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. 2600 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 "weed" shall also refer to Poison Ivy (Toxicodendron radicans) and Wild Parsnip (Pastinaca sativa), include the following: burdock, ragweed (giant), ragweed (common), thistle, cocklebur, jimson, blue vervain, common milkweed, wild carrot, poison ivy, wild mustard, rough pigweed, lambsquarter, wild lettuce, curled dock, smart weeds (all varieties), poison hemlock and wild hemp, and bindweed (all varieties). The term "weed" 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 not 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 cut the 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 cut such weeds or to cut such turf grass, so that such weeds shall exceed eight inches (8") in height, the City may mow or remove cut the weeds and/or cut the turf grass or authorize some person to do cut 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 referred to herein are mowed or removed or turf grass is cut by the City or by someone directed to cut them on behalf of the City, a notice of lien of the cost and expense thereof incurred by the City may 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, the City 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 Statutes 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: ______________, 2017  
Adopted: ______________, 2017

Approved:

____________________, 2017

Steve Hagerty, Mayor

Approved as to form:

____________________

W. Grant Farrar, Corporation Counsel
Memorandum

To: Human Services Committee
From: Evanston Environment Board
Re: Guidance for on-site composting and landscaping for rodent control
Date: February 23, 2017

Background

In July 2016 City Council asked the Evanston Environment Board (EEB) to develop recommendations and specifications for
1. “rodent-resistant composting practices and containers”
2. “plantings and fixtures” in homeowners’ yards
as they relate to rat control measures. What follows is the board’s attempt to fully address the Committee’s request.

Proposed Composting Guidelines

The below draft composting guidelines are suggested as a starting point toward the broader effort of sustainable food management.

Background

Nationally, more than 33 million tons of food is wasted each year. When discarded in landfills, decomposing food waste produces methane, which is a potent greenhouse gas that contributes to climate change.

Composting is the natural process of decomposing and digesting organic matter by bacteria, fungi, earthworms, sowbugs and other organisms. The resulting compost is a nutrient rich humus that can be used as a fertilizer and soil amendment. Of all composting options, home-based composting has lowest carbon footprint, since it requires no transportation and involves the least processing.

Guidelines

**Composting can and should be done in a way that does not sustain or contribute to rat populations.** The following guidelines are intended to encourage good compost management techniques that accelerate the composting process, avoid nuisances and deter pests.
1. The City of Evanston endorses the composting resources shared by the Solid Waste Agency of Northern Cook County (SWANCC) on their composting webpage at https://swancc.org, which includes information from the University of Illinois Extension, Cornell Cooperative Extension, USEPA, Earth 911 and many others, to promote good compost management.

2. The City of Evanston considers the following materials to be acceptable for composting (source: USEPA):
   a. Greens: (nitrogen-rich): grass clippings, fruits and vegetables, bread and grains, coffee grounds and filters, paper tea bags or loose leaves
   b. Browns: (carbon-rich): leaves, twigs; shredded paper and cardboard rolls, sawdust, hay and straw, wood chips, egg shells, dried out flowers or plants, nut shells, wood ash, dryer and vacuum lint

3. The City considers the following as unacceptable composting materials (source: USEPA):
   a. Meat, poultry, fish, bones, dairy products, fats, oils, grease, pet waste, soiled diapers, plastic, metal, glass, charcoal ash, large wood material, fire starter logs, treated or painted wood, waxed or glossy paper, synthetic fibers, weeds, diseased or invasive plants, black walnut tree leaves or twigs, yard trimmings treated with chemical pesticides, anything not biodegradable.

4. Siting and proper maintenance of compost bins and containers can be effective in deterring rat and other pest animal populations through identifying nesting areas, restricting available food sources and other population control efforts. Backyard composting in an urban area requires careful adoption of these techniques to discourage rats and other pests. See http://cwmi.css.cornell.edu/nuisance.pdf for more information.

5. Compost shall be maintained to prevent the harboring and breeding of animals and offensive odors. Good composting techniques to prevent odors and animal nuisances include, but are not limited to:
   a. constructing the compost bin out of hardware cloth or welded wire. Locating the pile away from attractive animal nest locations like wood piles, carports, sheds or brush piles and away from attractive food sources like tird feeders, pet food bowls, garbage cans, fruit trees or berry bushes
   b. turning the compost pile and keep it moist to increase the temperature and speed up decomposition. This will also discourage animals looking for a cry undisturbed bed.
   c. carefully observing the vents and other open areas of the bin to ensure food scraps are covered and that leachate is kept under control.
6. Compost bins and containers must be constructed in a way that deters animal pests like rats and other vectors. Rats are able to chew through plastic bins, often starting with the vents, and may burrow under and into your compost bin. [Note: The containers that were distributed by the City (and are still featured on the website) are not designed for easy and effective use and should be discontinued.]

7. Recommended design features include:
   a. a solid frame that can be covered by half inch hardware cloth or welded wire. For instructions on building a welded wire bin see: http://ccetomplings.org/compost/downloads/weldedwirebin.pdf
   b. cover the entire bin in 1/4 to 1/2 inch wire mesh
   c. ensure the bin has a tight-fitting lid
   d. provide adequate drainage by digging out the soil below the bin and laying 3 to 4 inches of coarse grave

Proposed Landscaping Guidelines

Background

In a 1996 study of rat populations in Boston entitled “Norway Rat Infestation of Urban Landscaping and Preventative Design Criteria,” the authors detail their efforts to characterize the properties of urban landscapes that make areas more favorable to rat harborage. 54 landscaped areas were evaluated for the presence of rats and by criteria such as type and coverage of shrubs, plant spacing, visibility, proximity to buildings, and others. Their findings are translated into actionable guidelines for the city and for homeowners below.

It must be acknowledged that any effort to control rodent populations that does not include efforts to greatly reduce sources of food will be largely ineffective. Rat populations do not solely live in nests and burrows in landscaping features - they can survive in a variety of environments regardless of efforts to remove harborage. With that caveat, below are strategies that can be employed by the city and individuals to minimize the risk of rat nests and burrows in landscaped features.

Proposed Guidelines

1. Landscape design. In general, dense plantings should be avoided whenever possible. This especially holds when the plantings are in close proximity to sources of food such as food vendors or bird feeding areas. Here, “dense” can
be defined quantitatively as shrubbery that covers more than 30% of the available plot area. Open, windswept landscape designs are demonstrably less likely to provide harborage for rats.

2. Types of plants. Deciduous shrubs and broadleaf evergreens are preferable plantings to needled evergreens, as their loss of leaves in winter increases visibility and decreases harborage. In general, plants that grow in a vase-shape or upright fashion are preferable to those with open patterns that provide cover for rats. Native plants that support habitats for desired species such as the Monarch butterfly should be encouraged.

3. Layout. Plantings should be kept at least 3 feet from buildings, walls, or fences and positioned and maintained such that, when fully grown, they do not make contact with walls. In addition, the use of gravel inspection strips 10-12” wide and 5-6” deep made with small rounded stones (¼” - ¾” in diameter) should be encouraged along walls, fences, or between rows of shrubs. These inspection strips force rats into the open and make rat trails more easily visible.

4. Plant maintenance. Plants should be maintained to maximize visibility and minimize harborage. In particular, overgrown shrubbery should be removed and lower limbs of bushes (up to 12”) should be trimmed to improve ground-level visibility and limit the ability of rats to nest in shrubbery.

5. Food. Rats have shown the ability to climb bushes up to 5 feet tall to eat berries and other foods. Plantings that provide significant sources of food for rats such as fruits or nuts should be maintained to minimize the availability of food.

6. Water. Landscapes should be graded to avoid standing water accumulation that can serve as water sources for rats. Gravel or crushed stone should be used to prevent surface accumulation of water.

7. Planters. In planters, hardware cloth made from 17-gauge galvanized screening with 6mm openings should be used to line the entire planter as close to the soil surface as possible while still allowing for plant growth. The cloth allows roots to permeate but makes burrow construction difficult. For plants with large roots, an “X” can be cut in the cloth and the root ball inserted through it; the cloth can then be reset and trimmed to fit snugly around the planting.

8. Public spaces. Public plantings should be designed and chosen as to limit the amount of maintenance required to deter rat harborage.

References
Working Draft Composting Guidelines

1. All compost shall be located in a compost container or bin. No open compost piles will be permitted.

2. All compost shall be maintained using approved composting procedures in accordance with the newly revised City of Evanston Composting Guidelines.

3. Compost containers shall be located only in the side yard or rear yard. For properties of 1/2 acres or less, such containers must be placed a minimum of five feet from the property line or 25 feet from neighboring dwellings. Where a side lot line is adjacent to a street, any compost container must adhere to the setback requirement for the principal structure.

4. Refer to the composting guidelines for allowable composting materials. Small amounts of activators may be added to facilitate the process.

5. Compost shall not contain household garbage, meat, fish, chicken or any meat product, cheese, milk or other dairy products, food leftovers containing fats and oils, bones, animal feces, cat litter, manure, treated wood or non-plant materials.

6. Compost shall be maintained to prevent the harboring and breeding of animals (see guidelines for preventing animal nuisances) and offensive odors by frequently turning of the compost material to permit aeration.

7. Newer composting techniques or devices may be permitted subject to review and approval of the Evanston Department of Health and Human Services.

References: SWANCC

Recommendations!
No citations without evidence of rats
Memorandum

To: Wally Bobkiewicz, City Manager
From: Catherine Hurley, Sustainability Manager
Suzette Robinson, Public Works Director
Evanston Environment Board

Subject: Proposed Ban on Coal Tar-Based Sealants

Date: March 11, 2015

Summary:
Staff provides the following information prepared by the Evanston Environment Board for consideration by the City Manager regarding a proposed ban on the use of coal tar-based sealants in Evanston.

Overview:
The Evanston Environment Board recommends that the City of Evanston consider implementing a ban on the use of coal tar-based sealants, similar to the one recently enacted and implemented by Winnetka, IL in August of 2014. The Environment Board has discussed the topic at several recent monthly meetings, reviewed much of the available literature on the potential harmful effects on the environment and on living organisms and has reached agreement that a ban would be a prudent action.

Coal tar-based sealants are a commonly used material used to prevent excess wear and water damage to asphalt drive- and parkways. It is not, however, commonly used on roadways. The sealant consists of an emulsion, with the main ingredient being refined coal tar. Refined coal tar primarily consists of polycyclic aromatic hydrocarbons (PAHs): a general grouping of structurally similar organic chemicals. Several chemicals in this group are known carcinogens and are of potential concern to individuals exposed to them, as well as the environment. As the sealant is eroded away, due to wear from wind, weather, car tires, and other potential friction sources, the smaller particulate can be washed away by rainwater and enter into waterways or deposited into sediments in said waterways. Furthermore, airborne particles can be deposited into residential environments where individuals can be exposed to these chemicals. In fact, a 2010 peer-reviewed scientific article found that the median concentration of total PAHs in dust from coal tar sealed parking lots was 530 times higher than that from parking lots with other pavement surface types (e.g. asphalt-based sealcoat, unsealed asphalt, concrete).

Alternatives to coal tar-based sealants are readily and commercially available. Furthermore, common retail outlets, such as Lowe’s, The Home Depot, Ace, and United Hardware have
stopped selling coal tar-based sealcoats. It is our hope that the ban encourages residents to pursue less environmentally impactful practices, including porous pavement options.

As part of Evanston's continuing efforts towards sustainability and environmental wellness, we ask that the City consider implementing a ban on coal tar-based sealants. The ban would cover prohibition of both the sale and use of coal tar-based sealcoats. The Environment Board is prepared to provide additional assistance in researching the topic, as well as meeting with and presenting to City Council.