

STATE OF ILLINOIS

COUNTY OF KANE

ORDINANCE NO. 13 - 240

ADOPTING THE KANE COUNTY "GROWING FOR KANE" PROGRAM

WHEREAS, the County Board has established support of goals and policies related to promoting locally grown and produced food and products due to health and economic benefits to county residents through adoption of the Kane County 2040 Plan in 2012 under Resolution No. 12-117 and the 2012-2016 Kane County Community Health Improvement Plan in 2012 under Resolution No. 12-113, and endorsement of the Fit Kids 2020 Plan in 2011 under Resolution No. 11-93; and

WHEREAS, the County has determined that the scope and nature of the 2001 Farmland Protection Program adopted under Ordinance No. 01-67 (the "Farmland Protection Program") to protect farmland in Kane County, while still invaluable for the purposes of land resource protection, does not include a focus on creating incentives to produce and market locally grown food, including fruits, vegetables, meat products and dairy products to the residents of Kane County through local schools, farmers' markets, corner stores and other sites within Kane County or the qualification of any Kane County food producers or Kane County landowners for federal and state grants or private grants or other funding available from sources for the implementation of programs related to local production of food (collectively "Funding"); and

WHEREAS, the County, in 2012-2013 completed the Growing for Kane Report (the "Growing for Kane Report" or the "Report"), a comprehensive assessment to evaluate the potential health and economic impacts of the Growing for Kane Program (the "Growing for Kane Program" or the "Program") through a health impact assessment and found that successful implementation would have positive health benefits for the county's residents due to increased access to fresh fruits and vegetables and through the distribution of the same through the regional and local food pantries as well as positive economic impacts due to location within and close proximity to Chicago metropolitan area markets; and

WHEREAS, the Growing for Kane Program analyzed in the Growing for Kane Report includes an additional complement to the permanent easements implemented under the Farmland Protection Program, consisting of Locally Grown Food Projects, which may include the acquisition of Conservation Easements of permanent duration or specific term lengths, assisting farms of all sizes to retain current local food producers as part of the Program and to encourage new and/or additional land to become part of the Program, all within a setting that will require and encourage the production of produce, dairy products and meat products from same to be made available through local schools, farmers' markets, corner stores, government contracts and contractors, and other venues, outlets, and sources within Kane County; and

WHEREAS, the County desires to establish the Growing for Kane Program to implement recommendations related to findings arising from the Growing for Kane Report, together with desirable aspects of the Illinois Food and Jobs Act (30 ILCS 105/5.675) within Kane County, Illinois; and

WHEREAS, the County is authorized to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease, pursuant to 55 ILCS 5/5-1052; and

WHEREAS, the County intends to promote opportunities to participate in the Growing for Kane Program to donors of land, funds or temporary or permanent easements or permanent restrictions or restrictions for a term of years upon lands with owners or farm tenants who might wish to provide others with a form of resources to pursue farming in new or existing farming operations within Kane County or

within the permanent easement arrangement offered under the Growing for Kane Program by donor grant or partial sale and grant and through other means consistent with the encouragement of local food production; and

WHEREAS, the County seeks to encourage leasing opportunities or cooperative contractual arrangements by governmental entities or private landowners, to persons seeking to produce and market locally grown food products, including use of greenhouses or similar facilities, regardless of location within Kane County; and

WHEREAS, the County desires that the nature and extent of the Growing for Kane Program be implemented through the Agriculture Committee and County Board and be considered broadly enough to cover areas of new technology or innovative methodology not presently implemented or envisioned by the agricultural industry, where such technology or methodology would be consistent with the aims and purposes contemplated herein; and

WHEREAS, the Kane County Board finds and determines that the adoption and implementation of the Growing for Kane Program in Kane County will provide a local program complementing the Farmland Protection Program, consistent with the alternative Growing for Kane Report determinations to promote better health of its residents through food sources produced locally, and that participation in both the Growing for Kane Program and the Kane County Agricultural Conservation Easement and Farmland Protection Program shall expressly be permitted and encouraged, as well.

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

An Ordinance to create a Kane County Growing for Kane Program, to read as follows:

1. Recitals. The recitals set forth above are expressly incorporated herein by this reference.
2. DEFINITIONS. In this Ordinance:
 - A. "County Board" means the Kane County Board.
 - B. "Agriculture Committee" means the Agriculture Committee of the Kane County Board, established and governed by the limitations and conditions adopted for same by the Kane County Board from time to time.
 - C. "Locally Grown Food" is intended to mean fruits, vegetables, meat products, dairy products and other food that is grown and processed within Kane County, Illinois. The source of a grown food item, or of processing services, may be from Counties adjacent to the Kane County geographic borders when sufficient supply, or service, is not available within Kane County, but preference in all instances shall be for food produced in Kane County.
 - D. "Locally Grown Food Project" means any of the following: (i) a holder's interest in a Conservation Easement, (ii) a third party right of enforcement in a Conservation Easement or fee title interest in real property, whether for a specific term or perpetual duration, or a leasehold interest, or (iii) any other written commitment to be bound by certain conditions and restrictions regarding Kane County Locally Grown Food, and any of which arises: with respect to a Contract between Kane County or other unit of local government and a private party holding possessory rights with respect to the subject property or agricultural producers upon whom the restrictions and conditions are

imposed, provided such terms are embodied in a Contract which is approved by the Agriculture Committee and County Board for this purpose.

- E. "Growing for Kane Program" as stated in the recitals represents an intentional focus on increasing Locally Grown Food production, including, but not limited to, procuring for or assisting in qualifying Kane County food producers for Funding related to the production and marketing of Locally Grown Food to the residents of Kane County through local schools, farmers' markets, local stores and other sites within Kane County through the use of Locally Grown Food Projects and/or Conservation Easements crafted specifically to encourage and emphasize Locally Grown Food opportunities.
- F. "Conservation Easement" means the following when coupled with a specific limitation or restriction aimed at causing or encouraging a Locally Grown Food Project to be implemented: a holder's non-possessory 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. Such a conservation easement may be permanent in nature, but for purposes of allowing for alternative projects contemplated by a health impact assessment or other favorable determination by the Agriculture Committee or County Board, may also be a commitment for a specific time frame or term of years, or incorporated with respect to an agricultural lease and continuing for the lease term or portion thereof, or it may be concurrent with a cooperative arrangement by or with units of local government and/or private parties for a specific term or indefinite duration or perpetual term, as the circumstances may justify or allow.
- G. "Health Impact Assessment" means the study of the health impacts of implementing a complementary Growing for Kane Program together with other government programs, as undertaken by various departments of the County of Kane with the intent of broadening annual investments to include farms of all sizes and in all areas of the county and a project seeking the enhancement of healthful production and distribution of locally grown produce, dairy products and meats within the Program.
- H. "Contract" means a binding agreement executed by the Chairman of the County on or after the date of adoption of this Ordinance, on behalf of the County after appropriate approval by the Agriculture Committee and the County Board, which implements the purposes of production and/or marketing of Locally Grown Food for which this Ordinance is established, wherein the County acquires, approves or grants a privilege or benefit, or is committed to expend or does expend its funds or other resources, or acquires or confers a benefit having recognized value, including, but not limited to, a Grant, loan, interest in real or personal property, binding agreement, or tax incentive, any of which may be in any form for or in connection with any work, project, or public purpose designed to satisfy the purposes of production and marketing of Locally Grown Food, or a written agreement by and between third parties which further the purposes of production and/or marketing Locally Grown Food when such contract between third

parties is approved and ratified in the manner aforesaid as being beneficial to the County and supporting the Growing for Kane Program in a meaningful way.

- I. "Commission" means the entity contemplated by Section 7 hereof, if established and recognized by the County Board for these purposes.

3. **GROWING FOR KANE PROGRAM EXPENDITURES AND ACCEPTANCE OF DONATED PROPERTY OR PROPERTY RIGHTS.** The County Board is authorized to approve Locally Grown Food Projects and the acquisition of Conservation Easements or other interests in real property and the payment for obligations arising under approved Contracts which facilitate the initiatives of the Growing for Kane Program. It has also been determined that an intentional effort to purchase food grown under the Growing for Kane Program should be undertaken by Kane County for its food sourcing, when possible and to the extent such purchases are justified under the circumstances, to encourage and facilitate the Growing for Kane Program.

- A. **Locally Grown Food Projects.** The County Board may expend funds for costs associated with the establishment of Locally Grown Food Projects, including but not limited to Conservation Easement acquisitions, creation or assignment of leasehold interests, or other transfer of beneficial interests which are made in conjunction with the Growing for Kane Program. The Board may also authorize acceptance of donated 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 expend funds for the purchase of land for the purpose of placing the property into the Growing for Kane Program to be held, operated or leased for purposes consistent with same.
- C. **Payments to Nonprofit Organizations.** The County Board may appropriate money for payment to a nonprofit organization for the conservation of farmland and natural resources within Kane County or as is beneficial to Kane County through the creation of the Growing for Kane Commission, such as the entity contemplated in Section 7 hereof, provided that the recipient organization submits and the Board approves a detailed plan for the scope of the proposed project to be implemented through same. The County Board may attach such conditions and restrictions on the appropriation as the County Board considers necessary and appropriate to protect Kane County's interests in the Growing for Kane Program, including farmland protection.
- D. **Voluntary Conveyances.** The County Board may acquire real property interests and enter into Locally Grown Food Projects only from willing owners and may not exercise its power of eminent domain to acquire such interests or property rights associated with same.
- E. **Indirect Costs.** In addition to the purchase price therefor, the County Board may expend funds for the payment of indirect costs associated with the conduct of the Growing for Kane Program, including costs of administration, development of documents to implement the Locally Grown Food Project and acquisition of rights and interests (including those related to arrangements other than a fee title conveyance or permanent easement form) and including but not limited to survey costs, title evidence, attorneys' fees, appraisers' fees, environmental assessments, transfer taxes and recording fees.

4. **PROCEDURE FOR ESTABLISHING LOCALLY GROWN FOOD PROJECTS OR CONSERVATION EASEMENTS**

- A. The Agriculture Committee and the County Board may conduct public meetings or public hearings as it determines necessary or convenient for consideration of expenditures related to proposed implementation of Locally Grown Food Projects or the acquisition of Conservation Easements within the Growing for Kane Program.
- B. Prior to purchasing or funding a Locally Grown Food Project or the acquisition of a Conservation Easement within the Growing for Kane Program, the County Board may cause an evaluation or appraisal to be prepared by a qualified consultant setting forth the fair market value of the interest proposed to be created or the County Board may take such steps as it deems appropriate to determine the value to be paid for or toward such Locally Grown Food Project or Conservation Easement within the Growing for Kane Program.

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

- A. The County 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 County Board, the County 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 County 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. **POLICY INITIATION AND PLANNING.** The initial framework for evaluation of opportunities for establishing specific Locally Grown Food Projects and the purchase of Locally Grown Food by Kane County shall begin as soon as practicable following adoption of this ordinance. The Agriculture Committee shall review alternatives and formats and periodically report to the County Board regarding its progress and any specific proposals that may come from its review.

- A. It is encouraged that Departments of Kane County increase the Locally Grown Food content of their food purchases, if any, when such modification would be more healthful and would reduce or not substantially increase the total contract costs.
- B. Kane County shall seek to encourage other local municipalities, school districts and other local government entities to adopt policies consistent with the Growing for Kane Program and to participate cooperatively in it.
- C. The policy of Kane County to participate in the Locally Grown Food purchase policy shall remain in force until amended or revoked by the County Board. The County Board expressly reserves the right to amend, or revoke, this policy for any reason.

7. GROWING FOR KANE COMMISSION

- A. Creation. There is hereby created the Kane County Growing for Kane Commission, (herein after the "Commission") to serve as an assisting and oversight organization for reviewing alternatives and undertaking specific opportunities that become available under the Growing for Kane Program. The Commission shall serve as an independent agricultural economic authority, using the assistance of private parties willing to undertake endeavors as collaborative "Public-Private" initiatives.
- B. Duties. The Commission shall be responsible for assisting in raising funds for development and implementation of the Growing for Kane Program as set forth in this Ordinance, including the following additional functions, as may then be applicable:
 - 1. The Commission shall maintain contact with public and private agencies to maximize the Funding and other resources available to the Program and coordinate efforts to encourage Locally Grown Food production and marketing.
 - 2. The Commission shall act as an outreach medium to determine the interest of owners of land and other agricultural producers within the County to participate in the Growing for Kane Program.
 - 3. The Commission may recommend to the Agriculture Committee the nature and extent of selection criteria to assist in implementing the Growing for Kane Program.
 - 4. The Commission may conduct public meetings or public hearings as it determines necessary or convenient to its work to gather information that would assist the Agriculture Committee in its evaluations of application of the Growing for Kane Program.
 - 5. The Commission at the direction of the Agriculture Committee shall prepare any application forms useful or necessary for any grant applications for State and/or Federal grants or private sources of funding for which the Growing for Kane Program or a particular participating food producer may be deemed appropriate.
- C. Membership. The Commission may consist of up to nine (9) voting members consisting of:
 - 1. The Chairman of the Kane County Board.
 - 2. The Chairman of the Kane County Agriculture 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.
- 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 Foundation.
 - 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.
- 8. CONFLICT OF INTEREST. No person may participate in any deliberation of the Commission or of the County 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.
 - 9. AMENDMENT OR REPEAL. This Ordinance may be amended or repealed only by affirmative vote of the Board following a public hearing.
 - 10. 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.
 - 11. This Ordinance shall take effect immediately upon its passage as provided by law.

Passed by the Kane County Board on August 13, 2013.

John A. Cunningham
 Clerk, County Board
 Kane County, Illinois

Christopher J. Lauzen
 Chairman, County Board
 Kane County, Illinois

Vote:
 Yes _____
 No _____
 Voice _____
 Abstentions _____