



MEMORANDUM

TO: Mayor Laurel Lunt Prussing and Members of the City Council
FROM: Michael J. Brunk, City Arborist
DATE: June 16, 2016
RE: CHANGES TO ORDINANCE NO. 2016-06-047 AND RESOLUTION NO. 2016-06-034R

I completed the following changes to Ordinance No. 2016-06-047 and Resolution No. 2016-06-34R as suggested by our legal staff at the Committee of the Whole June 13, 2016 meeting:

Ordinance No. 2016-06-047

1. In the first recital I deleted the reference to 65ILCS 5/1-1-9.
2. In the text of Urbana City Code Section 25-65 I changed the second to last sentence in the first paragraph in all three instances in which the text appeared to the preferred version.
3. I corrected the dates in the passage and approval sections.
4. In the last recital I corrected the referenced Urbana City Code Section to 25-72.

Resolution No. 2016-06-034R

1. In the first recital I deleted the language concerning alcoholic liquor.

ORDINANCE NO. 2016-06-047

**AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER 25, LEGACY TREE PROGRAM
(Section 25-65 Consent; Sec. 25-69 Public awareness programs;
Section 25-72 Delisting an unhealthy or declining legacy tree)**

WHEREAS, the City of Urbana (the "City") is a home rule unit of local government pursuant to the Illinois Constitution of 1970 (ILCS Const. Art. 7, § 6); and

WHEREAS, the City of Urbana, a municipal corporation and body politic, has adopted Ordinance No. 2013-04-27 to provide for a program to honor certain trees located within the City's boundaries which ordinance has been commonly referred to as the "Legacy Tree Program Ordinance" which has been codified in Chapter 25, "Vegetation", Article II, "Trees, Plants and Shrubs", Division 4, "Legacy Tree Program" of the Urbana City Code (hereinafter, the "Legacy Tree Program"); and

WHEREAS, the Legacy Tree Program is intended , *inter alia*, to establish a voluntary program to recognize and provide information to the public concerning and to encourage the preservation of significant trees located within the City's boundaries; and

WHEREAS, the Legacy Tree Program approved by the City Council, as currently written, includes Section 25-65 which provides:

On receiving a nomination, the city arborist shall contact, in writing, the property owner on which the nominated tree is located to inform the said property owner of the nomination and request the property owner's consent to evaluate and potentially designate the property owner's tree as a legacy tree. If the nominated tree is on property owned by the City of Urbana, the city arborist shall inform the director of public works of the nomination and request consent from the said director to evaluate and potentially designate the tree as a legacy tree. If the city arborist identifies a tree on property for which the owner has received or applied for redevelopment or demolition financial or other assistance from the city, the city arborist shall notify the said property owner that one (1) or more trees on the said owner's property may qualify for designation as a legacy tree. Such property owners will be encouraged to include the preservation of legacy tree candidates in their development plans. Any consent to participate in the Legacy Tree Program by a property owner shall be in writing and signed by the said property owner. If there is more than one (1) property owner on

which the nominated tree is located, the written and signed consent of a majority of all property owners shall be required. In the event that a person purchases property on which one (1) or more trees have been accorded legacy tree status, such status shall continue unless the new property owner requests to de-list the one (1) or more trees as legacy trees as provided in section 25-72 or section 25-73 of this article. Participation in the program is voluntary.

Prior to the execution of any written request for consent, the city arborist shall provide a written notice in the form of a brochure or other writing to the property owner on which the nominated tree is located which explains:

- (1) The benefits available to the property owner should such nominated tree be designated as a legacy tree;
- (2) The process for the voluntary "designation" and "de-listing" of a legacy tree (as hereinafter set forth);
- (3) Any recommended best practices to ensure long-term health of designated legacy trees;
- (4) Any detriments which might occur from following voluntary tree care best practices; and
- (5) Any detriments which might reasonably be expected to arise in connection with a tree being designated as a legacy tree.

In the event, after the provision of the aforesaid written notice, the property owner elects not to sign the consent form, the legacy tree nomination process shall cease and no further action regarding that tree shall be undertaken during the next twelve (12) consecutive months.

and

WHEREAS, the City Council deems it appropriate and necessary to amend Section 25-72 of the Urbana City Code to clarify the process for removing a tree from the Legacy Tree Program.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF URBANA, ILLINOIS AS FOLLOWS:

Section 1: Section 25-65 of the Urbana City Code shall be and hereby is amended such that it reads as follows with the text underlined and in red to be included:

On receiving a nomination, the city arborist shall contact, in writing, the property owner on which the nominated tree is located to inform the said property owner of the nomination and request the property owner's consent to evaluate and potentially designate the property owner's tree as a legacy tree. If the

nominated tree is on property owned by the City of Urbana, the city arborist shall inform the director of public works of the nomination and request consent from the said director to evaluate and potentially designate the tree as a legacy tree. If the nominated tree is on property owned by the Urbana Park District, the city arborist shall inform the Urbana Park District's director of the nomination and request consent from the said director to evaluate and potentially designate the tree as a legacy tree. If the city arborist identifies a tree on property for which the owner has received or applied for redevelopment or demolition financial or other assistance from the city, the city arborist shall notify the said property owner that one (1) or more trees on the said owner's property may qualify for designation as a legacy tree. Such property owners will be encouraged to include the preservation of legacy tree candidates in their development plans. Any consent to participate in the Legacy Tree Program by a property owner shall be in writing and signed by the said property owner. If there is more than one (1) property owner on which the nominated tree is located, the written and signed consent of a majority of all property owners shall be required. In the event that a person purchases property on which one (1) or more trees have been accorded legacy tree status, such status shall continue unless the new property owner requests to de-list the one (1) or more trees as legacy trees as provided in section 25-72 or section 25-73 of this article. Participation in the program is voluntary.

Prior to the execution of any written request for consent, the city arborist shall provide a written notice in the form of a brochure or other writing to the property owner on which the nominated tree is located which explains:

- (1) The benefits available to the property owner should such nominated tree be designated as a legacy tree;
- (2) The process for the voluntary "designation" and "de-listing" of a legacy tree (as hereinafter set forth);
- (3) Any recommended best practices to ensure long-term health of designated legacy trees;
- (4) Any detriments which might occur from following voluntary tree care best practices; and
- (5) Any detriments which might reasonably be expected to arise in connection with a tree being designated as a legacy tree.

In the event, after the provision of the aforesaid written notice, the property owner elects not to sign the consent form, the legacy tree nomination process shall cease and no further action regarding that tree shall be undertaken during the next twelve (12) consecutive months.

such that the text of said Section 25-65, after such amendment, shall read as follows:

On receiving a nomination, the city arborist shall contact, in writing, the property owner on which the nominated tree is located to inform the said property owner of the nomination and

request the property owner's consent to evaluate and potentially designate the property owner's tree as a legacy tree. If the nominated tree is on property owned by the City of Urbana, the city arborist shall inform the director of public works of the nomination and request consent from the said director to evaluate and potentially designate the tree as a legacy tree. If the nominated tree is on property owned by the Urbana Park District, the city arborist shall inform the Urbana Park District's director of the nomination and request consent from the said director to evaluate and potentially designate the tree as a legacy tree. If the city arborist identifies a tree on property for which the owner has received or applied for redevelopment or demolition financial or other assistance from the city, the city arborist shall notify the said property owner that one (1) or more trees on the said owner's property may qualify for designation as a legacy tree. Such property owners will be encouraged to include the preservation of legacy tree candidates in their development plans. Any consent to participate in the Legacy Tree Program by a property owner shall be in writing and signed by the said property owner. If there is more than one (1) property owner on which the nominated tree is located, the written and signed consent of a majority of all property owners shall be required. In the event that a person purchases property on which one (1) or more trees have been accorded legacy tree status, such status shall continue unless the new property owner requests to de-list the one (1) or more trees as legacy trees as provided in section 25-72 or section 25-73 of this article. Participation in the program is voluntary.

Prior to the execution of any written request for consent, the city arborist shall provide a written notice in the form of a brochure or other writing to the property owner on which the nominated tree is located which explains:

- (1) The benefits available to the property owner should such nominated tree be designated as a legacy tree;
- (2) The process for the voluntary "designation" and "de-listing" of a legacy tree (as hereinafter set forth);
- (3) Any recommended best practices to ensure long-term health of designated legacy trees;
- (4) Any detriments which might occur from following voluntary tree care best practices; and
- (5) Any detriments which might reasonably be expected to arise in connection with a tree being designated as a legacy tree.

In the event, after the provision of the aforesaid written notice, the property owner elects not to sign the consent form, the legacy tree nomination process shall cease and no further action regarding that tree shall be undertaken during the next twelve (12) consecutive months.

Section 2: Section 25-69 of the Urbana City Code shall be and hereby is amended such that it reads as follows with the text underlined and in red to be included:

Information about characteristics and location of designated legacy trees shall be made available to the public through identification markers near designated legacy trees, listing on the City of Urbana and Urbana Park District websites, and by printed brochures.

such that the text of said Section 25-69, after such amendment, shall read as follows:

Information about characteristics and location of designated legacy trees shall be made available to the public through identification markers near designated legacy trees, listing on the City of Urbana and Urbana Park District websites, and by printed brochures.

Section 3: Section 25-72 of the Urbana City Code shall be and hereby is amended such that the underlined language is inserted in the said section such that it reads as follows with the text underlined and in red to be inserted as indicated:

If a legacy tree other than on city or park district property needs to be removed due to poor health and decline beyond repair, the property owner may remove the tree following issuance of a legacy tree delisting permit by the city arborist. The legacy tree delisting permit shall be issued at no cost to the property owner within seven (7) calendar days of receipt of the application for the legacy tree delisting permit. If tree damage, decline and/or poor health are not obvious, the application shall include a certified arborist's recommendation for removal. Once a legacy tree delisting permit is issued, the legacy tree shall be removed from the city's database and other public records, as applicable. If the legacy tree poses imminent and serious danger to the property owner(s) or other persons' and/or their property, the legacy tree may be removed prior to issuance of a legacy tree delisting permit. Nothing in this section shall be construed to exempt any person from the requirements of obtaining any additional permits as are required by law.

such that the text of said Section 25-72, after such amendment, shall read as follows:

If a legacy tree other than on city or park district property needs to be removed due to poor health and decline beyond repair, the property owner may remove the tree following issuance of a legacy tree delisting permit by the city arborist. The legacy tree delisting permit shall be issued at no cost to the property owner within seven (7) calendar days of receipt of the application for the legacy tree delisting permit. If tree damage, decline and/or poor

health are not obvious, the application shall include a certified arborist's recommendation for removal. Once a legacy tree delisting permit is issued, the legacy tree shall be removed from the city's database and other public records, as applicable. If the legacy tree poses imminent and serious danger to the property owner(s) or other persons' and/or their property, the legacy tree may be removed prior to issuance of a legacy tree delisting permit. Nothing in this section shall be construed to exempt any person from the requirements of obtaining any additional permits as are required by law.

Section 4: Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance are hereby and shall be re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than those expressly set forth as amended or repealed in this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Section 5: This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action accrued or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 6: The City Clerk is hereby directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the City Council of the City of Urbana, Illinois, at a meeting of said Council at which a quorum was present.

PASSED BY THE CITY COUNCIL this _____ Day of _____, 2016.

Ayes: _____

Nays: _____

Abstentions: _____

Absent: _____

Phyllis D. Clark, City Clerk.

APPROVED BY THE MAYOR OF THE CITY OF URBANA, ILLINOIS this _____ Day of
_____, 2016.

Laurel Lunt Prussing, Mayor.

RESOLUTION NO. 2016-06-034R

**A RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF URBANA AND THE URBANA PARK DISTRICT**

**(Inclusion of Urbana Park District
Trees in City of Urbana Legacy Tree Program)**

WHEREAS, the City of Urbana ("City") is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs not otherwise expressly reserved to the State of Illinois by legislation; and

WHEREAS, the Urbana Park District ("Park District") is an autonomous unit of local government organized and operating pursuant to the Park District Code (70 ILCS 1205/1-1); and

WHEREAS, Section 10 of Article VII of the Constitution of the State of Illinois, 1970, provides authority for governments to contract or otherwise associate among themselves to obtain and share services and to exercise, combine or transfer any power of function in any manner not prohibited by law; and

WHEREAS, the Intergovernmental Cooperation Act (5 ILCS 220 et. seq.) provides that any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking; and

WHEREAS, the responsibility to maintain and recognize public trees within the jurisdictional boundaries of the City and the Park District rests with the Parties; and

WHEREAS, the City and the Park District find that the best interests of the public are served by maintaining a proactive urban forestry management program that prioritizes public safety and tree preservation; and

WHEREAS, the City and the Park District acknowledge that the best approach to maintaining a community forest is to consider all trees within community boundaries as integral to a proactive management plan that emphasizes public safety and tree preservation; and

WHEREAS, the City has initiated and maintains a program ("Legacy Tree Program") which seeks to recognize, preserve and protect trees within the City; and

WHEREAS, the City and the Park District acknowledge that Legacy Tree Program recognition along with public education and information dissemination on proper tree care, planting and selection provide valuable tools to guide oversight of community trees for the overall benefit of urban forest vitality; and

WHEREAS, the Parties seek to enter into an intergovernmental agreement in order to coordinate their efforts to actively pursue recognition of certain trees within the City under the City's Legacy Tree Program within the jurisdictional boundaries of the City and the Park District.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1. The Mayor shall be and hereby is authorized to enter into and execute on behalf of the City of Urbana an agreement in form and substance substantially similar to the exhibit appended to and incorporated into this Resolution.

Section 2. That the Mayor shall be and hereby is authorized to undertake such other actions as are necessary to carry out the purpose and intent of this Resolution.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

NAYS:

ABSENT:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Laurel Lunt Prussing, Mayor