



MEMORANDUM

TO: Mayor Laurel Lunt Prussing and Members of the Urbana City Council
FROM: William R. Gray, Public Works Director
Michael J. Brunk, City Arborist
DATE: July 25, 2014
RE: Amendment to Section 25-65 (Consent) of the Code of Ordinances (Legacy Tree Program)

INTRODUCTION

On April 15, 2013, the City Council approved Ordinance No. 2013-04-027, An Ordinance Establishing a Legacy Tree Program. In Section 25-65 of the ordinance, titled Consent, language has been added that retains Legacy Tree designation upon the sale of a property where the tree is located and clarifies the new property owner's options for delisting the tree or trees.

The proposed amended language has been underlined and appears in red in the amended ordinance attached to this memo.

RECOMMENDATION

It is recommended that the attached ordinance amendment be approved.

ORDINANCE NO. 2014-07-072

**AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER 25, LEGACY TREE PROGRAM
(Section 25-65 Consent)**

WHEREAS, the City of Urbana, a municipal corporation and body politic, has adopted an ordinance commonly known as the Legacy Tree Program Ordinance which is comprised of Chapter 25 of the Urbana City Code (hereinafter, the "Legacy Tree Program"); and

WHEREAS, on April 15, 2013, the City Council of the City of Urbana approved the Legacy Tree Program Ordinance, *inter alia*, to establish a voluntary Legacy Tree program to recognize and provide information to the public and encourage the preservation of significant trees; and

WHEREAS, the Legacy Tree Program approved by the City Council, as currently written, includes Section 26-65 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. Participation in the program is voluntary.

and

WHEREAS, as currently drafted, the Legacy Tree Program ordinance makes no provision for how a future purchaser of real property on which sits one or more Legacy Trees can remove the one or more said Legacy Trees from the Legacy Tree Program and the City's register of Legacy Trees; and

WHEREAS, the City Council deems it appropriate and necessary to amend Section 25-65 of the Urbana City Code in order to clarify the process by which a future purchaser of real property on which sits one or more Legacy Trees can remove one or more said Legacy Trees from the Legacy Tree Program and the City's register of Legacy Trees.

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 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 or more Trees have been accorded Legacy Tree status, such status shall continue unless the new Property Owner requests to de-list the one or more Trees as Legacy Trees as provided in Section 12 or Section 13 of this Ordinance. Participation in the program is voluntary.

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

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Section 2: 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 3: 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 4: 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 _____, 2014.

Ayes: _____

Nays: _____

Abstentions: _____

Absent: _____

Phyllis D. Clark, City Clerk.

APPROVED BY THE MAYOR OF THE CITY OF URBANA, ILLINOIS this _____ Day of _____, 2014.

Laurel Lunt Prussing, Mayor.