

**39-O-17**

**AN ORDINANCE**

**Amending City Code Title 8, Chapter 5, Sections 1, 3, and 4, “Weeds”**

**WHEREAS**, the Illinois Supreme Court provides that “[i]f a subject pertains to local government and affairs, and the [Illinois] legislature has not expressly preempted home rule, municipalities may exercise their power.” *Palm v. 2800 Lake Shore Drive Condominium Ass’n*, 988 N.E.2d 75, 82-83 (2013), citing *City of Chicago v. StubHub, Inc.*, 979 N.E.2d 844 (2011). The powers of a home rule unit such as Evanston are to be construed liberally pursuant to Article VII, § 6(m) of the Illinois Constitution, and Evanston’s powers as a home rule authority are: “...to be given the broadest powers possible.” *Scadron v. City of Des Plaines*, 153 Ill. 2d 164, 174 (1992). Home rule municipalities are constitutionally conferred with tremendous authority and latitude to address local issues and concerns.

**WHEREAS**, the Illinois Constitution provides that 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 regulate for the protection of the public health, safety, morals, and welfare; to *license*; to tax; and to incur debt. Ill. Const. art. VII, § 6. A city’s power to regulate and license for the protection of public health and safety is drawn directly from the Constitution, and any such power must be expressly limited by the General Assembly. See Ill. Const. art. VII, § 6(i). Evanston’s police power also authorizes it to adopt ordinances and to promulgate rules and regulations that pertain to

its government and affairs and that protect the public health, safety, and welfare of its citizens.

**WHEREAS**, based on recommendations by the City's Environment Board to improve the City's STAR rating in natural systems, improve the City's green profile locally and nationally, and for correlation with relevant Illinois statutes (The Illinois Noxious Weed Law, 505 ILCS 100/1 *et seq.*; and the Illinois Exotic Weed Act, 525 ILCS 10/1 *et seq.*), the amendments to the City's Weeds Ordinance are made. The City Council finds that there is a compelling governmental interest in the protection of the public health of Evanston citizens to update the reasonable regulations in the maintenance of weeds in the City. The City Council finds that the passage of this ordinance is in the interests of the health, safety, and welfare of Evanston citizens.

**WHEREAS**, the City Council held meetings in compliance with the provisions of the Illinois Open Meetings Act, considered the statements, points and authorities made in the legislative Record, and received additional input from the public.

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

**SECTION 1:** The foregoing recitals are hereby found as facts and incorporated herein by reference.

**SECTION 2:** That Title 8, Chapter 5, Section 1, "DEFINITION," of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

**8-5-1. - DEFINITION.**

"Weeds," as used in this Chapter, shall refer to the species listed by the Illinois Noxious Weed Law, 505 ILCS 100/1 *et seq.*, and the Illinois Exotic Weed Law, 525 ILCS 10/1 *et seq.* The term "weeds" shall also refer to Poison Ivy (*Toxicodendron radicans*) and Wild Parsnip (*Pastinaca sativa*). The term "weeds" shall also apply to unmowed or uncultivated grasses (all varieties). "Turf grass," as used in this Chapter, shall refer to grasses:

- Whose growth or development has been promoted by the landowner, renter, lessee or other property manager; and
- That are narrow-leaved grass species that form a uniform, long-lived ground cover that can tolerate traffic and low mowing heights (usually two inches or below).

**SECTION 3:** That Title 8, Chapter 5, Section 3, "FAILURE OF OWNER TO CUT," of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

**8-5-3. - FAILURE OF OWNER TO CUT.**

Every owner of real estate within the City shall remove weeds or cut the turf grass on his/her property and on the abutting parkway at all such times as may be necessary so that such weeds shall not persist and turf grass shall not exceed eight inches (8") in height. If after notice of violation and opportunity to cure such owner neglects or refuses to remove such weeds or to cut such turf grass, the City may mow or remove the weeds and/or cut the turf grass or authorize some person to do the same on behalf of the City.

**SECTION 4:** That Title 8, Chapter 5, Section 4, "LIEN AGAINST PROPERTY WHEN CITY CUTS WEEDS," of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

**8-5-4. - LIEN AGAINST PROPERTY WHEN CITY CUTS WEEDS.**

If weeds or turf grass referred to herein in this Chapter are mowed or cut by the City or by someone directed to mow/cut them on behalf of the City, then the City may impose a lien on the property in violation of Section 8-5-3. A notice of lien of the cost and expense thereof incurred by the City or any person directed to take action on the City's behalf shall be recorded in the following manner: the City or the person performing the service by authority of the City, in its or his/her own name, may file notice of lien in the office of the Recorder of Deeds of Cook County. The notice of lien shall consist of a sworn statement setting out:

- (A) A description of the real estate sufficient for identification thereof;
- (B) The amount of money representing the cost and expense incurred or payable for the service; and
- (C) The date when the cost and expense was incurred by the City.

Such notice shall be filed within sixty (60) days after the cost and expense is incurred.

Upon payment of the cost and expense after the notice of lien has been filed as provided herein, the lien shall be released by the City or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien.

**SECTION 5:** The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and must be received in evidence as

provided by the Illinois Compiled Statues and the courts of the State of Illinois.

**SECTION 6:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

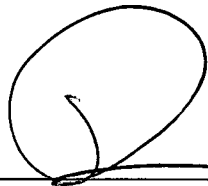
**SECTION 7:** This ordinance must be in full force and effect after its passage, approval, and publication in the manner provided by law.

**SECTION 8:** If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity must not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

Introduced: May 1, 2017

Adopted: September 25th, 2017

Attest:



Devon Reid, City Clerk

Approved:

October 2, 2017

  
Stephen H. Hagerty, Mayor

Approved as to form:

  
W. Grant Farrar, Corporation Counsel