

VILLAGE OF ELBURN

ORDINANCE NO. 2009-B

**ORDINANCE AMENDING ORDINACE 2009-2 AMENDING SECTION 624.02
"GARBAGE, REFUSE, AND ASHES" OF THE VILLAGE OF ELBURN
CODIFIED ORDINANCES TO ADD A PROVISION TO BAN BURNING OF LEAVES,
YARD, AND LANDSCAPE WASTE AND TO PERMIT COMPOST STRUCTURES**

**ADOPTED BY
THE BOARD OF TRUSTEES
OF THE
VILLAGE OF ELBURN**

Published in pamphlet form by authority of the Board of Trustees
of the Village of Elburn, Kane County, Illinois
this _____ day of _____, 2009.

**ORDINANCE AMENDING ORDINANCE 2009-2 AMENDING SECTION 624.02
"GARBAGE, REFUSE, AND ASHES" OF THE VILLAGE OF ELBURN
CODIFIED ORDINANCES TO ADD A PROVISION TO BAN BURNING OF LEAVES,
YARD, AND LANDSCAPE WASTE AND TO PERMIT COMPOST STRUCTURES**

WHEREAS, 65 ILCS 5/11-19.1-1 provides, in part, that the corporate authorities may abate air contamination; and

WHEREAS, 65 ILCS 5/11-60-2 provides that the corporate authorities of each municipality may define, prevent, and abate nuisances; and

WHEREAS, the corporate authorities find that many individuals are adversely affected by smoke generated from the burning of leaves and yard and landscape wastes; and

WHEREAS, the corporate authorities find that said smoke is a public nuisance.

THEREFORE, Be It Ordained by the President and Board of Trustees of the Village of Elburn, Kane County, Illinois as follows:

SECTION ONE: That Section 624.02 "Garbage, Refuse, and Ashes," specifically paragraph (b)(4) thereof, of the Village of Elburn Codified Ordinances is amended in its entirety to read as follows:

**624.02 GARBAGE, REFUSE AND ASHES; OPEN BURNING; COMPOST
STRUCTURES.**

(a) Definitions. As used in this section:

- (1) "Garbage" means wastes resulting from the handling, preparation, cooking and consumption of food, and wastes from the handling, storage and sale of produce.
- (2) "Refuse" means combustible trash, including, but not limited to, paper, cartons, boxes, barrels, wood, wood shavings, packing materials, tree branches, yard trimmings, leaves, wood furniture and bedding; noncombustible trash, including, but not limited to, metals, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery and other mineral wastes; and street rubbish, including,

but not limited to, street sweepings, dirt, leaves, catch-basin dirt and the contents of litter receptacles. However, "refuse" shall not include earth and wastes from building operations, nor shall it include garbage, nor shall it include solid wastes resulting from industrial processes and manufacturing operations, such as food processing wastes, boilerhouse cinders, lumber, scraps and shavings.

- (3) "Yard waste" means tree and bush trimmings, branches, twigs, and trunks. Yard waste does not include waste generated by the clearing of entire parcels of land.

(b) Open Burning Prohibited. The open burning of yards and fields, herbage, shrubbery, leaves, grass, brush, trimmings from trees or bushes, wood, paper, garbage, refuse, yard waste or other combustible material on any property, public or private, from any source whatsoever, within the Village is unlawful and is hereby prohibited, with the following exceptions:

- (1) Fires set and supervised by the Fire Chief of the Elburn & Countryside Fire Protection District for public safety, training, horticultural or wildlife management, or similar purposes and have been approved by the State or local governmental agency having jurisdiction.
- (2) Bonfires which are being conducted under permit issued by the Police Chief or his designee after review with the Elburn and Countryside Fire Protection District for the following:
 - a. Bonfire location shall be an approved location.
 - b. The size and duration of a bonfire shall meet fire safety requirements including but not limited to atmospheric and weather conditions, proximity to structures, combustible materials, flammable liquids or vapors.
 - c. Bonfire materials shall be seasoned wood and seasoned yard waste only.
 - d. All permits for bonfires shall be requested by and issued to the property owner of the land upon which the bonfire is to be kindled, provided said parcel is not less than five acres in size, and provided no more than four bonfire permits are issued within the calendar year. Bonfires shall be subject to compliance with the provisions of paragraphs (7), (8), and (9) below.

(3) Recreational fires.

- a. Fires for the express purpose to cook food for human consumption, such fires shall be contained in grills, charcoal burners, or the like.
 - b. Fires within a dry stacked stone, masonry, or metal fire pit or ring or within commercially manufactured portable fireplaces, but only if:
 1. Location: The location of the stone, masonry, or metal fire pit or ring or commercially manufactured portable fireplace shall be at a safe and reasonable distance from any building, structure, or vehicle and from any container or other source of flammable liquids or vapors. A metal fire ring or commercially manufactured portable fireplace shall not be placed on any combustible surface.
 2. Fuel: The fuel shall be dry, seasoned wood or equal and no household or landscape wastes or leaves shall be burned.
 3. Attendance: No burning shall take place on private property without the presence and oversight of an adult over 18 years of age. No fires shall be left unattended until entirely extinguished.
- (4) Fires started by Village of Elburn personnel or Village-authorized contractors to burn materials collected within the corporate limits of the Village shall be authorized on any Village-owned property.
- (5) Controlled burning of native grasses, upon receipt of permit from the Police Chief or his designee.
- (6) Upon the filing with the Village President and Board of Trustees of such application, for a reason not otherwise contained in sections (1) through (5) above and compliance with the requirements hereafter described and approval by the Village Board of Trustees, the Village shall, without cost to the applicant, issue a permit pursuant to such application.
- (7) The open burning permit shall be good only for the date or period on or for which it is issued.
- (8) All approved permits must be approved a minimum of 24 hours prior to commencement of the open burning.

- (9) Open burning permits authorized by the Village of Elburn must comply with the following requirements:
- a. That a copy of the Village of Elburn open burning permit is immediately available on the site for viewing by members of the Elburn Police Department, Village of Elburn public officials, and members of the Elburn and Countryside Fire Protection District, otherwise the open burning will be immediately ordered extinguished.
 - b. Burning is conducted on the property on which the materials to be burned are generated.
 - c. Burning is conducted on sunny days between 9:00 a.m. and 3:00 p.m.
 - d. Burning is conducted when the wind is less than ten miles per hour.
 - e. Burning is not conducted within thirty feet of any building or structure.
 - f. Burning is not permitted when it is determined by the Village that inversion conditions exist.
 - g. Burning is not conducted on public property, roads, alleys, or sidewalks.
 - h. Only clean dry materials are burned. Burning that is offensive or objectionable due to smoke or odor emissions or when atmospheric conditions or local circumstances exist that make such fires hazardous shall be prohibited.
 - i. Burning is supervised by a person over the age of 18 until the fire is extinguished.
 - j. A fire extinguisher or garden hose/water is within 10 feet of the fire and available.
 - k. That it is the sole responsibility of the individual conducting the burning to satisfactorily determine that all conditions permitting burning as noted above are met during any given period when he or she conducts a burning authorized by a Village of Elburn permit.

(10) The burning of construction debris shall be prohibited at all times.

Any violation of the provisions of this section shall be considered a nuisance and shall be subject to the penalty set forth in Section 624.99.

(c) Accumulation of Materials Subject to Decay. Excepting for compost piles, which shall remain subject to the nuisance provisions of the Village of Elburn's Codified Ordinances, no person shall permit or allow or cause to accumulate anywhere in the Village any garbage or refuse or other material subject to decay, other than leaves or grass. Compost piles shall be placed in aesthetically acceptable compost structures and shall be subject to the following regulations:

(1) Definitions

- a. Compost Structure(s) – a structure or structures designed to hold composting materials in such a way as to prevent material from being windblown and to promote the composting process.
- b. Composting – biological process by which microorganisms decompose the organic fraction of waste, producing a humus-like material that may be used as a soil conditioner.

(2) Regulations It shall be unlawful to allow a compost structure to be maintained on any part of any premises and parkway immediately adjacent to any premises in violation of the following standards:

- a. The minimum size for a compost structure shall be 2 feet wide by 2 feet high by 2 feet long. The maximum size of a compost structure on a property shall not exceed a maximum of 5 feet wide by 5 feet high by 10 feet long.
- b. Only the following organic materials shall be allowed in any such compost structure:
 1. Soil
 2. Landscape Waste in which any woody materials and garden wastes have been reduced in size to half (1/2) an inch in diameter and twelve (12) inches long
 3. Cooked and Uncooked Fruits and Vegetables
 4. Livestock manure
 5. Residential cardboard rolls
 6. Coffee grounds and filters
 7. Dryer and vacuum cleaner lint
 8. Eggshells
 9. Grass clippings

10. Hay and straw
11. Houseplants
12. Leaves
13. Nut shells
14. Sawdust
15. Tea bags
16. Yard trimmings

Provided, however, that small amounts of wood ash or fertilizer may be added to provide nutrients.

- c. The following materials shall not be allowed in any such compost structure, including, but not limited to:
 1. Construction and demolition debris, except sawdust
 2. Metal items
 3. Preservative-treated wood products
 4. Petroleum products (gasoline, motor oil, paints, or solvents)
 5. Pesticides or herbicides (except that which is already conveyed as part of the organic materials described above)
 6. Fish or animal feces
 7. Fish or animal carcasses
 8. Cooked meat scraps
 9. Human feces
 10. Paper
 11. Plastic or cardboard items
- d. Compost structures shall be maintained by turning the compost material to permit aeration so as to prevent unpleasant odors and prevent the attraction or harboring of rodents and pests.
- e. Compost structures shall not be located in any front or side yard; shall be setback at least twenty (20) feet from principal residential structures on adjoining lots.
- f. Compost structures shall not be located on any drainage easement.
- g. Only materials generated by the residence located on the subject lot may be placed in the compost structure located on the lot.
- h. Only one compost structure shall be permitted on a lot.
- i. Compost structures shall be permitted only on lots in residential districts.

(d) Accumulation of Materials That Can be Blown Away. No person shall cause or permit to accumulate any dust, ashes or similar materials that can be blown away by the wind, unless such materials are stored in a covered or secure container.

(e) Deposit Onto Public Streets or Alleys. No person shall deposit or permit to fall from any vehicle, or escape from any property, any garbage, refuse or ashes onto any public street or alley in the Village. This subsection shall not be construed to prohibit the placing of garbage, refuse or ashes in a container complying with the provisions of this ordinance in preparation to having such material collected and disposed of in a manner provided for herein as long as no garbage, recycling material or containers leave the property or parkway of the property generating the garbage, refuse or ashes.

(f) Dumping on Private Property. No person shall dump or place any garbage, refuse or ashes on any premises in the Village without the consent of the owner of such premises.

(g) Storing or Depositing of Combustible Material. No person shall permit or store any combustible refuse in such a manner as may create a hazard of fire, nor store or deposit any garbage, refuse or ashes of any nature or kind whatever upon any alley, street or other public place within the Village, except as herein provided.

(h) Declaration of Nuisance. No person shall deposit anywhere in the Village any uncovered pile or collection of refuse, garbage or ashes. Any uncovered piles of such refuse, garbage or ashes are hereby declared to be a nuisance.

(i) Separate Containers. If required by law, it shall be the duty of every owner and/or occupant of a house, apartment building or business in the Village to maintain separate containers for glass, plastic, metal and garbage refuse.

(j) Containers for Collection. No person shall dispose of any garbage, refuse or ashes anywhere in the Village except as herein provided. Such material shall be placed in covered or secure containers, as herein provided, for collection by a licensed garbage and refuse collector. All containers for garbage, yard waste and refuse shall be placed by residents at the curb line of the premises served not earlier than 3:00 p.m. on the day before the scheduled collection, and shall be removed on or before 9:00 a.m. the day after the collection is made. No container shall be placed so as to constitute a nuisance to adjacent property or to the occupants thereof.

(k) Leaf Collection. A property owner, his or her tenant, agent(s) of the owner or tenant, contractor(s), or landscaper(s) may place leaves in a closed biodegradable bag curbside along public streets and on the public parkway for pickup by the Village licensed garbage collector at any time during the months of October and November. Closed biodegradable leaf bags shall not be placed less than ten feet from any storm drain inlet, nor shall they create a safety hazard for vehicles, bicyclists or pedestrians. During other times of the year, leaf bag collection shall conform to regular garbage and refuse collection regulations

(l) Collection. Such garbage, refuse or ashes shall be collected by a duly authorized and licensed collector, who shall have charge of the collection of garbage,

refuse or ashes in the Village and who shall comply with all of the regulations herein provided for the use of Village streets. Collections shall be made from all premises at least once in each week, provided that the material to be collected is properly stored for collection in covered or secure containers.

SECTION TWO: That all ordinances and parts of ordinances in conflict with or inconsistent with the provisions of this ordinance are hereby repealed to the extent of any such conflict or inconsistency.

SECTION THREE: That if any part or portion of this ordinance shall be declared invalid by a court of competent jurisdiction, such partial invalidity shall not affect the remainder of this ordinance.

SECTION FOUR: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as is hereby authorized to be done by the President and Board of Trustees.

AYES: Ken Anderson, Dierschow, Grabarek, Romke, Schmidt, Walter

NAYES: None

ABSENT: None

PRESENTED to the Board of Trustees of the Village of Elburn, Kane County, Illinois, this 20 day of July, 2009.

PASSED by the Board of Trustees of the Village of Elburn, Kane County, Illinois, this 20 day of July, 2009.

SIGNED by the President of the Board of Trustees of the Village of Elburn, Kane County, Illinois, this 20 day of July, 2009.



(SEAL)

A handwritten signature in black ink, appearing to read 'David L. Anderson', written over a horizontal line.

David L. Anderson
Village President
Village of Elburn, Kane County, Illinois

ATTEST:

Diane McQuilkin

Diane McQuilkin
Village Clerk
Village of Elburn, Kane County, Illinois



STATE OF ILLINOIS)
)SS
COUNTY OF KANE)

CLERK'S CERTIFICATE

I, Diane McQuilkin, the duly qualified and acting Village Clerk of the Village of Elburn, Kane County, Illinois, do hereby certify that attached hereto is a true and correct copy of an ordinance entitled:

**ORDINANCE AMENDING ORDINANCE 2009-2 AMENDING SECTION 624.02
"GARBAGE, REFUSE, AND ASHES" OF THE VILLAGE OF ELBURN
CODIFIED ORDINANCES TO ADD A PROVISION TO BAN BURNING OF LEAVES,
YARD, AND LANDSCAPE WASTE AND TO PERMIT COMPOST STRUCTURES**

Which Ordinance was duly adopted by said Board of Trustees at a regular meeting held on the 20 day of July, 2009, and that said Ordinance has been duly published in pamphlet form in accordance with Section 1-2-4 of the Illinois Municipal Code.

I do further certify that a quorum of said Board of Trustees was present at said meeting, and that the Board of Trustees complied with all the requirements of the Illinois Open Meetings Act.

IN WITNESS WHEREOF, I have hereunto set my hand this 20 day of July, 2009.

(SEAL)



Diane McQuilkin
Diane McQuilkin
Village Clerk
Village of Elburn, Kane County, Illinois