

AN ORDINANCE REGULATING THE PLANTING, MAINTENANCE, AND
 REMOVAL OF TREES, SHRUBS, AND OTHER PLANTS; CREATING A
 TREE COMMISSION; AND CREATING AN OFFICE OF THE CITY
 ARBORIST OF THE CITY OF URBANA, ILLINOIS.

WHEREAS, the CITY OF URBANA, ILLINOIS, is a Home Rule
 Unit as defined in Article VII, Section 6 of the Constitution of
 the State of Illinois, 1970, and

WHEREAS, this Ordinance is intended as, and is in the
 exercise of certain powers and functions pertaining to the govern-
 ment and affairs of the CITY OF URBANA, ILLINOIS,

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
 CITY OF URBANA, ILLINOIS THAT:

SECTION 1. Title. This Ordinance shall be known and
 may be cited as the "Urbana Tree Ordinance" of the City of Urbana,
 Illinois.

SECTION II. Purpose and Intent.

(A) Purpose. It is the purpose of this Ordinance
 to promote and protect the public health, safety, and general
 welfare by providing for the regulation of the planting, maintenance,
 and removal of trees, shrubs, and other plants within the City of
 Urbana, Illinois.

(B) Intent. It is the intent of the City Council
 of the City of Urbana that the terms of this Ordinance shall be
 construed so as to promote:

(1) the planting, maintenance, restoration,
 and survival of desirable trees, shrubs, and other plants within
 the city; and

(2) the protection of community residents
 from personal injury and property damage, and the protection of
 the City of Urbana from property damage, caused or threatened by
 the improper planting, maintenance, or removal of trees, shrubs,
 or other plants located within the community.

SECTION III. Definitions. As used within this Ordinance,
 the following terms shall have the meanings set forth in this
 Section:

(A) Arboricultural specifications and Standards of
 Practice for the city of Urbana (hereinafter, "Arboricultural
 Specifications Manual"). A manual prepared by the Arborist pursuant

to the ordinance containing regulations and standards for the planting, maintenance, and removal of trees, shrubs, and other plants upon City-owned property and containing a general program for optimizing the tree, shrub, and other plant resources of the City of Urbana.

(B) Arborist. The City Arborist of the City of Urbana, Illinois.

(C) City-owned Property. Property within the City limits of the City of Urbana, Illinois, and (1) owned by the City in fee simple absolute, or (2) impliedly or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic, or for public sewer easements.

(D) Council. The City Council of the City of Urbana, Illinois.

(E) Mayor. The Mayor of the City of Urbana, Illinois.

(F) Property Owner. The record owner or contract purchaser of any parcel of land.

(G) Trees, Shrubs, and Other Plants. All vegetation, woody or otherwise, except lawn grass and flowers less than 24 inches in height.

SECTION IV. The Urbana Tree Commission; Establishment, Composition, Appointment of Members, Duties.

(A) Establishment. The Urbana Tree Commission (hereinafter "Tree Commission") is hereby established. Its functions and duties are limited to those set forth in this Ordinance, and as set forth in any other duly enacted Ordinance. Nothing in this Ordinance shall be construed as vesting legislative discretion or power in the Tree Commission.

(B) Composition. The Tree Commission shall be composed of eight commissioners. Five commissioners shall be appointed by the Mayor with the approval of the Council. These five commissioners shall serve without pay and shall reside within the City of Urbana, Illinois. The remaining three commissioners shall be ex-officio and shall not vote. The three ex-officio commissioners shall be: the Director of Public Works, the Director of Parks and Recreation of the Urbana Park District or his/her

representative, and the Arborist. Subject to the exceptions in paragraph (C), immediately below, each commissioner of the Tree Commission shall serve for a term of three years.

(C) Appointment of Members. One of the five commissioners initially appointed to the Tree Commission who are not ex-officio members shall serve for a term of one year; two of the five commissioners initially appointed shall serve for a term of two years; and, two of the five commissioners initially appointed shall serve for a term of three years. Determination of the terms of the five commissioners initially appointed shall be by lot. The Mayor shall designate the Chairperson of the Tree Commission.

(D) Expiration or Vacation of Terms. The length of the term of a commissioner appointed prior to July 1, 1976, shall be measured as if the commissioner had been appointed on July 1, 1976. After July 1, 1976, the length of time between the date of appointment of any commissioner and the next July 1, shall be calculated as one year of the term of the commissioner so appointed. Within thirty days following the expiration of the term of any appointed commissioner, a successor shall be appointed by the Mayor with the approval of the Council, and the successor shall serve for a term of three years. Should any commissioner resign or be removed from the Tree Commission, a successor shall be appointed by the Mayor and shall serve for the unexpired period of the vacated term. A member of the Tree Commission may be removed by the Mayor with the approval of a majority of Council for good cause.

(E) Duties. The Tree Commission shall perform the following duties:

(1) Within a reasonable time after the appointment of the Tree Commission, upon call of the Chairperson of the Tree Commission, the Tree Commission shall meet and adopt rules of procedure for whatever regular and special meetings are deemed by the Tree Commission to be advisable and necessary to the fulfillment of the duties imposed upon it by this Ordinance.

(2) The Tree Commission shall advise and consult the Arborist on any matter pertaining to the Urbana Tree Ordinance and to its enforcement. The topics under which this

advice and consultation may be given may include, but are not limited to, any of the following:

- (a) amendments to the Urbana Tree Ordinance, and alterations or revisions to the Arboricultural Specifications Manual;
- (b) policy concerning selection, planting, maintenance, and removal of trees, shrubs, and other plants within the City;
- (c) allocation of funds to the Arbor Division, and expenditures of funds by the Arbor Division.
- (d) establishment of educational and informational programs whereby the public may be notified of any matters pertaining to the Urbana Tree Ordinance and to the Arboricultural Specifications Manual;
- (e) development of policies and procedures regarding the Arborist's duties;
- (f) issuance of permits required by this Ordinance;
- (g) development of a program for optimizing the tree, shrub, and other plant resources within the City of Urbana.

3. The Tree Commission, upon the request of any person who disagrees with the decision of the Arborist, shall hear all issues of the disputes which arise between the City Arborist and any such person whenever those issues involve matters of the interpretation of the Arboricultural Specifications Manual or of the interpretation or enforcement of this Ordinance, including disputes regarding the issuance of permits, or the concurrence or nonconcurrence of the Arborist in permits required under other ordinances or laws, or the abatement of nuisances. The decision of a majority of the appointed members of the Tree Commission with regard to such dispute shall be binding upon the Arborist. Nothing in this Section shall be construed to limit the jurisdiction of any Court of Law with respect to such disputes.

SECTION V. City Arborist; Establishment, Appointment, Duties.

(A) Establishment. The position of the City

Arborist is hereby established.

(B) Appointment. The Arborist shall be appointed by the Mayor with the advice and consent of the City Council.

(C) Duties. The Arborist shall perform the following duties:

(1) The City Arborist shall administer the Urbana Tree Ordinance and the provisions of the Arboricultural Specifications Manual;

(2) The Arborist, with the advice and assistance of the Tree Commission shall develop and periodically review and revise or amend, if necessary, the Arboricultural Specifications Manual, which said manual shall contain regulations and standards for the planting, maintenance, and removal of trees, shrubs and other plants upon City owned property and which shall contain a reasonably detailed statement of a comprehensive, long range program for optimizing the tree, shrub, and other plant resources of the City of Urbana. The Arborist shall cause the Arboricultural Specifications Manual, and all revisions and amendments to it, to be published and promulgated and shall cause three copies of the Manual, and all revisions and amendments to it, to be available for public inspection at the office of the City Clerk. Notice that such information is available for public inspection shall be published in a newspaper of general circulation within Champaign County at least one week day of each of four consecutive weeks immediately following the initial availability of the Arboricultural Specifications Manual, or revisions or amendments thereto. The Arboricultural Specifications Manual, and any revisions and additions thereto shall become effective on the fifth day following the final publication in a newspaper of general circulation required under this paragraph.

(3) The Arborist shall take reasonable action to make available to any interested person all information pertaining to the Tree Ordinance, to the activities of the Tree Commission, and to the Arboricultural Specifications Manual prepared pursuant to this Ordinance;

(4) The Arborist shall perform whatever acts are necessary, including the planting and maintenance of trees,

and including the removal of undesirable trees, shrubs, and other plants located on City-owned property, to insure that all trees, shrubs, and other plants located on City-owned property conform with the comprehensive, long-range program for the optimization of the tree, shrub, and other plant resources of the City of Urbana and with the regulations and standards of the Arboricultural Specifications Manual, and with the requirements of this Ordinance. Pursuant to this duty, the Arborist, in accordance with normal City procedures regarding contracts, may arrange contractual agreements with any property owner;

(5) The Arborist shall issue such permits as are required by this Ordinance and shall obtain as a condition precedent to the issuance of such permits the written agreement of each person who applies for such permits that he or she will comply with the requirements of this Ordinance and with the regulations and standards of the Arboricultural Specifications Manual. The Arborist shall have the right to inspect all work performed pursuant to such permits. If, pursuant to such inspection, the Arborist finds that the work performed pursuant to the permit has not been performed in compliance with the requirements of this Ordinance or with the regulations or standards of the Arboricultural Specifications Manual, the Arborist shall provide written notice of his/her finding to the permit applicant at the address provided for such notification in the application, and the notice shall contain a copy of Section V (C) (5) of this Ordinance, and

(a) the permit shall be nullified and shall be void ab initio, and

(b) the Arborist may issue a written order that the permit applicant cease and desist all work for which the permit was required, and

(c) the permit applicant shall be subject to penalty under the terms of this Ordinance, and

(d) the Arborist may take steps to correct the results of the non-complying work and the reasonable costs of such steps shall be charged to the permit applicant;

(6) The Arborist shall establish a program of public information and education that will encourage the planting,

maintenance, or removal of trees, shrubs, and other plants on private property in furtherance of the general program for optimizing the tree, shrub, and other plant resources of the City of Urbana;

SECTION VI. Permits.

(A) Scope of Requirement. No person except the Arborist, an agent of the Arborist, or a contractor hired by the Arborist may perform any of the following acts without first obtaining from the Arborist a permit for which no fee shall be charged, and nothing in this Section shall be construed to exempt any person from the requirements of obtaining any additional permits as are required by law:

(1) plant on City-owned property, or treat, prune, remove, or otherwise disturb any tree, shrub, or other plant located on City-owned property, except that this provision shall not be construed to prohibit owners of property adjacent to or appurtenant to City-owned property from watering or fertilizing without a permit any tree, shrub, or other plant located on such city-owned property;

(2) trim, prune, or remove any tree or portions thereof if such tree or portions thereof reasonably may be expected to fall on City-owned property and thereby to cause damage to persons or property;

(3) place on City-owned property, either above or below ground level, a container for trees, shrubs, or other plants;

(4) damage, cut, tap, carve, or transplant any tree, shrub, or other plant located on City-owned property;

(5) attach any rope, wire, nail, sign, poster, or any other man-made object to any tree, shrub, or other plant located on City-owned property;

(B) Issuance. Within seven days of receipt of the application, the Arborist shall issue a permit to perform within thirty days of the day of issuance any of the acts specified in parts (A), and (B), immediately above, for which a permit is requested whenever:

(1) such acts would result in the abatement of a public nuisance; or

(2) such acts are not inconsistent with the development and implementation of the general plan for optimizing the tree, shrub, and other plant resources of the City of Urbana or with any regulations or standards of the Arboricultural Specifications Manual; and whenever;

(3) an application has been signed by the applicant and submitted to the Arborist detailing the location, number, size, and species of trees, shrubs, or other plants that will be affected by such acts, setting forth the purpose of such acts and the methods to be used, and presenting any additional information that the Arborist may find reasonably necessary to a determination of whether such acts are consistent with this Ordinance and with provisions of the Arboricultural Specifications Manual; and

(4) the applicant agrees to perform the work for which the permit is sought in accordance with the provisions of this Ordinance and with the regulations and standards set forth in the Arboricultural Specifications Manual; and

(5) the applicant certifies that he or she has read and understands those provisions of this Ordinance and of the Arboricultural Specifications Manual which are pertinent to the work for which the permit is sought; and

(6) if the work for which a permit is issued entails the felling of any tree or part thereof, located on private property, which, as a result of such felling reasonably may be expected to fall upon City-owned property, and if such felling is done by one other than the owner of the property on which such felling is done, then the applicant shall agree to indemnify and to hold the City of Urbana harmless for all damages resulting from work conducted pursuant to the permit and shall deposit with the City Clerk a Liability Insurance Policy in the amount of \$100,000 per person/\$300,000 per accident for Bodily Injury Liability and \$50,000 aggregate for Property Damage Liability, which policy shall name the City of Urbana as an additional insured.

(C) Public Utility Companies. Nothing in this Section shall be construed to exempt public utility companies or their agents from any of the requirements of this Ordinance.

SECTION VII. Public Nuisances.

(A) Definition. The following are hereby declared

public nuisances under this Ordinance:

(1) any dead or dying tree, shrub, or other plant, whether located on City-owned property or on private property;

(2) any otherwise healthy tree, shrub, or other plant, whether located on City-owned property or on private property, which harbors insects or diseases which reasonably may be expected to injure or harm any tree, shrub, or other plant;

(3) any tree, shrub, other plant, or portion thereof, whether located on City-owned property or on private property, which by reason of location or condition constitutes an imminent danger to the health, safety, or welfare of the general public;

(4) any tree, shrub or other plant or portion thereof whether located on City-owned property or on private property which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a street light.

(5) any tree, shrub or other plant or portion thereof whether located on City-owned property or on private property which dangerously obstructs the view in the "visibility triangle" as such may be determined by the City Engineer pursuant to Ordinance.

(B) Abatement. The following are the prescribed means of abating public nuisances under this Ordinance:

(1) Any public nuisance under this Ordinance which is located on City-owned property shall be pruned, removed, or otherwise treated by the Arborist in whatever fashion is required to cause the abatement of the nuisance within a reasonable time after its discovery.

(2) Any public nuisance under this Ordinance which is located on private property shall be pruned, removed, or otherwise treated by the property owner or his/her agent in whatever fashion is required to cause the abatement of the nuisance. No property owner may be found guilty of violating this provision unless and until the following requirements of notice have been satisfied:

(a) the Arborist shall cause a written notice to be sent by Registered or Certified Mail to the owner of the property upon which the nuisance is found;

(b) such notice shall describe with

particularity the tree, shrub, or other plant which has been declared to be a public nuisance;

(c) such notice shall state with particularity the alternative actions that the property owner may undertake to abate the nuisance;

(d) such notice will require the elimination of the nuisance within thirty days after receipt of the notice by the property owner, however, upon a showing of good cause, said period may be extended for thirty additional days by Arborist.

(e) such notice shall set forth the procedures by which the property owner may be heard by the Tree Commission to protest the requirement that he/she act to abate the nuisance;

(f) if the property owner cannot be located following diligent inquiry by the Arborist, such notice shall be served upon the occupant or person in charge of the property upon which the nuisance is located and shall be published in a newspaper of general circulation within the City of Urbana at least once in each week for three consecutive weeks but no action may be taken by the Arborist under this Section until 30 days after the time of the first publication of such notice in a newspaper of general circulation.

In the event that the nuisance is not abated within thirty days following receipt of notice by the property owner or within thirty days following the initial publication of notice as required by provision (f), immediately above, the Arborist is authorized to cause the abatement of said nuisance, and the reasonable cost of such abatement shall be filed as a lien against the property on which the nuisance was located, and the property owner of the property upon which the nuisance is located shall be subject to prosecution under Section XI of this Ordinance. Nothing in this provision shall be construed to exempt any person from the requirements of obtaining permits under Section VII of this Ordinance.

(3) The provisions of subsections (B)(1) and (B)(2) of this Section notwithstanding, the Arborist is hereby empowered to cause the immediate abatement of any public nuisance under this Ordinance, provided that the nuisance is declared by the Arborist to threaten imminent and serious danger of injury or death to any person, and provided that the owner of the property on which

the nuisance is located cannot be found through the diligent efforts of the Arborist.

(4) The Arborist is hereby empowered to seek from any court of competent jurisdiction an order directing the immediate abatement of any public nuisance under this Ordinance.

SECTION VIII. Tree Experts License Required. No person shall perform any work for hire on trees located on City-owned property unless that person is licensed or directly and personally supervised by a person licensed as a Tree Expert as required by the State of Illinois in accordance with the latest revision of the Tree Experts Act of July 5, 1957, as such shall be amended from time to time.

SECTION IX. Interference with Arborist. No person shall unreasonably hinder, prevent, delay, or interfere with the Arborist or his/her agents while engaged in the execution or enforcement of this Ordinance.

SECTION X. Prohibited Acts.

It shall be unlawful and a violation of this Ordinance for any person to do any of the following:

(a) deposit, store, or maintain on City-owned property any stone, brick, sand, concrete, lumber, tile, pipe, or other material which reasonably may be expected to impede the free passage of water, air or fertilizer to the roots of any tree, shrub, or other plant;

(b) cause any gaseous, liquid, or solid substance which because of the nature or amount reasonably may be expected to be toxic or otherwise harmful to trees, shrubs or other plants to be located where such substance reasonably may be expected to affect trees, shrubs, or other plants located on City-owned property;

(c) cause any fire to burn on City-owned or private property if such fire, or the heat, smoke, or ash therefrom reasonably may be expected to injure any portion of any tree, shrub, or other plant located on City-owned property, provided, however, this subsection shall not be construed to exempt any person from complying State laws or Ordinances of the City of Urbana respecting burning.

Section XI. Violation and Penalty. Any person who violates any provision of this Ordinance or who fails to comply with any notice issued pursuant to the provisions of this Ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed Two Hundred Dollars (\$200.00) for each separate offense. Each day during which any violation of the provisions of this Ordinance shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this Ordinance, the injury, mutilation, or death of a tree, shrub, or other plant located on City-owned property is caused, the cost of repair or replacement of such tree, shrub, or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens, as published by the International Society of Arboriculture.

SECTION XII. Severability. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid by any court, other provisions or applications of the Ordinance which can be given effect without the invalid provision or application shall not be affected, and to this end the provisions of this Ordinance are declared to be severable.

SECTION XIII. Repealer. Sections 21.50, 21.51, 21.52, 21.53, and Section 29.57 of the Urbana City Code of 1975 are hereby repealed. So much of the third paragraph of Section 29.11 as reads,

"Notwithstanding any other provision of this Ordinance, planting of trees on street rights-of-way and public easements is permitted without fee provided the property owner has received approval of location from the Commissioner of Public Works or City Engineer, so as to avoid interference with sewer lines or other underground utilities, or with planned sidewalk construction", is hereby repealed.

SECTION XIV. Amendments.

(A) The first paragraph of Section 29.11 of the Urbana City Code of 1975 is hereby amended to read:

"Within the city, no person shall plow or dig up any material or dirt from or excavate or undermine any street, alley,

public ground or public easement without a written permit issued by the Director of public works for such work."

(B) Section 29.53 of the Urbana City Code of 1975 is hereby amended to read:

"Every person applying for a permit under this article shall submit with the application a bond with at least two sureties to be approved by the mayor, conditioned upon the compliance by the applicant with all the provisions of this article, including the payment for the repair of all damages to public property or public improvements which damages may arise out of the moving of such building."

This Ordinance shall be effective ten days after its passage and publication as provided by law.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the Council of the City of Urbana, Illinois, at a regular meeting of said Council on the 16 day of AUGUST, 1976.

PASSED by the City Council this 16 day of AUGUST, 1976.

Duane Eckerty
Duane Eckerty, City Clerk

APPROVED by the Mayor this 23 day of August, 1976.

Hiram Paley
Hiram Paley, Mayor

CERTIFICATE OF PUBLICATION

I, Duane Eckerty, City Clerk, City of Urbana, Illinois, do herewith certify that I caused the above Ordinance to be duly published in the Champaign-Urbana Courier, on the 27th day of August, 1976, and a Certificate of Publication is attached hereto.

Duane Eckerty
Duane Eckerty, City Clerk

18901

Certificate of Publication

STATE OF ILLINOIS }
Champaign County } ss.

CHAMPAIGN-URBANA COURIER, Inc., a corporation, hereby certifies that it is the publisher of THE COURIER, a daily secular newspaper of general circulation in said County, printed and published in the City of Urbana, and in the City of Champaign, in said County and State, and that said newspaper is a newspaper as defined in "An Act to revise the law in relation to notices," approved February 13, 1874, as amended, and that the printed notice hereto annexed and hereby made a part of this certificate has been published in said newspaper at least once

one

each week for _____ successive weeks in each and every copy and impression

thereof; that the date of the first newspaper containing said publication was Aug 2

27 A.D. 19 76, and that the date of the last newspaper containing said

publication was _____ A.D. 19 _____; and that _____

Barbara A. Rees

_____ by resolution of the Board of Directors of said CHAMPAIGN-URBANA COURIER, Inc., has been authorized to make this certificate.

IN TESTIMONY WHEREOF said CHAMPAIGN-URBANA COURIER, Inc., has caused this cer-

tificate to be executed in its name by said **Barbara A. Rees**

this 27th day of Aug. A.D. 19 76

CHAMPAIGN-URBANA COURIER, Inc.

Publication Fee, \$ 154.96 By Barbara A. Rees

7677-24

ORDINANCE REGULATING THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES, SHRUBS, AND OTHER PLANTS; CREATING A TREE COMMISSION; AND CREATING AN OFFICE OF THE CITY ARBORIST OF THE CITY OF URBANA, ILLINOIS.

WHEREAS, the CITY OF URBANA, ILLINOIS, is a Home Rule Unit as defined in Article VII, Section 6 of the Constitution of the State of Illinois, 1970, and

WHEREAS, this Ordinance is intended as, and is in the exercise of certain powers and functions pertaining to the government and affairs of the CITY OF URBANA, ILLINOIS,

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS THAT:

SECTION 1. Title. This Ordinance shall be known and may be cited as the "Urbana Tree Ordinance" of the City of Urbana, Illinois.

SECTION II. Purpose and Intent.

(A) Purpose. It is the purpose of this Ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the City of Urbana, Illinois.

(B) Intent. It is the intent of the City Council of the City of Urbana that the terms of this Ordinance shall be construed so as to promote:

(1) the planting, maintenance, restoration, and survival of desirable trees, shrubs, and other plants within the city; and

(2) the protection of community residents from personal injury and property damage, and the protection of the City of Urbana from property damage, caused or threatened by the improper planting, maintenance, or removal of trees, shrubs, or other plants located within the community.

SECTION III. Definitions. As used within this Ordinance, the following terms shall have the meanings set forth in this Section:

(A) Arboricultural specifications and Standards of Practice for the city of Urbana (hereinafter, "Arboricultural Specifications Manual"). A manual prepared by the Arborist pursuant to the ordinance containing regulations and standards for the planting, maintenance, and removal of trees, shrubs, and other plants upon City-owned property and containing a general program for optimizing the tree, shrub, and other plant resources of the City of Urbana.

(B) Arborist. The City Arborist of the City of Urbana, Illinois.

CERTIFICATE OF PUBLICATION

in

THE COURIER

CHAMPAIGN AND URBANA, ILLINOIS

In the Matter of

Ordinance 7677-24-regilating
plants, etc. creating office
of City Arborist

Solicitors or
Attorneys **City of Urbana**

City Clerk
