

ORDINANCE NUMBER 13 - 08

**ORDINANCE APPROVING TEXT AMENDMENT TO
TITLE XV, LAND USAGE, CHAPTER 157, ZONING,
SECTION 157.003, RULES AND DEFINITIONS**

WHEREAS, the Village of East Dundee is a home rule unit of local government under and pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, has the authority to exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the Planning and Zoning commission (hereinafter the "Commission") of the Village of East Dundee, pursuant to notice and pursuant to the East Dundee Code of Ordinances, held a public hearing on March 14, 2013 on the Village Initiated Text Amendment to Sec. 157.003, Rules and Definitions; and

WHEREAS, pursuant to said hearing, the Commission denied the Petition by a vote of 2 ayes, 4 nayses and 2 absent.

WHEREAS, the President and Board of Trustees of the Village of East Dundee having determined that it is in the best interests of the health, safety and welfare of the residents of the Village of East Dundee that a text amendment to the Title VI, Land Use, Chapter 157, Zoning, Section 157.003, Rules and Definitions, by adding certain definitions is necessary and appropriate.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:

Section One. That **Title XV, Land Usage, Chapter 157, Zoning**, of the Village of East Dundee Code of Ordinances is hereby amended by amending Section 157.003, Rules and Definitions as follows:

Section 157.003. RULES AND DEFINITIONS

Amend Section 157.003 of the Zoning Ordinance by inserting the following definitions:

SOLID WASTE FACILITIES.

(a) **ENVIRONMENTAL PROTECTION ACT.** Those provisions found in 415 ILCS 5/ and its implementing regulations, as both may be amended from time to time, which include definitions for the following terms as used in this ordinance provided that if such act,

codes or terms are repealed in their entirety, the meanings of such terms shall be those last in effect.

1. COMPOST as defined in 415 ILCS 5/3.150;
2. COMPOSTING as defined in 415 ILCS 5/3.155;
3. COMPOSTING OPERATION as defined in 35 IL Admin Code 830.102;
4. FACILITIES ACCEPTING EXCLUSIVELY GENERAL CONSTRUCTION OR DEMOLITION DEBRIS FOR TRANSFER, STORAGE, OR TREATMENT as defined in 415 ILCS 5/22.38;
5. GENERAL CONSTRUCTION OR DEMOLITION DEBRIS as defined in 415 ILCS 5/3.160 (a);
6. LANDSCAPE WASTE as defined in 415 ILCS 5/3.270;
7. LANDSCAPE WASTE COMPOST FACILITY as defined in 35 IL Admin Code 830.102;
8. LOCAL SITING REVIEW as defined in 415 ILCS 5/39.2;
9. POLLUTION CONTROL FACILITY as defined in 415 ILCS 5/3.330;
10. TRANSFER STATION as defined in 415 ILCS 5/3.500;

(b) RECYCLING, MATERIALS RECOVERY AND WASTE MINIMIZATION / WASTE DIVERSION FACILITIES. Those facilities and/or operations which sort, handle, process, gather and recovery materials from waste streams which would otherwise be disposed of or permanently discarded, so as to render such materials usable in a process or alone such that the same can be returned to the economic mainstream/stream of commerce in the form of raw materials or products;

Section Two. Severability. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the validity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

Section Three. Repeal. All ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

Section Four. Publication. This ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

Adopted this 1 day of April, 2013, pursuant to a roll call vote as follows:

AYES:

Trustees Gorman, Lynam, Skellicorn, Miller, VanOstenbridge and President Bartels

NAYES:

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ABSENT:

Trustee Ruffalo

Approved by me this 1 day of April, 2013.

Jerald Bartels
Jerald Bartels, President

Published in pamphlet form this 3 day of April, 2013, under the authority of the President and Board of Trustees.

ATTEST:

Arthur Leuth
Village Clerk

Recorded in the Village Records on April 3rd, 2013.

**Village-Initiated Amendments to the Zoning Chapter
Application Narrative
February 25, 2013
Revised March 20, 2013**

Waste Facilities

The current zoning chapter effectively prohibits solid waste facilities of all types. Not only are such uses not included in the lists of allowable uses, but general requirements in the manufacturing districts sub-section states that any use involving "refuse" is not permitted.

The State of Illinois adopted the Environmental Protection Act in 1976 and subsequently adopted regulations for its implementation and enforcement, both of which have been amended several times since. Among many other things, the Act and corresponding regulations provide several detailed definitions and regulations for a host of solid waste facilities. Further, the Act classifies certain solid waste facilities as "Pollution Control Facilities" (such as municipal solid waste landfills and transfer stations) and prescribes a process for siting them that explicitly states, "Local zoning or other local land use requirements shall not be applicable to such siting decisions." However, the Act also defines several other solid waste facilities (such as those that recycle construction and demolition debris or compost/landscape waste) and establishes regulations for them, but does not exempt them from local zoning.

Plote owns property in the Village south of Route 72 zoned M-1. The property historically has been used for gravel quarry operations, but Plote is now considering it for use as a transfer station for general waste, as well as for the recycling of construction and demolition debris, in addition to a landscape waste transfer station and a composting operation. The basic concept is to develop an environmental campus which accepts, handles and processes a number of non-hazardous waste streams, where usable and valuable materials can be recovered, recycled and reused. As noted above, a transfer station for general waste will be subject to the state-prescribed siting process, but the other uses would be subject to state and Village regulations, provided the Village zoning chapter allows such uses in the manufacturing districts. To accommodate the potential for such uses, the proposed amendments shown on Attachment D.1 include the addition of several solid waste-related definitions, as well as including a few specific solid waste facilities as special uses within the manufacturing districts that are not subject to the state siting process. Because the state statutes and implementing regulations continue to evolve, the proposed amendments incorporate definitions by reference so the Village and state definitions will always be the same. A list of the current state definitions of the terms to be included in the Village zoning chapter are provided in Attachment D.2.

It is important to note that the proposed amendments would only allow a property owner to submit an application for special use approval for one or more of the allowed solid waste facilities. Each application would have to demonstrate its compliance with all applicable state regulations, as well as all Village codes, and would be the subject of a noticed public hearing. Further, each facility would enter into a host agreement with the Village that would more

precisely define its operating parameters and could include provisions for fees to offset impacts such as increased truck traffic.

Note that the Village's Special Counsel for solid waste matters, Chuck Helsten, has reviewed and contributed to the text of the proposed solid waste amendments. A similar set of proposed amendments was reviewed by the Planning and Zoning Commission who held a public hearing on them on March 14, 2013. There was no public comment, but the Commission recommended denial of all of the solid waste amendments (definitions and special uses) following the close of the hearing and after some discussion between the members.

**Attachment D.1
Proposed Solid Waste Amendments**

§ 157.003(B) RULES AND DEFINITIONS

Add the following:

SOLID WASTE FACILITIES.

(a) **ENVIRONMENTAL PROTECTION ACT.** Those provisions found in 415 ILCS 5/ and its implementing administrative codes, as both may be amended from time to time, which include definitions for the following terms as used in this ordinance provided that if such act, codes or terms are repealed in their entirety, the meanings of such terms shall be those last in effect.

1. **COMPOST** as defined in 415 ILCS 5/3.150;
2. **COMPOSTING** as defined in 415 ILCS 5/3.155;
3. **COMPOSTING OPERATION** as defined in 35 IL Admin Code 830.102;
4. **FACILITIES ACCEPTING EXCLUSIVELY GENERAL CONSTRUCTION OR DEMOLITION DEBRIS FOR TRANSFER, STORAGE, OR TREATMENT** as defined in 415 ILCS 5/22.38;
5. **GENERAL CONSTRUCTION OR DEMOLITION DEBRIS** as defined in 415 ILCS 5/3.160(a);
6. **LANDSCAPE WASTE** as defined in 415 ILCS 5/3.270;
7. **LANDSCAPE WASTE COMPOST FACILITY** as defined in 35 IL Admin Code 830.102;
8. **LOCAL SITING REVIEW** as defined in 415 ILCS 5/39.2;
9. **POLLUTION CONTROL FACILITY** as defined in 415 ILCS 5/3.330;
10. **TRANSFER STATION** as defined in 415 ILCS 5/3.500;

(b) **RECYCLING, MATERIALS RECOVERY AND WASTE MINIMIZATION / WASTE DIVERSION FACILITIES.** Those facilities and/or operations which sort, handle, process, gather and recovery materials from waste streams which would otherwise be disposed of or permanently discarded, so as to render such materials usable in a process or alone such that the same can be returned to the economic mainstream/stream of commerce in the form of raw materials or products;

MANUFACTURING DISTRICTS

§ 157.065 GENERAL REGULATIONS

Add the following:

(A)(1)(l)3. Waste transfer, storage and treatment facilities; as defined in the Illinois Environmental Protection Act in 415 ILCS 5/ that are not otherwise defined in such Act as Pollution Control Facilities and subject to the provisions of § 157.065(A)(2)(d) shall be allowed as special uses in the M-1 and M-2 districts

(A)(2)(d) Waste transfer, storage and treatment facilities; as defined in the Illinois Environmental Protection Act in 415 ILCS 5/ that are not otherwise defined in such Act as Pollution Control Facilities.

1. Such facilities shall only include the following:

- a. Facilities accepting exclusively general construction or demolition debris for transfer, storage, or treatment;
- b. Landscape waste compost facilities;
- c. Landscape waste transfer stations; and
- d. Other recycling, materials recovery and waste minimization/waste diversion facilities.

2. All facilities listed hereunder shall comply fully with all applicable requirements contained in the Environmental Protection Act and its implementing administrative codes, as both may be amended from time to time, in addition to all applicable requirements contained in this chapter provided that in the event that those requirements imposed by the state of Illinois conflict with those of this chapter, the more restrictive provisions shall apply.

(B)(2) To the extent that a Pollution Control Facility subject to local siting review as provided for in 415 ILCS 5/39.2 is proposed to be located in the Village of East Dundee, those areas designated as manufacturing districts on the Village of East Dundee, Illinois, Zoning Map are deemed the most appropriate locations for such a facility provided that the facility, and its location, otherwise comply with all applicable requirements of the Illinois Environmental Protection Act and its implementing administrative codes, as both may be amended from time to time, and notwithstanding that local zoning or other local land use requirements shall not be applicable to such siting decisions.

Attachment D.2
Selected Solid Waste Definitions from the
Illinois Environmental Protection Act, 415 ILCS 5/

COMPOST as defined in 415 ILCS 5/3.150: "Compost" is defined as the humus-like product of the process of composting waste, which may be used as a soil conditioner.

COMPOSTING as defined in 415 ILCS 5/3.155: "Composting" means the biological treatment process by which microorganisms decompose the organic fraction of waste, producing compost.

COMPOSTING OPERATION as defined in 35 IL Admin Code 830.102: "Composting operation" means an enterprise engaged in the production and distribution of end-product compost.

GENERAL CONSTRUCTION OR DEMOLITION DEBRIS as defined in 415 ILCS 5/3.160(a): "General construction or demolition debris" means non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads, limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed or other asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and corrugated cardboard, piping or metals incidental to any of those materials.

General construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads provided the uncontaminated soil is not commingled with any general construction or demolition debris or other waste.

To the extent allowed by federal law, uncontaminated concrete with protruding rebar shall be considered clean construction or demolition debris and shall not be considered "waste" if it is separated or processed and returned to the economic mainstream in the form of raw materials or products within 4 years of its generation, if it is not speculatively accumulated and, if used as a fill material, it is used in accordance with item (i) in subsection (b) of this Section.

LANDSCAPE WASTE as defined in 415 ILCS 5/3.270: "Landscape waste" means all accumulations of grass or shrubbery cuttings, leaves, tree limbs and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees.

LANDSCAPE WASTE COMPOST FACILITY as defined in 35 IL Admin Code 830.102: "Landscape waste compost facility" means an entire landscape waste composting operation, with the exception of a garden compost operation.

LOCAL SITING REVIEW as defined in 415 ILCS 5/39.2: (This is an extensive section of the Act which can be accessed here:

<http://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=1585&ChapterID=36>)

POLLUTION CONTROL FACILITY as defined in 415 ILCS 5/3.330: "Pollution control facility" is any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act. (This definition continues with a long list of facilities that are not Pollution Control Facilities, the entire text of which can be accessed here: <http://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=1585&ChapterID=36>)

TRANSFER STATION as defined in 415 ILCS 5/3.500: "Transfer station" means a site or facility that accepts waste for temporary storage or consolidation and further transfer to a waste disposal, treatment or storage facility. "Transfer station" includes a site where waste is transferred from (1) a rail carrier to a motor vehicle or water carrier; (2) a water carrier to a rail carrier or motor vehicle; (3) a motor vehicle to a rail carrier, water carrier or motor vehicle; (4) a rail carrier to a rail carrier, if the waste is removed from a rail car; or (5) a water carrier to a water carrier, if the waste is removed from a vessel.

"Transfer station" does not include (i) a site where waste is not removed from the transfer container, or (ii) a site that accepts or receives open top units containing only clean construction and demolition debris, or (iii) a site that stores waste on a refuse motor vehicle or in the vehicle's detachable refuse receptacle for no more than 24 hours, excluding Saturdays, Sundays, and holidays, but only if the detachable refuse receptacle is completely covered or enclosed and is stored on the same site as the refuse motor vehicle that transported the receptacle to the site.

Nothing in this Section shall be construed to be less stringent than or inconsistent with the provisions of the federal Resource Conservation and Recovery Act of 1976 (P.L. 94-480) or regulations adopted under it.