

**FOX RIVER & COUNTRYSIDE FIRE/RESCUE DISTRICT
KANE & DUPAGE COUNTIES
ORDINANCE NO. 2012 -07**

**AN ORDINANCE RELATING TO OPEN BURNING
FOR THE FOX RIVER & COUNTRYSIDE
FIRE/RESCUE DISTRICT**

**ADOPTED BY THE
BOARD OF TRUSTEES
OF THE FOX RIVER & COUNTRYSIDE FIRE/RESCUE DISTRICT
THIS 22ND DAY OF OCTOBER, 2012**

**Published in pamphlet form by authority
of the Fox River & Countryside Fire/Rescue District
Kane & DuPage Counties, Illinois, this 22nd day of October, 2012**

**FOX RIVER & COUNTRYSIDE FIRE/RESCUE DISTRICT
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ORDINANCE NO. 2012-07**

**AN ORDINANCE RELATING TO OPEN BURNING
FOR THE FOX RIVER & COUNTRYSIDE FIRE/RESCUE DISTRICT**

WHEREAS, the Fox River & Countryside Fire/Rescue District ("District") is a fire protection district duly organized under the laws of the State of Illinois; and

WHEREAS, the Fire Protection District Act, 70 ILCS 705/11, empowers and makes it the legal duty and obligation of this Board of Trustees to provide as nearly adequate protection from fire for all persons and property within the District as possible and to prescribe necessary regulations for the prevention and control of fire therein; and

WHEREAS, the Fox River & Countryside Fire/Rescue District ("the District") finds it in the public interest and desires to promote and protect the health, safety, welfare and convenience of the public and otherwise provide adequate protection from fire for lives and property;

WHEREAS, it is at times in the public interest to regulate open burning; and

WHEREAS, the rights of the people of the District to receive adequate protection from fire for lives and property remains paramount;

NOW, THEREFORE BE IT, ORDAINED by the Board of Trustees of the Fox River & Countryside Fire/Rescue District, Kane and DuPage Counties, Illinois, as follows:

SECTION 1: DEFINITIONS: As used in this Ordinance, the following terms shall have the following meanings:

1. **AGRICULTURAL PURPOSES:** Growing, developing, processing, conditioning, selling of farm crops and farm seeds, truck gardens, animal and poultry husbandry, apiculture, aquaculture, dairying, floriculture, horticulture, nurseries, tree farms, sod farms, pasturage, viticulture, and wholesale greenhouses when such agricultural purposes constitute the principle activity on the land.
2. **BONFIRE:** An outdoor fire utilized for ceremonial purposes.
3. **BRUSH:** Tree trunks, limbs, branches and twigs.
4. **RECREATIONAL FIRES:** An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit and has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.
5. **OPEN BURNING:** The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or

chimney from an enclosed chamber. Open burning does not include road flares, smudge pots and similar devices associated with safety or occupational uses. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

6. GARBAGE: Any rejected or waste household food, offal, swill or carrion and every accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of meats, fish, fowl, fruits or vegetables and any other matter of any nature, which are subject to decay, putrefaction and the generation of noxious or offensive gases or odor, or, which during or after decay, may serve as a breeding or feeding material for rodents, flies or other germ carrying insects or animals; provided, however, that "garbage" shall not mean or include landscape waste.
 - i. For purposes of this chapter, "manure" shall not be considered "garbage".
7. LANDSCAPE WASTE: Any vegetable or plant material, trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery or like manner of things.
8. RECREATIONAL FIRES: An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.
9. HABITABLE STRUCTURE: Any structure with electric and heat intended to be used a living, sleeping, eating and assembly purposes including but not limited to residences, churches and schools.
10. NON-HABITABLE STRUCTURE: Any structure not identified as habitable and includes but is not limited to garages, sheds, barns and outbuildings.

SECTION 2: REGULATION OF OPEN BURNING and RESTRICTIONS:

A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with this section. The open burning of landscape waste, shall be prohibited during the times, under the conditions and in the locations, as follows:

1. On cloudy or overcast days; and
2. Between the hours of eight o'clock (8:00) P.M. and eight o'clock (8:00) A.M.; and
 - a. During such times that the wind is in excess of ten (10) miles per hour; and
 - b. Within 100' of any habitable structure; 50' from any non-habitable structure; 100' from nearest structure not on the same property; or within twenty five (25') of the drip line of any tree;
 - c. Exceptions: Fires in approved containers shall be permitted, that are not less than 15 feet from any structure. The minimum required distance from a structure shall be 25 feet where the pile size is 3 feet or less in diameter and 2 feet or less in height.

3. Bonfires: A bonfire shall not be conducted within 50 feet of a structure or combustible material unless the fire is contained in a pit constructed of non-combustible material. Conditions which could cause a fire to spread within 50 feet of a structure shall be eliminated prior to ignition.
4. Recreational Fires: Recreational fires shall not be conducted within 25 feet of a structure or combustible material. All recreational fires shall be contained within a non-combustible container. Conditions which would cause a fire to spread within 25 feet of a structure shall be eliminated prior to ignition.
5. Attendance: Any open burning, bonfires or recreational fires shall be constantly attended until the fire is extinguished. A minimum one portable fire extinguisher with a minimum 4-A rating or other approved on-site fire extinguishing equipment, such as dirt, sand water barrel, garden hose or water truck, shall be available for immediate utilization.
6. No open burning pile shall exceed 36 square feet in surface area coverage
7. During those times when the health departments of either DuPage or Kane County have determined and announced that weather inversion conditions exist;
8. On public roads, alleys, sidewalks or easements; and
9. When the material being burned is other than dry landscape waste;
and
10. When a fire extinguisher complying with a minimum 4-A rating, garden hose or other continuous source of water is unavailable; and
11. An adult, 18 years or older, with a reliable means to contact 911 shall be present at the burn site at all times, with means to extinguish the open burn if so directed;
and
12. Open burning of waste, where such waste was not generated from or by vegetation growing on the property where the open burning is taking place.
13. It is the responsibility of the individual conducting the burning and the property owner to satisfactorily determine that conditions during burning as noted above are complied with during any burning.

14. Any fire which continues after conditions have changed so that it is no longer appropriate for burning shall be extinguished promptly by the person or persons starting or tending the fire.

PROHIBITIONS:

1. The open burning of waste which is not generated from plants growing on the site where the open burning is taking place is prohibited at all times and under all conditions.
2. The burning of any building, structure, or part thereof, or construction debris for any purpose is prohibited at all times and under all conditions.
3. Burning of hazardous materials is prohibited. This includes but is not limited to any material classified as a hazardous material, oils, paints, thinners, fertilizers, pesticides, herbicides, insecticides, petroleum products, plastic products, rubber products or any volatile substances.
4. BURNING OF GARBAGE OR REFUSE PROHIBITED: The open burning of garbage or refuse shall be prohibited at all times.
5. EXEMPTION: The open burning of landscape waste for prairie reclamation. All burning for habitat restoration or prairie reclamation shall be conducted consistent with applicable state laws with a permit obtained by the Illinois Environmental Protection Agency (IEPA) and the applicable Fire District jurisdiction, if required.
 - a. REQUIRES A PERMIT FROM (IEPA):
 - i. Recognized agricultural or horticultural management purposes to maintain or increase the quantity or quality of agricultural production.
 - ii. The written permit filed with the Illinois Environmental Protection Agency must be delivered and on file to the Fox River & Countryside Fire/Rescue District and on file at least ten days before the fire is set:
 - iii. Issuance of this permit shall not exempt this open burning from applicable local restrictions. Section 9(a) of the Environmental Protection Act is applicable to open burning, i.e., persons affected by such open burning may lodge complaints with the Illinois Environmental Protection Agency if the burning is injurious to human, plant, or animal life, to health, or to property, or unreasonably interferes with the enjoyment of life or property.

- iv. Burning shall take place only when wind is blowing away from roadways, residences, railroad tracks and populated areas.
- v. Prior to each scheduled burn the permittee shall notify residences and businesses that may be affected, of the intended open burning activity.
- vi. The permittee shall notify and receive prior approval from the local fire protection district at least 24 hours prior to the actual burn.
- vii. Open burning is prohibited on "Code Red" or "Ozone Action" alert days.

SECTION 2: NOTIFICATION REQUIRED

1. Permit required for open burning shall be submitted in writing at least ten days before fire is set and shall be in such form and contain such information as required by the code official.
2. Such applications shall contain, as a minimum, information regarding:
 - a. The purpose of the proposed burning.
 - b. The nature and quantities of material to be burned.
 - c. The date when such burning will take place.
 - d. The location of the burning site, i.e. map.
 - e. The on-site fire-extinguishing equipment to be provided.
 - f. Onsite personnel including contact person.

SECTION 3: OPEN BURNING DIRECTED EXTINGUISHMENT

1. The District shall extinguish, or direct to be extinguished, any open burn that presents a clear, present, and unreasonable danger to persons or property, or that presents an unreasonable risk because of wind, weather, or the type of combustible(s) used.
2. All open burning occurring within the boundaries of the District that do not comply with the Illinois Environmental Protection Act will be automatically subjected to suppression, with the District entitled to collect all costs and penalties provided for in this Ordinance.
3. The District shall have sole discretion as to when an open burn requires suppression.

SECTION 4: ENFORCEMENT, VIOLATIONS AND PENALTY.

1. Provisions of this Ordinance may be enforced by the Fire Chief, his designee or designees.

2. Any person, firm, entity, association or corporation who violates any provision of this Ordinance shall be punishable by a fine of not more than \$750.00. Each day a violation occurs shall be considered a separate offense.
3. Persons most in control of the burning must immediately extinguish the fire when so directed by a member of the District.
4. Each subsequent starting, kindling, causing or allowing of a new fire after issuance of a citation, shall be considered a separate offense.
5. Should the District exercise the authority to extinguish an open burn, any person, firm, entity, association or corporation who has ownership or control of the property, or is found to have set or failed to control the open burn, shall be responsible for the reasonable costs of the suppression of the open burn, not to exceed the published rate structure contained in Ordinance 2011-07.
6. If the District determines a violation of this Ordinance exists, written notice will be provided to those deemed to be in violation. Anyone in violation of this Ordinance may appeal the decision of the District, which will then hold a hearing on the issue at its next regularly scheduled Board of Trustees meeting. Any appeal must be in writing and filed with the Secretary of the District Board of Trustees within thirty (30) days of the date of receiving notification from the District of the violation.
7. Any person, firm, entity, association or corporation that refuses to pay or fails to pay the above-listed service charges within sixty (60) days of notice of the charge will be deemed to have violated this Ordinance. The District reserves the right to pursue all remedies at law and equity to recover charges due and owing, including the use of the services of a collection agency, and shall have the right in such event to recover its reasonable attorney's fees and other costs of collection.

SECTION 5: LIABILITY

1. In the absence of any evidence to the contrary, the owner and the resident of the property on which a fire is located in violation of this ordinance shall be presumed to be responsible for such fire and shall be jointly liable
2. Any person responsible for an outdoor fire shall be liable for all fire suppression costs and any other liability resulting from damage caused by the fire.

SECTION 6: PRIOR ORDINANCES

1. This Ordinance shall supersede any ordinances or resolutions or parts of ordinances or resolutions in conflict with any part herein, and any such ordinances or motions or parts of such ordinances or resolutions are hereby repealed.

SECTION 7: SEVERABILITY

1. If any section, paragraph or provision of this Ordinance shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect any of the remaining provisions of this Ordinance that can be enforced without such invalid provisions, and to the extent this Ordinance shall be severable.

SECTION 8: PUBLICATION, EFFECTIVE DATE

1. The secretary of the Fox River & Countryside Fire/Rescue District is hereby directed to publish this Ordinance in pamphlet form as provided by law. Publication shall take place at least ten (10) days prior to implementation of this Ordinance. The provisions of this Ordinance shall be in full force and effect ten (10) days after said publication as provided by law.

PRESENTED to the Board of Trustees of the Fox River & Countryside Fire/Rescue District, Kane & DuPage Counties, Illinois, this 22nd day of October, 2012.

PASSED by the Board of Trustees of the Fox River & Countryside Fire/Rescue District, Kane & DuPage Counties, Illinois, this 22nd day of October, 2012.

AYES: 4 (Dunham, Handley, Jeglum, Gaffney)

NAYES: 0

ABSENT: 1 (Gamboa)

SIGNED by the President of the Board of Trustees, of the Fox River & Countryside Fire/Rescue District, Kane and DuPage Counties, Illinois, this 22nd day of October, 2012.

Fox River & Countryside Fire/Rescue District

James Gaffney, President of the Board of Trustees

ATTEST:

Terry Jeglum, Asst. Secretary

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

SECRETARY'S CERTIFICATE

I, Terry Jeglum, the duly qualified and acting Secretary of the Board of Trustees of the Fox River & Countryside Fire/Rescue District, Kane & DuPage Counties, Illinois, do hereby certify that attached hereto is a true and correct copy of an Ordinance entitled:

**ORDINANCE NO. 2012-07
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KANE AND DUPAGE COUNTIES, ILLINOIS**

which Ordinance was duly adopted by said Board of Trustees at a meeting held on the 22nd of October, 2012.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of October, 2012.

Asst. Secretary, Board of Trustees
Fox River & Countryside Fire/Rescue District