



# Office of Chicago City Clerk



O2011-4648

Office of the City Clerk

Tracking Sheet

<b>Meeting Date:</b>	6/8/2011
<b>Sponsor(s):</b>	Mayor Emanuel, Rahm
<b>Type:</b>	Ordinance
<b>Title:</b>	Amendment of Title 11-4 of Municipal Code regarding invasive species
<b>Committee(s) Assignment:</b>	Committee on Health and Environmental Protection



HEALTH

OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

June 8, 2011

TO THE HONORABLE, THE CITY COUNCIL  
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of the Environment, I transmit herewith an ordinance amending Chapter 11-4 of the Municipal Code regarding invasive species.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

  
Mayor

## ORDINANCE

### BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

**SECTION I.** Sections 11-4-3000, 11-4-3010, 11-4-3020 and 11-4-3030 of the Municipal Code of Chicago are hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

**11-4-3000 Definitions.**

For purposes of this Article XXII, the following definitions shall apply:

(a) ~~"Business" shall have the meaning ascribed to it in Section 7-32-030 of this Code means any sole proprietorship, partnership, joint venture, corporation, limited liability company or other business entity formed for profit-making purposes, including, but not limited to, retail establishments, wholesale establishments, or aquaculture establishments.~~

(b) "Ecosystem" means any living or non living organisms interacting as a unit wholly or partly within or adjoining the territorial boundaries of the City of Chicago.

(c) "Live transport species" means any species of aquatic or terrestrial life which may be possessed or transported live but which shall not be sold live and which are is listed as a live transport species by the ~~commissioner pursuant to rules and regulations promulgated by the~~ commissioner.

(d) "Regulated invasive species" means any species of aquatic or terrestrial life listed as a regulated species by the ~~commissioner pursuant to rules and regulations promulgated by the~~ commissioner, including, but not limited to, any snakehead fish (any walking catfish of the clariidae family), ~~any live grass carp/white amur (ctenopharyngodon idella);~~ any bighead carp (hypophthalmichthys nobilis), any silver carp (hypophthalmichthys molitrix), ~~or~~ and any black carp (mylopharyngodon piceus).

(e) "Regulated animal species" means any animal species that is listed as a regulated ~~invasive animal species by rules and regulations promulgated by the commissioner.~~

(f) "Regulated plant species" means any plant species listed as or ~~viable plant material from a regulated invasive plant species by rules and regulations promulgated by the commissioner.~~

(g) "Retailer" means any person engaged in the business of distributing, supplying, furnishing, or selling of goods or services to a person for use or consumption.

(h) "Viable plant material" means any portion of a plant capable of reproduction, including, but not limited to, any seeds, fragments, roots, flowers, or whole plants.

**11-4-3010 List of regulated invasive species.**

The commissioner shall adopt rules and regulations to keep and update as necessary a list

of regulated invasive species. Such list shall be based upon, but not limited to, the following: (1) the economic impact of introducing this species into the ecosystem; (2) the hazards that this species present to the wildlife and wildlife resources of the city; (3) diseases and parasites associated with this species; and (4) any food or commercial value of this species. Except in an emergency as determined by the commissioner, the commissioner shall provide a reasonable period of public notice before updating the list to add one or more regulated animal or plant species. Such list shall be published as provided in subsection 2-30-030(12) of this Code.

**11-4-3020 Regulated invasive species.**

(a) It shall be unlawful for any person to do the following:

(1) Import, sell, transport, own, keep or otherwise possess any live or viable regulated animal invasive species within the city; or

(2) Import, sell, transport, own, keep or otherwise possess any ~~live-regulated plant-species~~ or any viable plant material from a regulated plant species within the city; or

(3) Release or introduce into the environment anywhere within the city any live or viable regulated invasive species or viable plant material from a regulated plant species.

(b) The provisions of this subsection shall not apply to the following:

(1) Any person who imports, transports, carries, owns, keeps or otherwise possesses any live or viable regulated invasive species or viable plant material from a regulated plant species for zoological, educational, medical or scientific purposes if the person has obtained all applicable licenses or permits required by law, and the person makes such licenses or permits available for inspection by the commissioner; or

(2) Any business that imports, transports, carries, owns, keeps or otherwise possesses any live transport species for the sale or transfer of any such live transport species to any retailer; provided that the business has obtained all applicable licenses and permits required by law; or

(3) Any retailer that owns, keeps or otherwise possesses any live transport species for the retail sale or transfer of any such live transport species to a consumer; provided that the retailer has obtained all applicable licenses and permits required by law and purchased acquired the live transport species from a business in compliance with subsection (b)(2) of this section, and kills the live transport species before the species is sold or provided transferred to the consumer; or

(4) Any person who imports, transports, carries, owns, keeps or otherwise possesses any live or viable regulated invasive species or viable plant material from a regulated plant species pursuant to a permit or license issued by the State of Illinois or the United States government, or both, when a permit or license from both the State of Illinois and the United States government is required, and such person makes such license or permit available for inspection by the commissioner.

(c) Any licensee or permittee to whom a license or permit has been issued for the purpose of importing, transporting, carrying, owning, keeping or otherwise possessing any live or viable regulated invasive species or viable plant material from a regulated plant species shall display such license or permit in a conspicuous place within the premises of the licensee or permittee.

#### 11-4-3030 Enforcement.

(a) The commissioner or the executive director of animal care and control is authorized to enforce the provisions of this article. The commissioner is authorized to adopt such rules and regulations as he or she may deem appropriate for the proper administration and enforcement of the provisions of this article. Any such rules and regulations shall be published as provided in subsection 2-30-030(12) of this Code.

~~(b) (1) Violation of any portion of the provisions of this article shall constitute a public nuisance. subsection (a) of section 11-4-3020 of this article shall constitute a public nuisance that poses an imminent and substantial risk to the public health or safety or to the environment, as the term "imminent and substantial risk to the public health or safety or to the environment" is defined in Section 11-4-025(a)(1) of this Code. In addition to any fine or penalty set forth in this section, an amount up to three times the cost or expense incurred by the city in abating a nuisance may be recovered in an appropriate action instituted by the corporation counsel, or in a proceeding initiated by the department of the environment or the commission on animal care and control at the department of administrative hearings. Nothing in this section shall be construed to prevent the city from acting without notice to abate a nuisance in an emergency where the nuisance poses an immediate threat to public health or safety or to the environment the commissioner is authorized to issue an emergency abatement order, including, but not limited to, an order for (i) the immediate surrender to an inspector or authorized agent of the commissioner, or (ii) the immediate destruction, in the presence of an inspector or authorized agent of the commissioner, of any live or viable regulated invasive species and any viable plant material from a regulated plant species.~~

~~(2) If the person to whom such order was issued under this subsection does not immediately comply with the requirements of such order as ordered by the commissioner, the commissioner may impound and hold such live or viable regulated invasive species and viable plant material from a regulated plant species (for purposes of this section, "impounded species and plant material"), at the owner's expense, until such time as any hearing and appeal, if any, on the order is concluded or disposed of by the department of administrative hearings or a court of competent jurisdiction.~~

~~(3) The person to whom such order is issued may demand a hearing as provided in subsection (b)(6) of Section 11-4-025 of this Code, and such hearing shall be conducted as provided in subsections (b)(7), (b)(8) and (b)(9) of section 11-4-025 of this Code.~~

~~(4) If no hearing is requested, or if the administrative law officer affirms the order of the commissioner after a hearing, the commissioner may destroy or otherwise dispose of the impounded species and plant material seven days after the expiration of the time period for requesting a hearing or seven days after the expiration of the time period for seeking judicial review of the decision of the administrative law officer.~~

(5) If the person to whom the order is issued timely seeks judicial review of the decision of the administrative law officer, or timely seeks appellate review in a court of competent jurisdiction, the impounded species and plant material shall not be destroyed or otherwise disposed of until seven days after the final disposition of the judicial review or appeal.

(6) Unless otherwise ordered by a court of competent jurisdiction, the commissioner is authorized to continue holding the impounded species and plant material pending any judicial review or appeal sought or filed by the City.

(7) The provisions of subsection (d) and (e) of Section 11-4-025 shall apply when the commissioner issues an emergency abatement order pursuant to this section.

(8) Nothing provided in this subsection shall be construed to prevent the commissioner from issuing an emergency or non-emergency cessation order in accordance with the provisions of section 11-4-025 of this Code to any person who violates any of the provisions of this article.

(9) Nothing provided in this subsection shall make the city responsible for the death of any impounded species or plant material.

(c) (i) Any owner or manager or licensee of a business licensed in the city of Chicago who violates any provision of this article while doing business in the city of Chicago importing, transporting, carrying, owning, keeping or otherwise possessing any live or viable regulated invasive species or viable plant material from a regulated plant species for profit-making purposes shall be fined not less than One Thousand Five Hundred and no/100 Dollars (\$1,500.00) nor more than Three Thousand and no/100 Dollars (\$3,000.00) for each offense. (ii) Except as otherwise provided in subsection (c)(i) of this section, Any any person who violates any provision of this article shall be fined not less than One Hundred and no/100 Dollars (\$100.00) nor more than Five Hundred and no/100 Dollars (\$500.00) for each offense. (iii) Each day that a violation continues shall constitute a separate and distinct offense.

(d) In addition to any other remedies, penalties or means of enforcement, the commissioner or the executive director of animal care and control may request the department of law to make application on behalf of the city to any court of competent jurisdiction for an injunction requiring compliance with this article or for such other order as the court may deem necessary or appropriate to secure such compliance.

SECTION II. Section 7-12-015 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

7-12-015 Executive Director – Powers and duties.

The executive director shall have the following powers and duties:

*(Omitted text is not affected by this ordinance)*

(5) To enforce the provisions of Article XXII of Chapter 11-4 of this Code and to notify the commissioner of environment any violation for which the commissioner of environment is authorized to issue an emergency abatement order as set forth in Section 11-4-3030(b)(1) of this Code;

*(Omitted text is not affected by this ordinance)*

**SECTION III.** This ordinance shall take effect upon its passage and approval.