a rezoning of any property to B1 District Business, if in the same application for such rezoning a request is made for authority to sell packaged beer and alcoholic liquors at retail, but not for consumption on the premises, then at the same hearing under such application the Zoning Board may consider such request for such retail sale, and make recommendations to the County Board, without the necessity of a further hearing on the matter. Except as otherwise specifically provided, this is the only district in which this use is permitted.
- b. Car and truck wash.
- c. Commercial TV and radio towers.
- d. Gasoline stations, including marine, provided the plans and construction of storage tanks and gasoline pumps conform to the laws and regulations of the State and have the approval of the State Division of Fire Prevention.
- e. Outdoor theaters, and other drive-in establishments as defined in Section 3.1 of this Ordinance.
- f. Advertising signs as defined herein not to exceed ninety-six (96) square feet in display area per side and forty (40) feet in height. Advertising signs lawfully in place prior to May 10, 1988 may be continued subject to the regulations for nonconforming buildings, structures and uses set forth in Article VI of this Ordinance.
- g. Interim use for a limited period of not more than five (5) years specifically for the dispensing of controlled substances licensed by the State of Illinois.

10.2-3 Uses Expressly Prohibited.

Trailer coaches or mobile homes, as herein defined. (Ord. No. 78-79, § 10-12, 6-13-78; Ord. No. 82-66, 5-11-82; Ord. No. 83-15³, 1-11-83; Ord. No. 88-62, 5-10-88; Ord. No. 92-187, 9-8-92; Ord. No. 14-200, 7-8-14)

³ **Editor's note**—Ord. No. 83-15, adopted Jan. 11, 1983, added a new subsection (g) to § 10.2-1; therefore, in order to facilitate the inclusion of said amendment, the editor has relettered former subsections (g)–(w) as (h)–(x).

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Sec. 10.3. B2 District–Business.

10.3-1 Permitted Uses.

In the B2 District, the following uses are permitted:

- a. The uses as permitted in the R1, R2, R3 and R4 (except subsections a and j thereof), F and B1 Districts.
- b. Carnival grounds and equipment.
- c. Dance halls and roller skating rinks.
- d. Practice golf driving tees, merry-go-rounds, bowling alleys, pool halls, and other commercial places of amusement.
- e. Shooting galleries and ranges in a fully enclosed building.
- f. Race tracks, this is the only district in which this use is permitted.

10.3-2 Special Uses.

The following special uses may be allowed in the B2 District, subject to the provisions of Section 4.8 of this Ordinance.

- a. “Adult Business”, as defined in section 3.1 of this Ordinance, excluding adults-only nightclubs. A separate special use must be acquired for each adult business. Except as otherwise specifically provided, this is the only district in which this special use is permitted.
- b. “Arcade”, as defined herein provided, said "arcade" shall be licensed, operated, and located pursuant to "An Ordinance Requiring a License for and Imposing a Tax on the Operation of Coin-Operated Amusement Devices" as amended.

10.3-3 Uses Expressly Prohibited.

Uses prohibited in B-1 District are prohibited in B-2 District. (Ord. No. 78-79, § 13, 6-13-78; Ord. No. 82-66, 5-11-82; Ord. No. 83-15, 1-11-83)

Sec. 10.4. B3 District–Business.

10.4-1 Permitted Uses.

In the B3 District, the following uses are permitted, subject to the performance standards as set forth in Article XI, Section 11.1-5 of this Ordinance:

- a. The uses as permitted in the R1, R2, R3, and R4 (except subsections a and j thereof), and F, B1 and B2 Districts.
- b. Reserved.
- c. Bottling plants.
- d. Cemetery monument works.
- e. Cheese factories.

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- f. Creameries.
- g. Dry cleaning establishments.
- h. Ice cream manufacturing.
- i. Laundries.
- j. Milk collection depots.
- k. Printing plants, including the printing and processing of wallpaper.
- l. Hospitals for the treatment of animals.
- m. Wholesale establishments and their facilities (receiving, storing, and distributing).
- n. Yards for the storage and repair of maintenance and operating equipment of public agencies and public utilities.
- o. Tourist courts and motor lodges, as defined in Section 3.1 of this Ordinance. This is the only district in which this use is permitted.

10.4-2 Special Uses.

The following special uses may be allowed in the B3 District, subject to the provisions of Section 4.8 of this Ordinance:

- a. Auction sales buildings and/or yards.
- b. Blacksmith shops.
- c. Body and paint shops.
- d. Reserved.
- e. Bulk storage of gasoline, fuel oil or other inflammable or explosive liquids or fuel gasses, under pressure, for retail sales and distribution, provided the location, plans and construction shall conform to the laws and regulations of the State and have approval of the State Division of Fire Prevention.
- f. Grain elevators or warehouses.
- g. Light manufacturing within fully enclosed buildings:
 - (1) If not detrimental to health or to neighboring property.
 - (2) If not hazardous to life or property.
 - (3) In any application for a rezoning of any property to B-3 District Business, if in the same application for such rezoning, a request is made for authority to carry on light manufacturing hereunder, then, at the same hearing, under such application, the Zoning Board may consider such request for such light manufacturing and make recommendation to the County Board, without the necessity of a further hearing on the matter.
- h. Meat processing, including smoking, but not including slaughtering of animals.

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- i. Open air lots for the parking and display for sale or rental of motor vehicles in self-propelling and self-operative condition and for parking or display for sale of trailer coaches.
- j. Processing of poultry not produced on the premises. However, in any application for a rezoning of any property to B-3 District Business, if in the same application for rezoning, a request is made for authority to process poultry hereunder, then, at the same hearing, under such application the Zoning Board of Appeals may consider such request for such poultry processing and make recommendation to the County Board without the necessity of further hearing in the matter.
- k. Retail sheet metal shops.
- l. Railroad freight stations, service tracks, truck terminals and other receiving, storage and distribution facilities commonly required by light industry.
- m. Stock shipping yards.
- n. Yards and buildings for the storage of coal, wood, lumber and building materials, poultry and livestock feed and supplies, farm implements and equipment, including commercial elevators and warehouses.
- o. Yards and buildings for the storage of equipment and materials if not hazardous to life and neighboring property.
- p. Interim use for a limited period of not more than five (5) years specifically for the cultivation of controlled substances licensed by the State of Illinois.
- q. Interim use for a limited period of not more than five (5) years specifically for the dispensing of controlled substances licensed by the State of Illinois.

10.4-3 Uses Expressly Prohibited.

The following uses are prohibited in B3 Business Districts:

- a. Any establishment serving beer or alcoholic liquor or selling them at retail.
- b. Manufacture or storage of ammunition, dynamite, nitroglycerine or other high explosives in such manner or quantity as to be hazardous to persons and property beyond the premises.
- c. Auto wrecking yards as defined in Section 3.1 of this Ordinance.
- d. Dance halls and roller skating rinks.
- e. Trailer coaches or mobile homes as defined in Section 3.1 of this Ordinance. (Ord. No. 78-79, §§ 14-16, 6-13-78; Ord. No. 82-66, 5-11-82; Ord. No. 08-07, 1-8-08; Ord. No. 14-200, 7-8-14)

Sec. 10.5. B4 District-Business.

10.5-1 Permitted Uses.

In the B4 District, the following uses are permitted:

- a. The uses as permitted in the R1, R2, R3, and R4 (except subsections a and j thereof), and F and B1 Districts.

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- b. Taverns, bars, nightclubs, restaurants, motels and bowling alleys, serving beer or alcoholic liquors or any establishments serving or selling beer or alcoholic liquors at retail to the general public. These uses shall not include an “adult business” as defined in Section 3.1 of this Ordinance.

10.5-2 Special Uses.

The following special uses may be allowed in the B4 District, subject to the provisions of Section 4.8 of this Ordinance:

- a. “Adults-only Nightclub”, as defined herein. Except as otherwise specifically provided, this is the only district in which this special use is permitted. Adults-only Nightclubs which were legally established and operated continuously prior to the effective date of this Ordinance, shall be permitted as non-conforming uses in accordance with Article VI of this Ordinance, as amended.

10.5-3 Uses Expressly Prohibited.

Uses prohibited in B1 District are prohibited in B4 District. (Ord. 97-46, 2-11-97; Ord. No. 97-46, 2-11-97)

Sec. 10.6. B5 District-Business.

10.6-1 Permitted Uses.

In the B5 District, the following uses are permitted:

- a. The uses as permitted in the R1, R2, R3, and R4 (except subsections a and j thereof), and F, B1, B2, and B3 Districts.
- b. Trailer parks as defined in Section 3.1 of this Ordinance.
- c. All trailer parks shall conform to the standards and regulations of the Kane County Trailer Coach and Mobile Home Park Ordinance.

10.6-2 Special Uses⁴.

Special uses may be considered in the manner prescribed, as outlined in Section 4.8 of this Ordinance.

Sec. 10.7. B6 District-Business⁵.

10.7-1 Permitted Uses.

In the B6 District, the following uses are permitted:

- a. The uses as permitted in the R1, R2, R3, and R4 (except subsections a and j thereof), and F, B1, B2, and B3 Districts.
- b. Trailer parks accommodating only independent trailer coaches as defined in the Kane County Trailer Coach and Mobile Home Ordinance.
- c. All trailer parks shall conform to the standards and regulations of the Kane County Trailer Coach and Mobile

⁴ See: Special provisions for trailer parks in B-5 Zoning Districts, Section 22-91 et seq. of the Kane County Code.

⁵ ~~Cross reference~~—Special provisions for trailer parks in B-6 zoning districts, § 22-46 of the Kane County Code.

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Home Ordinance.

10.7-2 Special Uses.

Special uses may be considered in the manner prescribed, as outlined in Section 4.8. of this Ordinance.

ARTICLE XI. INDUSTRIAL DISTRICTS

Sec. 11.1. LI District–Light Industry.

The Light Industry District is intended to provide an environment suitable for industrial activities that do not create appreciable nuisances or hazards, or that require a pleasant, hazard- and nuisance-free environment. Any use established in a Light Industry District hereafter shall be operated in such a manner, as to comply with the applicable performance standards as hereinafter set forth governing noise, smoke, particulate matter, toxic or noxious matter, odors, fire and explosive hazards, vibration, glare and heat, or radiation hazards; and no use already established on the effective date of this Ordinance shall be so altered or modified as to conflict with such applicable performance standards. Upon request of the Zoning Enforcing Officer, certification from an approved testing laboratory indicating compliance with the applicable performance standards shall accompany application for a building permit, or a change of use.

11.1-1 Permitted Uses.

Only manufacturing, assembling, processing, storage in connection with such uses and related utility services and research and development shall be permitted in the LI District, and such uses shall show compliance with the applicable performance standards and other applicable Federal, State and County codes, ordinances and regulations.

11.1-2 Special Uses.

Because permitted uses in the LI District are determined by compliance with applicable performance standards, there shall be not special uses except for as follows:

- a. Interim use for a limited period of not more than five (5) years specifically for the cultivation of controlled substances licensed by the State of Illinois.

11.1-3 Uses Expressly Prohibited.

In the LI District, residences and apartments are prohibited, except those required for watchmen or attendants whose continual presence on the premises is necessary. In this connection, trailers or mobile homes shall not be permitted.

11.1-4 Special Restrictions.

- a. **Setbacks.** Along the outer perimeter of an LI District adjacent to an Estate, Residential, or Farming District, no building, structure or land within one hundred (100) feet shall be used in connection with the operation of any establishment including parking except that railroad sidings may extend over this area. No parking shall be permitted in the perimeter setback areas. These perimeter and setback areas shall be landscaped. Side and rear yards shall be no less than twenty-five (25) feet. The outer perimeter, adjacent to all other districts shall have a fifty (50) foot minimum clear zone, including side yards within the LI District, except as provided in Section 7.5-1 (d) of this Ordinance. There shall also be a minimum setback of fifty (50) feet from all internal streets within the LI District.
- b. **Building Height.** A maximum height of two (2) stories or forty (40) feet above the average surrounding ground level shall be allowed for all principal and accessory buildings. This maximum height may be exceeded, but

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for each additional story or part thereof the maximum lot coverage shall be decreased by five (5) percent. Towers, stacks, chimneys and flagstaffs shall be permitted to rise twenty-five (25) feet above the structure of which they are an integral part.

- c. Screening. All activities and operations shall be within completely enclosed buildings, or may be out-of-doors if completely screened by an eight (8) foot high solid wall, solid fence, or a landscape planting at least ten (10) feet in width.
- d. Off-street Loading. Truck loading and unloading facilities shall be provided in sufficient quantity and be so located that all vehicles transporting materials to and from buildings shall be entirely within the property lines during loading and unloading operations.

11.1-5 Performance Standards.

- a. Noise.

Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of sound level meter and shall include continuous noise and those noises which cause rapid fluctuations of the needle of the sound level meter with a variation of not more than plus or minus two (2) decibels. Noise incapable of being so measured shall be measured with the impact noise meter manufactured by the General Radio Company, or its equivalent, and shall comply with the applicable performance standards for noise.

At no point on the boundary of a Residence or Business District shall the sound pressure level of any individual operation or plant (other than background noises produced by sources not under control of this ordinance, such as operation of motor vehicles or other transportation facilities) exceed the decibel levels in the designated octave bands shown in the following table:

Maximum Permitted Sound Level (Decibels)		
Octave Band (Frequency cycles/second)	Along Residential, Estate or Farming District Boundaries	Along Business and Industry District Boundaries
0 to 75	72	79
75 to 150	67	74
150 to 300	59	66
300 to 600	52	59
600 to 1200	46	53
1200 to 2400	40	47
2400 to 4800	34	41
Above 4800	32	39

- b. Vibration.

No industrial operation or activity (except those not under the direct control of the manufacturer) shall cause at any time ground-transmitted vibrations in excess of the limits set forth below. Vibration shall be measured at any point along a Residential District boundary with a three (3) component measuring instrument approved by the County Zoning Enforcing Officer and shall be expressed as displacement in inches.

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Frequency, cycles/second	Maximum Permitted Displacement Along Estate, Residential or Farming District Boundaries
0 to 10	.0006
10 to 20	.0004
20 and over	.0001

c. Smoke and Particulate Matter.

The emission of smoke or particulate matter in such manner or quantity as to endanger or to be detrimental to the public health, safety, comfort or welfare shall henceforth be unlawful.

For the purpose of grading the density of smoke, the Ringelmann Chart published by the U.S. Bureau of Mines shall be employed. The emission of smoke or particulate matter of density greater than No. Two (2) on the Ringelmann Chart, or in quantity of more than eight (8) smoke units per hour per stack, is prohibited at all times except as otherwise provided hereinafter.

During one one-hour period in each twenty-four (24) hour day, and only during that length of time, each stack may exceed these limits when blowing soot or cleaning fires. Smoke of Ringelmann No. Three (3) density or greater shall then be permitted for not more than three (3) minutes per period.

Dust and other types of air pollution, borne by wind from such various sources as storage areas, yards, roads, and the like within lot boundaries, shall be kept to a minimum by appropriate landscaping, paving, oiling, fencing, or other acceptable means.

The rate of emission of particulate matter from all sources within the boundaries of any lot shall not exceed a net figure of one pound per acre of lot area during any one hour.

d. Toxic or Noxious Matter.

No use for any period of time shall discharge across the boundaries of the lot wherein it is located, toxic or noxious matter in such concentration as to be a nuisance or detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property or business.

e. Odors.

The emission of odorous matter in such concentrations as to be readily detectable at any point along the boundaries of the property or in such concentrations as to create a nuisance or hazard beyond such boundaries is prohibited.

f. Fire.

- (1) The storage, utilization or manufacture of solid materials or products ranging from incombustible to moderate burning is permitted.
- (2) The storage, utilization or manufacture of solid materials or products ranging from free to active burning to intense burning is permitted provided the following conditions are met:
 - (a) Said materials or products shall be stored, utilized or manufactured within completely enclosed buildings or structures having incombustible exterior walls and handled in accordance with the standards and regulations of the County of Kane and the National Fire Protection Association.

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(b) All such buildings shall be set back at least forty (40) feet from all lot lines, or in lieu thereof shall be protected throughout by an automatic fire extinguishing system installed in accordance with the standards and regulations of the County of Kane and the National Fire Protection Association.

(3) The storage, utilization or manufacture of flammable liquids or materials which produce flammable or explosive vapors under ordinary weather temperatures, shall be permitted in accordance with the following limitations, exclusive of storage in underground tanks and exclusive of storage of finished products in original sealed containers:

(a) Said materials or products shall be stored, utilized or manufactured within completely enclosed buildings or structures having incombustible exterior walls and handled in accordance with the standards and regulations of the County of Kane and the National Fire Protection Association.

(b) All such buildings shall be set back at least forty (40) feet from all lot lines or in lieu thereof shall be protected throughout by an automatic fire extinguishing system installed in accordance with the standards and regulations of the County of Kane and the National Fire Protection Association.

(c) The storage of flammable liquids in excess of the following quantities shall not be permitted:

Closed Cup Flash Point	Quantity (Gallons)
Less than 241°F.....	1,000
24° F. to less than 105°F.....	10,000
105° F. to less than 187°F.....	50,000
Total of all flammable liquids permitted	50,000

(4) Activities involving the storage or manufacture of materials or products which decompose by detonation are not permitted in an LI District.

g. Glare-Heat-Flash.

Any operation producing intense glare, heat or flash shall be performed within a completely enclosed building in such manner as not to create a nuisance or hazard along lot lines.

h. Radiation.

(1) Airborne radioactive materials shall not exceed at any point on or beyond the lot line the lowest concentration permitted for the general population by applicable federal and state laws and regulations in effect.

(2) No activity involving radiation hazards shall be permitted which cause to any individual who may be continuously at any point on or beyond the lot line, radiation in excess of the smallest amount permitted in the applicable federal and state laws and regulations. (Ord. No. 78-79, § 17, 6-13-78; Ord. No. 14-200, 7-8-14)

Sec. 11.2. I District–Industry.

11.2-1 Permitted Uses.

In the I Districts any use is permitted except the following;

a. Residences and apartments, except those required for watchmen or attendants whose continual presence on the premises is necessary. In this connection, trailers or mobile homes shall not be permitted.

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- b. Taverns, roadhouses, refreshment stands, restaurants and other retail establishments selling or serving, or both selling and serving, alcoholic liquors or beer at retail.
- c. Dance halls and roller skating rinks.
- d. Garbage disposal.
- e. Mining of topsoil, earth, clay, gravel, peat, sand and stone, unless approved as provided in Section 8.1-2(p).⁶
- f. Storing or disposal of junk, motor vehicles not in a self-propelling, self-operative condition, or motor vehicle parts, outside of any fully enclosed building, except that such use may be permitted within an area that is completely screened by a solid wall or uniformly painted solid fence at least eight (8) feet in height. Said vehicles or parts thereof, or junk, shall not be stored to a height greater than that of the enclosing wall or fence. Setback requirements for such walls or fences shall be in accordance with Section 7.5-3 of this ordinance. Such use shall require the approval of the County Board as a special use after a duly advertised public hearing before the Zoning Board.
- g. Wrecking or dismantling of motor vehicles, unless conducted in accordance with Section 11.2(f) of this ordinance.
- h. Any manufactory, industry, process or use that is detrimental to health, or to neighboring property, by reason of the emission of odor, dust, gas, smoke, noise, vibration or glare, or which is hazardous to life or property.
- i. Tourist courts, motels or trailer parks.
- j. Race tracks.
- k. Advertising signs, billboards, and business signs exceeding the limits set in Article X, Section 10.2-1(b) and Article X, 10.2-2(f)
- l. Asphalt plants.
- m. Cultivation of controlled substances licensed by the State of Illinois.
- n. Dispensing controlled substances licensed by the State of Illinois.

Sec. 11.2-2. Special Uses.

The following special uses may be allowed in the I District subject to the provisions of Section 4.8 of this ordinance:

- a. Interim use for a limited period of not more than five (5) years specifically for the cultivation of controlled substances licensed by the State of Illinois. (Ord. No. 88-62, 5-10-88; Ord. No. 02-168, 6-11-02; Ord. No. 14-200, 7-8-14)

⁶ **Editor's note**—11.2-1e., above, made an internal reference to 9.1-2(p); however, ordinance 79-229, section 7 redesignated Articles VIII and IX as Articles IX and VIII respectively. As the obvious intent was to refer to former section 9.1-2(p), the editor has redesignated the reference to be to section 8.1-2(p).

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ARTICLE XII. PLANNED UNIT DISTRICT

Sec. 12.1. PUD District–Planned Unit Development.

The Planned Unit Development (PUD) provision is designed to permit and encourage attractive site development made possible by good site planning in accordance with an overall design. The intent is to allow the designer freedom to arrange land-use and physical features into an internally harmonious design compatible with the surrounding area.

The Planned Unit Development approach upholds overall standards of development intensity and at the same time permits variable design and intensity within the site.

12.1-1 Application of Regulations.

The regular provisions of this ordinance shall govern with respect to planned unit development except as expressly indicated from time to time in this section.

The PUD District may be used for a planned unit development wherein individual uses and structures may be exempted wholly or in part from the specific district classifications, building locations, height, bulk, setback, lot area, lot width, and open space requirements of this ordinance provided the proposal:

- (1) Meets the procedural specifications and satisfies the criteria for approval set forth in Article IV, of the Kane County Subdivision Regulations.
- (2) Meets the conditions of approval in Section 12.1-3 of this ordinance; and
- (3) Promotes the public health, safety, morals, comfort and general welfare and conserves the values of property.

12.1-2 Procedure for Approval.

Application for approval of a Planned Unit Development shall be presented to the Development Committee of the County Board of Kane County in accordance with the procedural requirements set forth in the Kane County Subdivision Regulations.

Following action by the Development Committee, and the Kane County Regional Planning Commission, application shall be made to the Kane County Zoning Board of Appeals for rezoning to PUD District for the area included within said plan.

12.1-3 Conditions of Approval.

Approval of a Planned Unit Development plan shall be made only on the condition that the entire site be under the legal control of the applicant who shall be the owner of record.

The approved Planned Unit Development plan shall be part of the ordinance granting PUD classification to the site and shall serve as the land use regulation within the development.

Upon the passage of said ordinance granting PUD classification, final platting, subdividing or further rezoning shall not be necessary within the Planned Unit to complete the development of the unit in accordance with the approved Planned Unit plan.

Prior to any conveyance of any part of the Planned Unit less than the whole, the owner shall subdivide the area in compliance with the provisions of the Illinois Plat Act (Chapter 109) and shall further comply with the provisions of the Subdivision Regulations of Kane County.

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In the event that any conveyance or transfer is made by whatever nature or manner which involves less than the entire Planned Unit in violation of the provisions herein contained, no further building permits shall be issued and all use and occupancy permits issued during the period the property was classified PUD District shall terminate until such time as the violation shall be corrected. (Ord. No. 92-187, 9-8-92; Ord. No. 97-240, 9-9-97; Ord. No. 12-295, 10-9-12)

Cross references—Subdivisions, Ch. 19; planned unit development, § 19-126 et seq.

12.1-4 Uses Expressly Prohibited

The following uses are prohibited in the PUD Planned-Unit Development District, unless specifically approved in the ordinance granting the PUD zoning:

- a. Agriculture, as defined herein.

ARTICLE XIII. AIRPORT DISTRICTS

Sec. 13.1. A1 Airport District—Restricted landing field.

13.1-1 Permitted Uses.

- a. Only restricted landing fields, as defined herein, basing ten (10) airplanes, or less, shall be permitted in the A-1 District subject to the following restrictions:
 - (1) Such field shall be located and be of such area, runway length, and design as prescribed by the Illinois Department of Transportation, Division of Aeronautics and the provisions of Section 5.13 of this ordinance.
 - (2) No airplanes exceeding twelve thousand five hundred (12,500) pounds maximum gross weight shall be based, operated or landed on or take off from a restricted landing field.
- b. Single Family Residences as permitted in the E-3, R-1 and PUD Districts.
- c. Glider runways.
- d. Private balloonports licensed by the Illinois Department of Transportation, Division of Aeronautics.
- e. Agriculture as defined herein, (see Definitions, Article III) except that neither animals nor poultry may be housed, stabled, kenneled or yarded closer than one hundred (100) feet from any residence other than that of the owner or user of property.

13.1-2 Special Uses.

- a. Restricted landing fields, as defined herein, basing a number of airplanes greater than that permitted by Section 13.1-1, Permitted Uses, to a maximum of forty-five (45) based airplanes unless otherwise specified in the ordinance granting a special use under this section, provided:
 - (1) Such field shall be located and be of such area, runway length and design as prescribed by the Illinois Department of Transportation, Division of Aeronautics, and the provisions of Section 5.13 of this ordinance; and
 - (2) No aircraft exceeding twelve thousand five hundred (12,500) pounds maximum gross weight shall be based, operated or landed on or take off from a restricted landing field.

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- b. Fuel storage and sales facilities to be used in connection with the restricted landing fields. Use of such facilities shall be limited to based aircraft as defined herein and other aircraft in cases of emergency.
- c. Heliports, as defined herein, subject to the following restrictions:
 - (1) Shall be located and be of such landing area and design as prescribed by the applicable rules and regulations of the Illinois Department of Transportation, Division of Aeronautics and the provisions of Section 5.13 of this ordinance; and
 - (2) Shall base no more than one helicopter unless otherwise specified in the ordinance granting the special use.
- d. Commercial balloonports licensed by the Illinois Department of Transportation, Division of Aeronautics.

13.1-3 Uses Specifically Prohibited.

- a. Itinerant student instruction.
- b. Airshows or exhibitions.
- c. Use of based aircraft to carry cargo or passengers for hire.
- d. Rental of aircraft. (Ord. No. 80-37, § 7, 3-13-80; Ord. No. 82-66, 5-11-82; Ord. No. 92-187, 9-8-92)

Sec. 13.2. A2 Airport District—Public Use Airport.

13.2-1 Permitted Uses.

In the A2 District, the following uses are permitted:

- a. Public Use Airports provided:
 - (1) Such airport shall comply with the provisions of Section 5.13 of this ordinance and the rules and regulations of the Illinois Department of Transportation, Division of Aeronautics; and
 - (2) Shall be controlled, operated and maintained by a local public entity or airport authority, authorized by the State of Illinois to operate and maintain an airport.
- b. Fuel storage and sales facilities to be used in connection with any other permitted use in this district. (Ord. No. 80-37, § 7, 3-13-80)

ARTICLE XIV. OFF-STREET PARKING

Sec. 14.1. Purpose.

Motor vehicle parking space shall be provided off the street or highway right-of-way for each housekeeping unit in residential uses hereafter established, and in case of other uses hereafter established or expanded, for employees, for patrons or customers not served in their motor vehicles, and for customers served in their motor vehicles, in such proportion as to assure free and uninterrupted movement of traffic on the public streets or highways.

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14.1-1 General Requirements.

a. Location.

All parking spaces required to serve buildings or uses erected or established after the effective date of this ordinance shall be located on the same zoning lot within one hundred (100) feet of the building or use served, except that parking spaces to serve business or industrial buildings or uses may be located within five hundred (500) feet of such use if said spaces are located in a business or industrial district.

Buildings or uses existing on the effective date of this ordinance which are subsequently altered or enlarged so as to require the provision of parking spaces under this ordinance, may be served by parking facilities located on land other than the zoning lot on which the building or use served is located, provided such facilities are within five hundred (500) feet walking distance of a main entrance to the use served. Owners of property, nonconforming as to parking, who elect to provide parking and become conforming may locate such parking on land other than the zoning lot on which the building or use is located, as allowed in this section.

b. Control of Off-site Parking Facilities.

In cases where parking facilities are permitted on land other than the zoning lot on which the building or use served is located, such facilities shall be in the same possession as the zoning lot occupied by the building or use to which the parking facilities are accessory. Such possession may be either by deed or long-term lease, the term of such lease to be determined by the Board of Appeals; and such deed or lease shall be filed with the Enforcing Officer. The deed or lease shall require such owner or his or her heirs and assigns to maintain the required number of parking facilities for the duration of the use served or of the deed or lease, whichever shall terminate sooner.

c. Size.

Except for parallel parking spaces, each required off-street parking space shall be at least nine (9) feet in width and at least eighteen (18) feet in length, exclusive of access or drives or aisles, ramps, columns, or office or work areas. Each space shall have a vertical clearance of at least seven feet and one-half inches ($7\frac{1}{2}$ "). For parallel parking, the length of the parking space shall be increased to twenty-two (22) feet. Required handicapped spaces shall be at least sixteen (16) feet in width in accordance with the Illinois Accessibility Code Standards.

d. Access.

Each required off-street parking space shall open directly upon an aisle or driveway at least twenty-four (24) feet wide for ninety degree (90°) parking. Angular and parallel parking designs may allow a narrower aisle width in accordance with nationally recognized design standards. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement. In any event, all driveways shall conform to all applicable driveway specifications adopted by Kane County.

e. Collective Provision.

Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements governing location of accessory parking spaces in relation to the use served are adhered to. Further, no parking space or portion thereof shall serve as a required space for more than one use, unless otherwise authorized by the Board of Appeals.

f. Computation.

When determination of the number of off-street parking spaces required by this ordinance results in a requirement of a fractional space, any fraction of less than one-half ($\frac{1}{2}$) may be disregarded, while a fraction of

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one-half ($\frac{1}{2}$) or more, shall be counted as one parking space. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing, or both, on the premises at any one time.

g. Utilization.

Required accessory off-street parking facilities provided for uses listed in Section 14.1-7 shall be determined for the parking of passenger automobiles of patrons, occupants, or employees of such uses.

14.1-2 Parking Setback and Landscaping Requirements.

- a. For purposes of this section, landscaping shall be defined as living plant material, preferably indigenous to this area, or nonliving durable materials such as earth berms, fences, timbers, or rocks, purposely installed or preserved for functional or aesthetic reasons.
- b. Parking within buildings and structures: Enclosed buildings, carports, or other structures containing off-street parking shall comply with the front, rear and sideyard setback requirements for such structures as contained in this ordinance.
- c. Yards and screening adjoining streets: With the exception of single-family and two-family dwellings, off-street parking spaces and access drives shall not be located within a twenty (20) foot required yard adjoining a public road right-of-way, except that an access drive generally perpendicular to such right-of-way may traverse such yard. Screening shall be provided within such yard, by means of landscaping and/or earth berms, so as to screen a minimum of fifty (50) percent, measured horizontally, of the parking lot adjoining said yard, as viewed from the public street. Except, within one hundred (100) feet of the center line of any intersecting road, street or railroad at grade, no screening may be over three (3) feet in height so as not to interfere with the site distance at the intersection.
- d. Parking adjacent to residential districts: Open off-street parking spaces and access drives adjoining a lot zoned for a residential use shall be separated from such lot by a yard not less than five (5) feet in depth. Screening consisting of earth berms, landscaping, and/or fencing shall be provided and maintained so as to protect the privacy of adjoining residential lots. Such screening shall be a minimum of five (5) feet in height above the adjacent parking lot pavement grade.
- e. General landscaping requirement: A minimum of ten (10) percent of a lot containing off-street parking facilities shall be landscaped. Required yards for parking facilities adjoining a residential lot shall not be counted as landscaped area for purposes of calculating this requirement.
- f. Tree planting required: A minimum of two (2) native trees shall be planted or preserved for each ten (10) parking spaces in an open off-street parking facility. Such trees shall be located at the perimeter of the paved area, or in landscape islands within the perimeter.
- g. Landscape maintenance: All landscaping required herein shall be properly watered, trimmed, and otherwise maintained in good health. Any dead, unhealthy or missing plants shall be replaced within six (6) months of notification by the County Development Department. Such maintenance and replacement shall be provided in perpetuity for all parking areas permitted under this ordinance.
- h. Landscape design: All landscape areas adjacent to parking lots and within parking lot islands shall be protected from vehicles by anchored concrete bumpers, concrete curbing, or similar barriers.

14.1-3 Septic System Separation Distance.

Requirements: Refer to the Kane County Septic Ordinance regarding the construction and installation of a parking lot in relationship to its location to the septic system.

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14.1-4 Stormwater detention.

When off-street parking facilities are used for stormwater detention the provisions of Chapter 9, Article IV, Stormwater Runoff Control Regulations of the Kane County Code including the technical standards associated therewith shall be adhered to.

14.1-5 Soil erosion and sediment control.

All off-street parking facilities shall be constructed with adequate soil erosion and sediment control measures. The provisions that shall be followed are contained in Chapter 9, Article II, Erosion and Sediment Control Regulations of the Kane County Code, including the technical standards associated therewith.

14.1-6 Lighting.

Lighting installed for the purpose of illuminating off-street parking facilities shall be designed so that it does not produce direct illumination, cause glare or excessive light onto surrounding public and private property. The applicant shall prepare a plan for submittal to the county for review showing locations of lighting standards, height of poles, type of fixtures, type of lamps and wattage and photometric maps and computations. Spillover lighting onto adjacent property shall not exceed 0.5 lumens per square foot.

14.1-7 Specific requirements.

Parking requirements shall be in conformity with the following schedule:

- a. One-family dwellings: Two (2) spaces for each unit.
- b. Two-family dwellings: Two (2) spaces for each unit.
- c. Multiple-dwellings and apartments: Two (2) spaces for each unit.
- d. Hotels and motels: One space for each dwelling unit and one space for each lodging room.
- e. Lodging houses: One space for each lodging room plus one space for the owner or manager.
- f. Clubs and lodges: With sleeping facilities, one space for each lodging room, plus spaces equal in number to fifty (50) percent of the capacity in persons.
Without sleeping facilities, parking spaces equal in number to fifty (50) percent of the capacity in persons.
- g. Fraternities (sororities and dormitories): One space for each five (5) active members, plus one space for the manager.
- h. Hospitals: One space for each two (2) beds, plus one space for each two (2) employees, other than doctors, plus one space for each doctor on the staff.
- i. Nursing homes, rest homes, sanitariums: One space for each four (4) beds plus one space for each two (2) employees, other than doctors, plus one space for each doctor on the staff.
- j. Medical or dental clinics: Three (3) spaces for each examining or treatment room, plus one space for each doctor and employee.
- k. Mortuaries or funeral parlors: Six (6) spaces for each room used as a chapel or parlor, plus one space for each funeral vehicle, plus one space for each employee.
- l. Bowling alleys: Three (3) spaces for each alley, plus additional space as may be required for affiliated use as restaurants and the like.

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- m. Convention halls, dance halls, skating rinks, assembly halls and exhibition halls: Spaces equal in number to fifty (50) percent of the capacity in persons.
- n. Stadia, sports arenas, auditoriums and gymnasiums (other than incidental to a school): Spaces equal in number to fifty (50) percent of the capacity in persons using same.
- o. Auditoriums including places of assembly for churches, Sunday schools, high schools, colleges or universities: One space for each four (4) seats.

Provide space for buses used in connection with activities of the institution. Loading and unloading of passengers shall take place upon the premises.

- p. Airports, railroad passenger stations, bus depots or passenger terminal facilities (special use): Spaces shall be provided in adequate number as determined by the Zoning Enforcing Officer, to serve persons employed or residing on the premises as well as the visiting public.
- q. Banks, business and professional offices: BANKS—One space for each three hundred (300) square feet of floor area. DRIVE-IN BANKS—Three (3) parking spaces per teller window, plus a minimum of four (4) waiting spaces for each teller window. BUSINESS AND PROFESSIONAL OFFICES— One space for each four hundred (400) square feet of floor area.
- r. Public administration buildings: One space for each five hundred (500) square feet of floor area.
- s. Mixed uses: When two (2) or more uses are located on the same zoning lot or within the same building, spaces equal in number to the sum of the separate requirements for each such use shall be provided. No parking space or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the Zoning Board of Appeals.
- t. Establishments handling the sale and consumption on the premises of alcoholic beverages, food or refreshments: One space for each one hundred (100) square feet of floor area.
- u. Retail stores and service shops (individual or in groups) under one roof. One space for each three hundred (300) square feet in floor area.
- v. Furniture and appliances stores, motor vehicle sales, wholesale stores, household equipment or furniture repair shops, or machinery sales, (individual stores or groups of stores in one building): One space for each six hundred (600) square feet of floor area.
- w. Manufacturing and industrial uses; research and testing laboratories; laundry and dry cleaning plants; printing, binding, publishing and issuing of newspapers, periodicals, books and other reading matter; telephone exchanges; warehouse and storage buildings; engraving shops; assembly of materials and products; and other similar uses: One space for each employee, as related to the working period when the maximum number of employees are employed on the premises plus one space for each vehicle used in the conduct of the enterprise. The requirement may be reduced to one space for each two (2) employees if a company participates in a ride sharing/car pooling program.
- x. Bed and Breakfast Establishment: Spaces equal in number to the spaces required for a single-family dwelling, plus one additional space for each guest room.
- y. Schools, elementary, junior high, public or private, high schools: One space for each employee, plus spaces adequate in number as determined by the Zoning Enforcing Officer.
- z. Theaters: INDOOR—One space for each three (3) seats. OUTDOOR—One waiting space outside the theater enclosure and off the street or highway for each three (3) spaces within the enclosure.

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- aa. Recreation buildings, community centers: One space for each two (2) employees, plus spaces adequate in number, as determined by the Zoning Enforcing Officer, to serve the visiting public.
- bb. Public utility, public service uses: One space for each three (3) employees, plus spaces adequate in number, as determined by the Zoning Enforcing Officer, to serve the visiting public.
- cc. Automobile service stations, automobile laundries: SERVICE STATIONS—One space for each employee, plus ten (10) spaces for each service stall. AUTOMOBILE LAUNDRIES—Twenty (20) spaces for each wash rack, plus one additional space for each four (4) employees.
- dd. Libraries and museums: One space for each one thousand (1,000) square feet of gross floor area.
- ee. Colleges, universities and business, professional and trade schools: One space for each employee, plus one space for each three (3) students, based on the maximum number of students attending classes on the premises at any one time during any twenty-four (24) hour period.
- ff. Health centers, government operated: Three (3) spaces to be provided for each staff and visiting doctor.
- gg. Reserved.
- hh. Reserved. (Ord. No. 80-37, § 7,3-13-80; Ord. No. 92-187, 9-8-92; Ord. No. 97-240, 9-9-97; Ord. No. 98-45, 4-14-98; Ord. No. 08-07, 1-8-08)

ARTICLE XV. RESTRICTIONS AND REGULATIONS GOVERNING MINING OF TOPSOIL, EARTH, CLAY, GRAVEL, PEAT, SAND AND STONE

Sec. 15.1. Purpose.

It is declared to be the policy of the County to provide for the reclamation of lands disturbed by mining in order to encourage productive use thereof, including but not limited to the planting of forests; the seeding of grasses and legumes for grazing purposes; the planting of crops for harvest; the enhancement of wildlife and aquatic resources; the establishment of recreational, home and industrial sites; and for the conservation, development, management and appropriate use of all the natural resources of such areas for compatible multiple purposes; to aid in maintaining or improving the tax base; and protecting the health, safety and general welfare of the people, as well as the natural beauty and aesthetic values, in the affected areas of the County.

15.1-1 Mining Operation License Required.

- a. No person, firm or corporation shall hereafter engage in the mining of topsoil, earth, clay, gravel, sand, stone or other minerals on any land within the County of Kane, located outside the boundaries of any city, village or incorporated town without first obtaining from the County a mining operations license in such form and in such manner as shall hereinafter be provided.
- b. No mining operations license shall be issued or be renewed, pursuant to this Ordinance unless the mining proposed to be conducted is a permitted use of the applicable land under the provisions of the County Zoning Ordinance, as amended.

15.1-2 Application for license.

- a. Any person, firm or corporation desiring to commence the mining and processing of topsoil, earth, clay, gravel, sand, stone or other minerals shall make written application for such license to the Zoning Enforcing Officer of the County. Application for such license shall be made upon a form furnished by the Zoning Enforcing Officer, which form shall contain a description of the tract, or tracts, of land and the number of acres thereof to be mined by the applicant and which description shall include the section, town, range and

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county in which the land is located and shall otherwise describe the land and that portion thereof to be mined with sufficient certainty so that it may be located and distinguished from other lands, and a statement that the applicant has the right and power by legal estate owned to mine and reclaim that land so described. Such application shall be accompanied by the following:

- (1) A bond meeting the requirements hereinafter set forth in this Ordinance.
- (2) A detailed map of the land drawn at a scale of one inch equals one hundred feet (1":100') showing at least the following specifics:
 - (a) Existing topographical features at two foot (2') contour intervals, up to and including seven percent (7%) grade. Greater than seven percent (7%) grade would require five foot (5') contours.
 - (b) Location of water courses and drainage systems.
 - (c) Outline of area to be excavated.
 - (d) The proposed location of sorting, grading, crushing, recycling and similar equipment necessary to the operation and initial distribution of the excavated products.
 - (e) The proposed location of any buildings, scale-house, equipment storage areas, and equipment repair sheds or areas.
 - (f) The proposed location, in detail, of all stockpiles such as, but not limited to, overburden, topsoil and mined, processed and recycled material.
- (3) A detailed reclamation and landscape plan and map drawn at a scale of one inch equals one hundred feet (1":100") designating which parts of the land shall be reclaimed for forest, pasture, crop, horticultural, home-site, recreational, industrial or other uses including food, shelter and ground cover for wildlife, and shall show the same by appropriate designation on the reclamation and landscape plan. The reclamation and landscape plan and map shall specify progress and completion dates of the reclamation and landscape plan; provided, however, the reclamation is to be completed prior to the expiration of three (3) years after the termination of the mining operation on the land. In the event the operator and the County shall mutually determine that characteristics of the area concerned have been found to be present during the conduct of mining, changes may be made in the original reclamation and landscape plan by mutual consent of the operator and the Development Committee of the County Board, which change shall preserve, as substantially as possible, the original reclamation and landscape plan, and shall also provide for the previously unknown variables. Contours shall conform to requirements of development proposed, but not less than required for existing original topography.
- (4) A written statement containing an explanation of the character of the site to be mined and of the character of the surrounding territory, an explanation of the reclamation plan and an explanation of the schedule of development.
- (5) In satisfaction of the requirements of subsection a(2), (3) and (4) hereof, applicant shall be permitted to submit the forms, including the reclamation plan and reclamation map, delivered by him to the proper department of the State, in his application for a permit under an act of the General Assembly entitled: "The Surface-Mined Land Conservation and Reclamation Act."

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15.1-3 *Term of License: Renewal.*

- a. Each license issued hereunder shall be effective for a period of five (5) years from and after the date of the issuance thereof, provided the requirements of operation and reclamation, as are set forth under the operators permit and application, shall be met. An examination of the premises shall be made by the Zoning Enforcement Officer of the County at intervals of not more than each six (6) months during the term of operation.
- b. Each license shall be renewable for successive five (5) year terms upon written application therefore to the Zoning Enforcing Officer, accompanied by a bond, meeting the requirements hereinafter set forth in this Ordinance and a sworn statement detailing compliance with the progress requirements for the completion of the approved reclamation and landscape plan and a satisfactory inspection record over the previous five (5) year period.

15.1-4 *Mining Operation Requirements.*

- a. Each person, firm or corporation to whom a mining operation license is issued may engage in mining upon the lands described in the license, subject to the following regulations:
 - (1) The mining operations shall be conducted in compliance with the laws of the State and Federal government, especially as related to safety standards, and ordinances and resolutions of the County of Kane, as amended from time to time, and in compliance with and furtherance of the approved reclamation plan for the affected land.
 - (2) Clearing of the mining site shall include the moving of existing trees and shrubs to such locations as will provide screening as hereinafter provided whenever possible or as will conform to the plan for ultimate use of the property as shown on the reclamation plan to be submitted.
 - (3) Maximum depth of excavation shall not be below existing ground water, except in such cases where the reclamation plan indicates that a lake or lakes will be part of the final use of the land or where such plan indicates that adequate fill from overburden is to be used to refill such excavation for conformance to the approved reclamation plan.
 - (4) Adequate planting including native species and/or fencing shall be provided along all public roads adjacent to the property involved, sufficient to screen the operation from public view, as shown on approved reclamation and landscape plan and as approved by the County Board in granting a special use.
 - (5) Not more than one entrance and one exit from a highway or road shall be provided to the area of operation. Such entrance shall be subject to approval by the department of highways having jurisdiction and shall, preferably be located along a secondary road, and shall be located as to avoid the routing of vehicles to and from the mining operation over streets that primarily serve abutting residential development. If required, by the highway department having jurisdiction, acceleration and deceleration strips shall be provided on either side of such entrance and exit, of not less than one hundred feet (100') in length each, and shall be paved of such material as shall be required by the highway department having jurisdiction. Furthermore, a paved road from the entrance and exit, a distance not less than three hundred feet (300') from the right-of-way line into the area of operation shall be provided in order to minimize the deposit of dirt and gravel from trucks onto the public highway. Such pavement shall be in accordance with the specifications of the County Highway Department. Entrances and exits shall be provided with the gates to be securely locked during hours of inoperation.
 - (6) Trucks used in hauling materials from the site of excavation shall be loaded in such a manner as to prevent spillage onto the public highway. Hours of arrival and departure of transport vehicles shall be from six o'clock (6:00) A.M. to seven o'clock (7:00) P.M. from April 1 until November 1. The rest of the year the arrival and departure of transport vehicles shall be restricted to six o'clock (6:00) A.M. to six o'clock

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(6:00) P.M. Hours may be extended during a public emergency during which sand, gravel or limestone is needed and upon the order of the County Sheriff, the County Engineer, or the Director of the County Development Department. The County Board Member representing the District in which the mining operation is located shall be notified as soon as permission is granted for extended hours of operation.

- (7) Overburden shall not be removed in excess of the area to be mined within one year. Development toward final plan shall be carried on as excavation progresses. Where ground cover or other planting is indicated on approved plan, such planting shall be made in areas where excavation is completed and land is not being used for material storage before further overburden is removed and in order to ensure development as operations proceed.
- (8) Mining operations, not including maintenance of equipment used in the mining operation shall be conducted only during the hours from six o'clock (6:00) A.M. to six o'clock (6:00) P.M., except during a public emergency during which sand and gravel is needed and upon order of the County Sheriff, the County Engineer or the Director of the County Development Department. The County Board Member representing the District in which the mining operation is located shall be notified as soon as permission is granted for extended hours of operation.
- (9) No extraction operations shall be conducted in such a manner as to permanently lower the water table of surrounding inhabited properties.
- (10) Where required by the County Board in granting a special use for a mining operation, to promote safety, a fence shall be erected which shall be of a nature and character to protect the general public from danger.
- (11) Weeds and other unsightly or noxious vegetation shall be cut or trimmed at least twice a year or as may be necessary to present a reasonably neat appearance and to prevent seeding on adjoining property.
- (12) Existing trees and groundcover along public road frontage shall be preserved, maintained, and supplemented for the depth of the required roadside setback.
- (13) Upon the completion of operations, the land shall be left in a condition so that sufficient drainage is provided in order to prevent water pockets or undue erosion with all grading and drainage such that natural storm water leaves the entire property at the original, natural, drainage points and that the area drainage to any one such point is not increased. In the event the reclamation plan shall provide for the permanent establishment of a lake, the grading and drainage may be altered, but not in such a manner as to cause damage or inconvenience to surrounding or abutting properties.
- (14) Graded or backfilled areas or banks in the cases of excavations made to water-producing depth shall be covered with topsoil to a minimum depth of six inches (6"). Such topsoil shall have a minimum of twenty-five percent (25%) organic material except that no greater depth of topsoil or percentage of organic material shall be required than originally existing on property prior to the commencement of operation.
- (15) Upon replacement of the topsoil, trees, shrubs, legumes, grasses or groundcover, native species if possible shall be planted in accordance with the approved landscape, soil erosion control and reclamation plan.
- (16) Whenever production on any property shall have been completed, all buildings, plants, structures (except fences) and equipment shall be entirely removed within six (6) months after such completion, unless same are to be used in connection with the reclamation project proposed or relative to the removal of stored materials. Any and all stockpiled materials shall be removed in not more than two (2) years following cessation of production and the area occupied by such stockpiled material, or materials, shall then be restored as provided for in the reclamation plan.
- (17) Whenever production on any property involves blasting such operation shall be in accordance with the

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Illinois Department of Mines and Minerals Regulations. In addition, these operations shall have a seismograph located on site available to calibrate ground disturbances in close proximity to the mining.

- (18) Concrete and asphalt may be stockpiled on the mining site for recycling purposes only. Recycling of these materials may only be conducted in conjunction with a licensed mining operation and in accordance with Illinois Environmental Protection Agency applicable regulations. Concrete and asphalt to be recycled and its byproducts (such as, but not limited to, reinforcing bar and wire mesh), must be properly processed and disposed of at a minimum of one time per year. All activity associated with concrete and asphalt recycling shall not be conducted closer than two hundred feet (200') from the boundaries of an adjoining property line. Maximum height of stockpiles shall not exceed berms as approved on the reclamation map, and/or exceed the height of excavation below grade.

All recycled materials shall be certified as to origin and potential for ground water or surface water contamination. A settling basin shall be provided for all runoff generated from recycled materials and associated activities. A minimum one hundred foot (100') separation from any surface waters shall be provided from recycled materials and associated activities.

15.1-5 Setback Requirements.

Unless otherwise specifically provided in the applicable special use permit, production, processing and excavation shall not be conducted closer than two hundred feet (200') to the boundary of any zoning district where such operations are not permitted, nor shall such production, process or excavation be conducted closer than one hundred feet (100') from the boundaries of an adjoining property line, nor shall such production, processing and excavation be conducted closer than one hundred fifty feet (150') to the right of way of any existing or platted street, road or highway.

15.1-6 Bond.

The bond herein required to be filed with the Zoning Enforcing Officer shall be in such form as the County Development Committee of the County Board shall prescribe, payable to the County, and conditioned that the principal shall faithfully perform and complete the reclamation plan approved as herein provided, and such bond shall be signed by the license applicant as principal. The penalty of such bond shall be five thousand dollars (\$5,000.00) plus such additional amount as will equal two thousand dollars (\$2,000.00) for each acre or major portion thereof of land proposed by the principal to be thereafter mined.

15.1-7 Exceptions.

Any mining operation legally commenced prior to the adoption of this Section shall be exempt from the requirements hereof, except that said operations shall not be exempt from the requirements pertaining to mining operation license requirements, the hours of operation, the operation of motor vehicles and safety regulations.

15.1-8 Revocation of License.

Upon failure by the holder of a mining operations license, issued pursuant to the provisions of this Section, to fully comply with the provisions hereof and when same has been certified by the Director of the County Environmental Protection Department to the County Zoning Board of Appeals, the said Board of Appeals shall give notice to said licensee, and the owner of the land (which notice may be given by mail addressed to their last known address) setting forth the provision of this Section being violated by the licensee, and the time and place of hearing to be held by said Board of Appeals to consider the same; and upon such hearing being held, if said Board of Appeals shall find that the provisions of this Section have not been complied with by the licensee the mining operations license may thereupon be suspended or terminated by said Board of Appeals.

15.1-9 Penalty.

Any person, firm, corporation or company who violates, disobeys, omits, neglects or refuses to comply with, or

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who resists the enforcement of, any of the provisions of Section 15.1-4 hereof and each subsection thereof, shall be subject to a fine of not more than two hundred dollars (\$200.00) for each offense. Each day that a violation continues to exist constitutes a separate offense. (Ord. No. 80-37, § 7, 3-13-80; Ord. No. 90-176, 8-14-90; Ord. No. 92-187, 9-8-92; Ord. No. 94-79, 4-12-94)

ARTICLE XVI. MISCELLANEOUS PROVISIONS

Sec. 16.1. Plats and dedications.

All subdivisions of land shall be in accordance with the provisions of the Subdivision Regulations of Kane County, Illinois, as adopted December 11, 1962 and as amended from time to time. (Ord. No. 80-37, § 7, 3-13-80)

Sec. 16.2. Effective date.

This Ordinance shall be in full force and effect after its passage and approval as provided by law. (Ord. No. 92-187, 9-8-92)

Adopted and approved this 15th day of December, A.D., 1937.

Marcus W. Damisch
Chairman of County Board
of Supervisors
Kane County, Illinois
Charles Lowry
County Clerk of Kane County,
Illinois

Amended:

June 10, 1941	September 12, 1972
March 13, 1946	December 12, 1972
September 17, 1947	February 13, 1973
December 15, 1948	June 11, 1973
March 19, 1952	April 12, 1977
March 9, 1954	June 13, 1978
June 13, 1955	October 10, 1978
December 13, 1955	December 11, 1979
September 11, 1957	March 11, 1980
October 28, 1957	January 11, 1983
September 8, 1959	May 10, 1988
December 14, 1960	August 14, 1990
April 26, 1962	March 12, 1992
June 12, 1962	September 8, 1992
September 11, 1963	April 12, 1994
December 11, 1963	March 14, 1995
April 27, 1965	February 11, 1997
December 21, 1965	August 12, 1997
February 8, 1966	September 9, 1997
January 9, 1968	April 14, 1998
April 9, 1969	March 12, 2002
March 11, 1969	June 11, 2002
June 23, 1969	September 9, 2003
June 12, 1972	September 13, 2005
November 13, 1973	September 11, 2007

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March 9, 1976
August 12, 2008
October 9, 2012

January 8, 2008
May 11, 2010
July 8, 2014

State of Illinois)
) SS.
County of Kane)

Sec. 16.3. Setback resolution.

Whereas, the 1933 General Assembly adopted an act entitle "An Act to authorize and empower county boards to establish building or setback lines on or along any road, street, traffic-way, drive or parkway outside the corporate limits of cities, villages and incorporated towns", and

Whereas, the purpose of granting this authority as stated in said Act is "to the end that adequate safety may be secured and the congestion of public roads, streets, traffic-ways, drives and parkways may be lessened or avoided".

Therefore, Be It Resolved by the County Board of Kane County, Illinois, that no building, structure, or concrete, stone or masonry wall (but not including wire or open wood fences) shall be erected, structurally altered or placed so that any part thereof is nearer to the established center line of any adjoining public street or highway than the distance specified in the County Zoning Ordinance or such street or highway, and

Be It Further Resolved, that the requirements of this Resolution shall be enforced by the Enforcing Officer of the Zoning Ordinance and as provided in the State Act relating thereto, and

Be It Further Resolved, that this resolution shall be in full force and effect from and after the passage thereof.

(Adopted December 13, 1938)

Sec. 16.4. Procedures for implementation and enforcement.

The Zoning Department is hereby authorized, with the concurrence of the Zoning Board to promulgate forms and procedures relative to the implementation and enforcement of this Ordinance. (Ord. No. 80-37, § 7, 3-13-80)

Such instructions for procedures shall be attached for informational purposes as an appendix to this Ordinance.

APPENDIX A. INSTRUCTIONS

Sec. A.1. Instructions for filing request for rezoning or special use.

Request for the rezoning of property, or for certain special uses of property, as set forth in these instructions must be addressed to the Kane County Zoning Board of Appeals, 719 S. Batavia Avenue, Geneva, Illinois 60134, attention of the Zoning Enforcing Officer in a form prescribed by the Kane County Development and Community Services Department. Certification that all property owners within 250 feet of the property lines of the parcel which is the subject of the rezoning/special use have been notified must be filed with the Department along with the rezoning or special use application. A public notice sign or signs are to be obtained from the Department. This sign is to be placed conspicuously on the property which is the subject of the rezoning or special use at the end of the right of way along a public road, street, driveway or any other easement of access. The posting of multiple signs may be required as deemed appropriate by the Department. The owner is to certify the sign was posted at least 15 calendar days prior to the Zoning Board of Appeals meeting. The sign can be removed after the Development Committee meeting at which the rezoning or special use request is to be considered.

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The request must set forth the legal description of the property involved. This description must be accurate, as any rezoning is actually an amendment to the Zoning Ordinance itself, and upon adoption by the County Board, the maps, which are a part of the Ordinance, are changed to show the reclassification.

A Land Use Opinion must accompany the petition for rezoning or special use. Application blanks for this purpose may be obtained from the Kane-DuPage Soil and Water Conservation District Office located at 545 Randall Road, St. Charles, Illinois 60174.

An Endangered Species Consultation Agency Action Report must accompany any rezoning or special use request involving land zoned F District Farming. Application blanks for this purpose may be obtained from the Endangered and Threatened Species Program Manager, Illinois Department of Natural Resources, 524 South Second Street, Springfield, Illinois 62701 – Phone: 217/785-8774.

The request should also state what the existing classification of the property is, under the Zoning Ordinance, and what classification is desired. Information regarding the necessary classification for the use desired can be obtained directly from the Zoning Ordinance. In the case of a request for certain special uses, requiring a hearing before the Zoning Board, and approval by the County Board, it must be determined first, if the zoning classification is correct and then a request for establishing the particular use desired should be submitted. If the zoning classification is not correct for the special use desired, the request for rezoning and for the special use shall be incorporated in the same petition.

It is necessary that a detailed sketch, showing the location of proposed buildings and parking areas, be submitted with the petition. This should also show proposed entrance(s) and exitway(s) to and from the public highway. Authority for location of such entrance(s) and exitway(s) must be obtained from the particular highway commissioner having jurisdiction. To promote safety, these should be kept to a minimum and it is necessary to consult the State Highway Department regarding the locations of such entrance(s) and exitway(s) where said entrance(s) and exitway(s) are located on State Highways. If a Township, County, or State road is adjacent to the property involved in the rezoning or special use request, it may be necessary to dedicate right of way. To determine this, contact Kane County Division of Transportation, 41W011 Burlington Road, St. Charles, Illinois. Phone (630)584-1170. (Ord. No. 92-187, 9-8-92; Ord. No. 97-240, 9-9-97; Ord. No. 05-304, 9-13-05; Ord. No. 295, 10-9-12)

Sec. A.2. Instructions for making application for a variation.

Application for a variation from the Zoning Ordinance of Kane County must be addressed to the Kane County Zoning Board of Appeals, 719 S. Batavia Avenue, Geneva, Illinois 60134, attention of the Zoning Enforcing Officer in a form prescribed by the Kane County Development and Community Services Department.

The application must set forth the legal description of the property involved. This description should be copied from the deed covering the property and must be accurate, as it is necessary to locate the property on the zoning maps, using said description. In addition to the description, the actual variation desired must also be set forth, with a clear explanation of what is wanted and why the request is made. This explanation should show why the regular requirements of the Zoning Ordinance cannot be met, and must show proof that a particular hardship would result if a variation were not granted. Such a hardship must not be self-created.

A sketch of the property involved, drawn to scale, must accompany the application for a variation. This sketch should show the outline and dimensions of the property and all the buildings and structures located thereon. The distances from the buildings to the property line must be measured accurately and be shown on the sketch. The portion of the building or structure for which a variation is requested should be clearly shown on the sketch. The name and address of the applicant must be given. The petition must be signed by the owner of record of the property. In case the property is under purchase contract, the owner of record must sign and the contract purchaser should also sign the petition.

Certification that all property owners within 250 feet of property lines of the property on which the variance is

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sought have been notified of intention must be filed with the Kane County Zoning Board of Appeals along with variation application. A public notice sign or signs are to be obtained from the Department. This sign is to be placed conspicuously on the property which is the subject of the variance at the end of the right of way along a public road, street, driveway or any other easement of access. The owner is to certify the sign was posted at least 15 calendar days prior to the Zoning Board of Appeals meeting. The sign can be removed after the Zoning Board of Appeals meeting at which the variance request is to be considered. The form for filing application is available in the offices of the Development and Community Services Department, Building A, 4th Floor, Government Center, Geneva, Illinois.

An aerial (air photo) showing parcels involved in the variation is required. These may be obtained from the Sidwell Company, 28W240 North Avenue, West Chicago, IL 60185.

In submitting an application for a variation, a fee as prescribed in Article IV, Section 4.9-1, shall accompany same.

Pursuant to the State Land Trust Disclosure Act (Bill No. 1508), if property involved is listed under a "Trust", a notarized certification, signed by the Trust Officer, giving names, addresses and percentage of interest, of all beneficiaries, is to be filed with all petitions.

Upon receipt of such an application, certification, air photo and fee, the Zoning Enforcing Officer contacts the Chairman of the Zoning Board of Appeals for a hearing date. A public notice is then published in a newspaper of general circulation in the county, at least fifteen (15) days in advance of the hearing.

The applicant or a representative must attend the hearing. (Ord. No. 92-187, 9-8-92; Ord. No. 97-240, 9-9-97; Ord. No. 05-304, 9-13-05; Ord. No. 12-295, 10-9-12)

Sec. A.3. Instructions for making application for a ministerial variance from the Kane County Zoning Ordinance.

An application for a ministerial variance from the Kane County Zoning Ordinance of ten percent (10%) or less as to location of structures or as bulk regulations must be addressed to the Kane County Zoning Enforcement Officer, 719 S. Batavia Avenue, Geneva, Illinois 60134 in a form prescribed by the Kane County Development and Community Services Department.

The application must include the legal description of the property involved. This description can be copied from the deed covering the property and must be accurate. In addition, the actual variation desired must be specified with a clear explanation of what is wanted and why the request is made. This explanation should show why the regular requirements of the Zoning Ordinance cannot be met, and must show proof that a particular hardship would result if a variation were not granted. Such a hardship must not be self-created.

A sketch of the property involved, drawn to scale, must accompany the application for a variation. This sketch should show the outline and dimensions of the property and all the buildings and structures located thereon. The distances from the buildings to the property line must be measured accurately and be shown on the sketch. The portion of the building or structure for which a variation is requested should be clearly shown on the sketch.

The name and address of the applicant must be given. The petition must be signed by the owner of record of the property. In case the property is under purchase contract, the owner of record must sign and the contract purchaser should also sign the petition.

A certified list of property owners within 250 feet of the property lines which is the subject of the ministerial variance request must be submitted. A public notice sign is to be obtained from the Department. This sign or signs are to be placed conspicuously on the property which is the subject of the ministerial variance at the end of the right of way along a public road, street, driveway or any other easement of access. The owner is to certify the sign was posted for at least 15 calendar days, after which the Zoning Enforcing Officer can decide the variance request.

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A form for this purpose is available from the Development and Community Services Department, 719 S. Batavia Avenue, Geneva, Illinois 60134.

In submitting an application for a ministerial variation, a fee as prescribed in Article IV, Section 4.9-1, shall accompany the same.

Pursuant to the State Land Trust Disclosure Act (Bill No. 1508), if property involved is listed under "Trust", a notarized certification, signed by the Trust Officer, giving names, addresses and percentage of interest, of all beneficiaries, is to be filed with all petitions. (Ord. No. 92-187, 9-8-92; Ord. No. 97-240, 9-9-97; Ord. No. 05-304, 9-13-05; 12-295, 10-9-12)

Sec. A.4. Procedures for scheduling of zoning petition speakers and for filing of written protest.

1. Action by the Zoning Board of Appeals.

Persons in favor of or in opposition to any zoning or special use petition who wish to speak before the County Board must file their intention to do so with the Zoning Enforcement Officer, Kane County, Development and Community Services Department, Building A, 4th Floor, Kane County Government Center, 719 S. Batavia Avenue, Geneva, Illinois, 60134, not less than 48 hours preceding the County Board meeting at which the petition is to be considered, giving the name(s) and address(es) of those person(s) who will address the Board. You are referred to § 2-47(b)(16) of the Kane County Code for the rules applicable to such speaker(s).

2. Recommendations by the Kane County Development Committee

The petition which is the subject of a public hearing will be considered by the Kane County Development Committee at its first scheduled meeting immediately following a decision by the Zoning Board of Appeals.

The Committee may or may not make a recommendation concerning the petition to the County Board. Any recommendation by the Committee is not binding on the County Board.

Persons in favor of or in opposition to this petition who wish to speak before the Development Committee must signify their intention to do so by signing a sheet provided for such purpose at the meeting at which such petition is to be considered. The time allowed to each speaker and the division of time among speakers will be according to § 2-47(b)(16) of the Kane County Code.

Persons speaking before the County Board or the Development Committee shall confine their remarks to argument based upon the evidence submitted at the public hearing. New matters shall not be raised nor will the Committee or the Board consider them. (Ord. No. 12-295, 10-9-12)

3. Written protests

A copy of § 4.7 of the Kane County Zoning Ordinance pertaining to written protests in opposition to text or map amendments and special uses of the Kane County Zoning Ordinance is attached for your information. (Ord. No. 97-214, 8-12-97; Ord. No. 02-81, 3-12-02; Ord. No. 05-304, 9-13-05)

This procedure was passed by resolution of the County Board on April 14, 1998 (Ord. No. 98-45, 4-14-98)