

Effective Date: February 16, 2013

12/18/2012

11/29/2012

139-O-12

AN ORDINANCE

**Amending Title 7 of the City Code of Evanston Regarding the
Protection of Public Art**

WHEREAS, the City of Evanston is a home-rule municipality pursuant to Article VII of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of government, the City has the authority to adopt ordinances and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; and

WHEREAS, Article VII, Section (6)a of the Illinois Constitution of 1970 states that, generally, "a home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power... to license"; and

WHEREAS, Article VII, Section (6)a of the Illinois Constitution of 1970, which states that the "powers and functions of home rule units shall be construed liberally," was written "with the intention that home rule units be given the broadest powers possible" (*Scadron v. City of Des Plaines*, 153 Ill.2d 164); and

WHEREAS, public art contributes to the beautification of the City; and

WHEREAS, the City desires to protect public art as it is in the best interests of the citizens of Evanston.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:**

SECTION 1: The foregoing recitals are found as fact and incorporated herein by reference.

SECTION 2: Title 7, Chapter 16 of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

CHAPTER 16 – WORKS OF ART

7-16-8: PENALTY:

- (A) It shall be unlawful for any person to remove without authorization, deface, paint over, or otherwise damage any public art in the City. Any person who shall be found to have violated any of the provisions of this Chapter shall be guilty of an offense punishable as follows:
 - 1. The fine for a first violation is two hundred dollars (\$200.00).
 - 2. The fine for a second violation is five hundred dollars (\$500.00).
 - 3. The fine for a third or subsequent violation is seven hundred fifty dollars (\$750.00).
- (B) The fines provided for herein shall not be construed as limiting the power of an administrative hearing officer to impose other penalties and remedies as provided for by applicable legislation. In addition, to the fines specified above, any person found to have violated this Chapter shall pay for all costs to replace the public art.
- (C) Administration: The Director of Parks, Recreation and Community Development ("Director") or his/her designee is charged with the administration of this Subsection.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall be in full force and effect after its passage, approval, and publication in the manner provided by law.

SECTION 5: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: December 12, 2012

Adopted: January 14, 2013

Approved:

January 16, 2013

Elizabeth B Tisdahl
Elizabeth B. Tisdahl, Mayor

Attest:

Rodney Greene
Rodney Greene, City Clerk

Approved as to form:

W. Grant Farrar
W. Grant Farrar, Corporation Counsel