ORDINANCE NO. 2367

**ORDINANCE SUPERSEDING ALL PRIOR ORDINANCES REGARDING OPEN BURNING WITHIN THE CITY OF LASALLE**

**WHEREAS,** the City Council of the City of LaSalle deems it to be in the best interests of the Citizens of the City of LaSalle and the public in general that open burning outside of any building of any substance of any kind be further regulated as provided herein and further that all prior Ordinances of the City of LaSalle regarding any such open burning be superseded as provided herein; and

**WHEREAS,** the Public Health Committee of the City of LaSalle has held several meetings that have been published to and open to the public for the purpose of further investigating the potential of further regulation of open burning within the City of LaSalle and to obtain public input regarding all issues related thereto; and

**WHEREAS,** the City Council of the City of LaSalle has previously accepted the recommendation of the Public Health Committee that open burning be further restricted, and that this Ordinance is being considered in part in furtherance of that recommendation.

**WHEREAS,** the City Council of the City of LaSalle deems it to be an appropriate exercise of the corporate municipal powers of the City of LaSalle, including, but not being limited to, the power to promote and protect the public health, safety and welfare, the power to prevent and abate nuisances, the home rule power and the police power of the City of LaSalle that this Ordinance be enacted as provided herein;

**NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF LASALLE, LASALLE COUNTY, ILLINOIS AS FOLLOWS:**

**Section 1.** That the above recitals are hereby made a part of the ordained portion of this Ordinance.

**Section 2.** That commencing August 1, 2012 and continuing prospectively thereafter, it shall be unlawful to burn any material and/or substance of any kind, including, but not limited to garbage, lawn waste, trees, papers, grass clippings and/or vegetable matter outside of any building at any time (hereinafter referred to from time to time as "open burning") in the City of LaSalle except as expressly allowed hereunder.

**Section 3.** That the prohibition and restriction regarding open burning as provided hereunder shall not apply to premises zoned Ag-1 under the City of LaSalle Zoning Ordinance; nor shall the same apply to premises annexed within the last twenty-one (21) years concerning which the primary use was at the time and continues to be for agricultural purposes as said purposes are defined within the City of LaSalle Zoning Ordinance, and concerning which there was an annexation and/or pre-annexation agreement authorizing continuation of pre-existing uses, unless and until such premises may be otherwise developed residentially and/or commercially; nor shall the same apply to any premises which may be prospectively annexed in furtherance of any annexation and/or pre-annexation agreement concerning which the continuance of any present pre-existing use may be authorized by any such specific annexation agreement and/or pre-annexation agreement.

**Section 4.** That the prohibition and restriction against open burning as provided hereunder shall not apply to the burning of charcoal or gas for food preparation, or to outdoor recreational fires of seasoned wood within a fire pit or fire place, which may also involve branches or twigs not exceeding two (2) inches in diameter.

**Section 5.** That the prohibition and restriction regarding open burning shall not apply to any training exercise and/or other burning event specifically authorized for training and/or controlled burn purposes by the Fire Chief of the City of LaSalle under the direction of the Fire Chief of the City of LaSalle.

**Section 6.** That the prohibition and restriction against open burning as provided hereunder shall not apply in the event of the grant of a permit which may be authorized in the exercise of appropriate discretion of the Fire Chief of the City of LaSalle or such other person as may be appointed by the Fire Chief and/or by the Mayor, with consent of the City Council (hereinafter the "appointed person"),which application for permit in the reasonable exercise of discretion shall be considered in cognizance of the following guidelines:

(a) No such permit should generally be granted in circumstances wherein the City of LaSalle leaf vacuum is able to adequately service the premises.

(b) The issuance of a permit shall be for the purpose of burning landscape waste only, which landscape waste for the purpose of this Ordinance is hereby described as follows: dry leaves, the dried trimmings of or fallen pieces of trees or

bushes and other dry vegetable matter as is ordinarily produced by any yard, garden or lot.

(c) Permits will only be issued for the periods from April 1 through May 31 and from October 1 through November 30 in each respective year.

(d) Burning of such landscape waste pursuant to permit shall only occur between the hours of 10:00 a.m. and 4:00 p.m. on any given day.

(e) Burning of any landscape waste pursuant to any such permit shall only be permitted when wind air speed is fourteen (14) miles per hour or less, which air speed shall be referenced by the reports of the National Weather Service as of the time of the burning.

(f) Any landscape waste to be burned pursuant to permit shall be dry to the touch prior to the starting of the fire intended to burn any such landscape waste.

(g) Any burning of any such landscape waste pursuant to permit must be supervised at all times by a legally competent adult until completely extinguished which legally competent adult shall be the applicant for the permit unless otherwise designated within the application.

(h) During the time of the burning of any landscape waste pursuant to permit, a water hose must be connected at all times to a water source and shall be accessible to the fire supervisor within fifteen (15) feet of the fire.

(i) All coals and ashes must be extinguished in connection with any burn authorized by permit before the adult supervising the fire may leave the area.

(j) No burning of landscape waste shall be permitted within twenty (20) feet of any adjoining property owner or renters, motor vehicle or residence.

(k) Any landscape waste to be burned pursuant to permit must be burnt on the premises on which the landscape waste is generated.

(l) No burning of landscape waste pursuant to permit shall be allowed to create a visibility hazard on paved streets or railroad tracks.

(m) No burning of landscape waste pursuant to permit shall be allowed on paved streets, public alleyways, public easement or drainage ditches.

**Section 7.** That additionally, in the event that any permit is refused and/or suspended by the appointed person, then in that event, any party desiring to appeal the same may do so by requesting in writing within five (5) days of the denial, suspension and/or revocation of said permit to the Public Health Committee of the City of LaSalle, which Public Health Committee shall then hold a public hearing concerning any such appeal within thirty (30) days of the request for appeal. Any such denial of appeal by the Public Health Committee of the City of LaSalle may be appealed to the Circuit Court of LaSalle County, Illinois pursuant to the statutes and laws in reference to administrative review.

**Section 8.** That the penalty for violating any provision of this Ordinance shall include the following:

> A fine of Fifty and no/100 ($50.00) Dollars for the first violation, One Hundred and no/100 ($100.00) Dollars for the second violation, and One Hundred Fifty and no/100 ($150.00) Dollars for the third and any subsequent violation.

Each violation of any provision of this Ordinance shall constitute a separate and distinct offense. Further, each day that any violation is continued shall constitute a separate and distinct offense. That additionally, the City of LaSalle may pursue injunctive relief in reference to enforcement of this Ordinance in order to abate any nuisance and/or prevent any nuisance.

**Section 9.** That in addition to the fines set forth as penalties above, any person violating any provision of this Ordinance may be pursued as part of the Ordinance violation process or otherwise for all costs and expenses related to the City of LaSalle and/or any other lawful public agency responding to any alleged violation of this Ordinance. Additionally, the City of LaSalle may pursue a lien against any real estate upon which the violation occurs in connection with the recovery of any such costs and/or expense.

**Section 10.** That in the event that any provision of this Ordinance and/or any portion of any provision of this Ordinance should be declared invalid and/or unenforceable by any Court of competent jurisdiction, the invalidity of any such provision and/or portion of a provision of this Ordinance shall not affect the validity and enforcement of the remainder of this Ordinance.

**Section 11.** That this Ordinance hereby supersedes all prior Ordinances of the City of LaSalle regarding open burning of any substance and/or material and further supersedes any provision of any other Ordinance to the extent of any conflict with the specific terms and provisions of this Ordinance.

**Section 12.** This Ordinance shall be in full force and effect from and after its passage, approval, and publication if required by law.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of LaSalle, LaSalle County, Illinois, held on the 14th day of August, 2012, by a roll call vote, with:

6 voting AYE; Demes, Ptak, Edgcomb, Lavieri, Duncan, Schneider
2 voting NAY; Bacidore, Herndon
0 PASSING; and,
0 ABSENT.

APPROVED:

Jeff Grove

Jeff Grove, Mayor

ATTEST:

Virginia Kochanowski

Virginia Kochanowski, City Clerk