

STATE OF ILLINOIS

COUNTY OF KANE

ORDINANCE NO. 01 - 67

**ADOPTING AND IMPLEMENTING THE KANE COUNTY AGRICULTURAL
CONSERVATION EASEMENT AND FARMLAND PROTECTION PROGRAM**

WHEREAS, the County has the authority to purchase real estate for open space purposes pursuant to 55 ILCS 5/5-1005; and

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

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

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

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

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

WHEREAS, adoption of the Kane County Agricultural Conservation Easement and Farmland Protection Program will assist in promoting responsible managed growth patterns through intergovernmental planning agreements in conjunction with the Kane County 2020 Land Resource Management Plan, the Kane County Historic Preservation Ordinance, the Kane County 2020 Transportation Plan, and the Kane County Stormwater Management Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Kane County Board that it hereby adopts the following:

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

1. DEFINITIONS. In this Ordinance:

A. Board means the Kane County Board.

B. Conservation easement means a holder's nonpossessory interest in real property within Kane County imposing any limitation or affirmative obligation the purpose of

which includes protecting viable farm operations and farmland to maintain the rural character of Kane County, permanently preserving scenic vistas and environmentally significant areas, including wetlands, lakes, streams and wood lots, creating and preserving "buffer zones" around significant environmental areas and agricultural areas, protecting Kane County from encroachment of neighboring cities and villages, restricting land divisions, retaining or protecting natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, preserving the historical, architectural, archaeological or cultural aspects of real property.

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

2. LAND TRUST COMMISSION

- A. Creation. There is hereby created the Kane County Agricultural Conservation Easement and Farmland Protection Commission (hereinafter the "Commission").
- B. Duties. The Commission shall be responsible for general supervision of the Agricultural Conservation Easement and Farmland Protection Program as set forth in this Ordinance, including the following:
 - 1. The Commission shall maintain contact with public and private agencies to maximize the resources and coordinate efforts to preserve the rural character of the County.
 - 2. The Commission shall determine the interest of owners of land within the County at least annually, to donate or sell interests in real property for the purpose of the Agricultural Conservation Easement and Farmland Protection Program.
 - 3. The Commission may recommend selection criteria and may recommend the acquisition of interests in specific parcels of real property to be acquired by the County for agricultural protection purposes.
 - 4. The Commission may recommend changes to the Kane County Agricultural Conservation Easement and Farmland Protection Program and suggestions as to how the Kane County Agricultural Conservation Easement and Farmland Protection Fund acquisition program may be integrated with the Kane County 2020 Land Resource Management Plan, the Kane County Historic

Preservation Ordinance, the Kane County 2020 Transportation Plan, and the Kane County Stormwater Management Ordinance and other local and regional land use plans.

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

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

1. The Chairman of the Kane County Board.
2. The Chairman of the Kane County Development Committee.
3. A representative of the Kane County Farm Bureau.
4. Six (6) members appointed by the County Board Chairman with the advice and consent of the Board, appointed for terms expiring on June 1 following the third anniversary of their appointment. All members shall be electors of the County and, to the extent practicable, include persons with backgrounds and experience in agriculture, finance, conservation or planning.
5. The Chairman of the Kane County Regional Planning Commission and the Chairman of the Kane County Historic Preservation Commission shall be ex-officio members but shall have no right to vote and shall not be included in determining a quorum.

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

1. The Commission Chair shall be appointed by the Chairman of the Kane County Board and shall preside at all meetings of the Commission.
2. A Vice Chair shall be elected by a majority vote of the Commission at the first meeting of the Commission to serve for a term of three (3) years.

E. Rules of Procedure. The Commission may adopt rules of procedure governing its deliberations. In the absence of any other such rules, the Commission shall conduct its proceedings in accordance with Robert's Rules of Order, latest revised edition.

3. **AGRICULTURAL CONSERVATION EASEMENT AND FARMLAND PROTECTION PROGRAM EXPENDITURES.** The Board is authorized to acquire conservation interests in real property or to make payments to nonprofit conservation organizations for the purpose of rural and farmland preservation as provided herein.

A. **Conservation Easement Purchases.** The Board may, subject to subsection D, expend funds for costs associated with the purchase or acceptance of donated holders' interests or third party rights of enforcement in conservation easements as defined,

respectively, in the Illinois Property Conservation Rights Act.

- B. Land Purchases. The Board may, subject to subsection D, expend funds for the purchase of land for the purpose of farmland protection.
- C. Payments to Nonprofit Organizations. The Board may, subject to subsection D, appropriate money for payment to a nonprofit conservation organization for the conservation of farmland and natural resources within the County or beneficial to the County through the acquisition of conservation interests, provided that the recipient organization submits and the Board approves a detailed plan for the work to be done. The Board may attach such conditions and restrictions on the appropriation as the Board considers necessary and appropriate to protect the County's interests in farmland protection.
- D. Voluntary Conveyances. The Board may acquire conservation interests only from willing owners and may not exercise its power of eminent domain to acquire such interests.
- E. Indirect Costs. In addition to the purchase price therefor, the Board may expend funds for the payment of indirect costs associated with the conduct of the program, including costs of administration and acquisition of conservation interests, including but not limited to survey costs, title evidence, attorneys' fees, appraisers' fees, environmental assessments, transfer taxes and recording fees.

4. PROCEDURE FOR ACQUISITION OF CONSERVATION INTERESTS

- A. The Board may conduct public meetings or public hearings as it determines necessary or convenient for consideration of Agricultural Conservation Easement and Farmland Protection expenditures.
- B. Prior to purchasing any conservation interest, the Board may cause an appraisal to be prepared by a qualified appraiser setting forth the fair market value of the interest proposed to be purchased.

5. ALIENATION OF ACQUIRED INTERESTS. Except where the intention to reconvey a conservation interest is expressly provided for in the Board's authorization to acquire such interest, no conservation interest acquired by the County under the provisions of this Ordinance shall thereafter be alienated, unless all of the following conditions have been met:

- A. The Board or the Commission has conducted a public hearing for the purpose of considering the proposed alienation;
- B. The County Board has referred to the Commission, for its consideration and recommendation before final action is taken by the Board, the proposed alienation. Unless such recommendation is made within 30 days, or such longer period as may be stipulated by the Board, the Board may take final action without it;
- C. A resolution in support of the proposed alienation is adopted by an affirmative vote of two-thirds of the members of the Board; and
- D. A resolution in support of the proposed alienation is adopted by a majority of the

members of the governing body of any public agency or nonprofit conservation organization which jointly undertook the acquisition of the conservation interest proposed to be alienated.

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

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

Passed by the Kane County Board on April 10, 2001.

Bernadine C. Murphy


Clerk, County Board
Kane County, Illinois

[Signature]

Chairman, County Board
Kane County, Illinois

Vote:
Yes 23
No 1

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STATE OF ILLINOIS COUNTY OF KANE	DATE <u>MAY 22 2001</u>
I, Bernadine C. Murphy, Kane County Clerk and Keeper of the Records in Kane County, Illinois do hereby certify that the attached is a true and correct copy of the original record on file.	
In witness thereof, I have hereunto set my hand and affixed the Seal of the County of Kane at my office in Geneva, Illinois.	
	<i>Bernadine C. Murphy</i> _____ Bernadine C. Murphy, Kane County Clerk