

Division 14- Tree Trust Fund

158-77 Establishment and Purpose.

The City shall maintain a Tree Trust Fund for the protection, maintenance, and regeneration of trees and other forest resources.

- (a) *Primary Purpose.* The primary purpose of the Tree Trust Fund is to ensure no net loss of tree canopy in the City by planting trees when healthy trees are removed and cannot be replaced on site in accordance with the provisions of this Article; maintaining the health of existing trees on public property; protecting forested land in perpetuity by purchase or conservation easement; and supporting data collection, analysis, and public education to facilitate successful and cost-effective management of the urban forest.
- (b) *Sources of Tree Trust Fund Revenue.* All monies collected pursuant to this Article shall be paid to the Tree Trust Fund and shall include, but not be limited to:
 - (1) recompense fees;
 - (2) payment of civil penalties, civil remedies and fines resulting from enforcement actions mandated by this Article; and
 - (3) all revenue generated through the use of City-owned forested land, such as fees for carbon offset credits.

158-78 Authorized Expenses.

The Tree Trust Fund may be used for expenditures described below:

- (a) *Fixed Expenses.*
 - (1) *Tree Planting.* The Tree Trust Fund may be used for tree planting projects on public and private property. In each fiscal year, the amount allocated from the Tree Trust Fund for tree planting shall be placed in a Tree Trust Fund Tree Planting account and shall equal no less than fifty percent (50%) of the Tree Trust Fund revenue collected during the preceding fiscal year.
 - a. *Location.* Trees may be planted on public property in the right-of-way, or on other public property. Trees may only be planted on private property within thirty (30) feet of the right-of-way.
 - b. *Maintenance of Trees Planted on Public Property.* Trees planted on public property shall be maintained by the City or its designee for two (2) years after planting, with the maintenance costs paid from the Tree Planting account. No portion of the Tree Trust Fund shall be used to pay for the maintenance of any trees planted on private property.
 - c. *Record of Location.* The location of trees planted and maintained utilizing the Tree Trust Fund shall be recorded by the City or its agent in a format designated by the Department of Planning. The Senior Arborist shall provide those locations to the Department of Planning at the end of the tree planting season, but no later than May 30th.

- d. *Replacement.* The City shall require a minimum two (2) year replacement guarantee for all trees planted by contractors paid, in whole or in part, from the Tree Trust Fund.
 - e. *Monitoring.* A City Arborist or designee shall inspect all trees planted under the Tree Trust Fund at least once between eighteen (18) and twenty-four (24) months after planting, assess the condition and survival of the trees, and shall require the party who planted the trees to make necessary corrections or plant replacement trees within twelve (12) months of notification.
- (2) *Procurement of Forested Property and Easements.* The Tree Trust Fund may be used to purchase land meeting minimum standards of eighty percent (80%) canopy coverage, 1,000 DBH inches and/or fifty (50) trees per acre, provided that:
- a. in each fiscal year, ten percent (10%) of the revenue received by the Tree Trust Fund during the preceding fiscal year, or \$250,000, whichever is less, shall be placed in a Tree Trust Fund Forested Property account, with the funds being used solely for the purchase of forested land or easements on forested land and, to the extent provided in this Article, the maintenance thereof. Upon adoption of this Article, ten percent (10%) of the unencumbered balance of the Tree Trust Fund shall be placed in the Forested Property account;
 - b. the Department of City Planning and Parks and Recreation establish written criteria for the selection of eligible land purchases;
 - c. the Department of Parks and Recreation and the Department of City Planning provide a recommendation to the City for any proposed purchase of forested land, and the Tree Conservation Commission is provided reasonable time to review and comment upon such recommendation prior to legislative approval;
 - d. the purchase is approved by a City ordinance which explicitly requires that the purchased land be (i) dedicated and preserved in perpetuity as forested land; (ii) available for public use free of charge (subject to the City's park rules and other applicable ordinances); and (iii) restricted to passive recreational activity with minimal environmental impact, as determined and established in writing by the Department of Parks and Recreation based on the characteristics of the property; and
 - e. the Department of Parks and Recreation Commissioner shall provide a property restoration and maintenance plan as an attachment to the ordinance.
- (3) *Administration of Tree Protection Ordinance.* A maximum of \$50,000 per fiscal year of the Tree Trust Fund may be used for costs arising directly from administering and enforcing this Section. These costs include but are not limited to:
- a. the cost of posting notice of trees to be removed;
 - b. analyzing, reporting, and publishing reports related to this Section;
 - c. purchasing supplies and field equipment;
 - d. court reporter services at Tree Conservation Commission hearings;
 - e. an honorarium of \$100 per month for each member of the Tree Conservation Commission, but only for the months in which the member attends a minimum of

two (2) of the monthly hearings or business meetings (or at least one of each); and
f. other costs required to fulfill the duties of the Tree Conservation Commission.

- (4) *Educational Expenses.* During any given fiscal year, five percent (5%) of the funds received by the Tree Trust Fund during the immediately preceding fiscal year, or \$125,000, whichever is less, shall be placed into a Tree Trust Fund Educational Outreach account, with the funds being used for educational materials, educational programs, and educational outreach including support for projects in collaboration with community partners.
- (5) *Salaries.* The Tree Trust Fund may only be used to support the salaries and benefits of the job positions described in this Section. The positions must adhere to the following job descriptions. If the costs of the salaries and benefits of all positions exceed the allocated amount, the remainder of the cost shall be assumed by the General Fund.
- a. *City Arborist Positions.* A maximum of \$150,000 per fiscal year may be used to pay for the annual salary and benefits of two (2) arborist positions.
 - b. *Senior Arborist.* A maximum of \$90,000 per fiscal year may be used to pay for the annual salary and benefits of an Arborist Senior/Project Manager position. All responsibilities of this position shall be related to oversight of projects financed by the Tree Trust Fund associated with tree planting, maintenance, and reporting including, but not limited to, identification of qualified contractors, preparation of requests for proposals, and inspection of work.
 - c. *Administrator and Clerk of the Tree Conservation Commission.* A maximum of \$75,000 per fiscal year may be used to pay for the annual salary and benefits of the Administrator, whose primary responsibilities are educational outreach regarding tree preservation; support for enforcing the provisions of the tree protection ordinance; to facilitate budget preparation for the Tree Trust Fund; preparing and reviewing reports; and overseeing the creation of the Urban Master Plan. The Administrator shall also serve as Clerk to the Tree Conservation Commission and supervise the Administrative Assistant.
 - d. *Tree Conservation Administrative Assistant.* A maximum of \$40,000 per fiscal year may be used to pay for a portion of the annual salary and benefits of the position, whose duties shall support the clerical and administrative aspects of the appeals to the Tree Conservation Commission. The Administrative Assistant may also have other duties supporting the Arborist Division.
 - e. *Additional Job Positions.* Other than those job positions and associated salaries and benefits enumerated in this Section, no additional positions, salaries or benefits shall be added, reclassified, or otherwise charged to the Tree Trust Fund unless approved by City Council in an ordinance (a) describing the need and benefit to the Tree Trust Fund of such action, and (b) specifically amending this Section to incorporate the pertinent job position and the corresponding salary and benefits being charged to the Tree Trust Fund.
 - f. *Excess Salary and/or Benefit Charges.* If salaries and benefits are charged to the

Tree Trust Fund in excess of those permitted by this Section, such excess shall be repaid to the Tree Trust Fund from the General Fund on the last day of the fiscal year following the year in which such overcharges occurred or, if the overcharges are not immediately discovered, the last day of the fiscal year following the year of discovery.

(b) *Other Allowable Expenses:*

- (1) *Restoration and Maintenance of Forested Land.* The property restoration and maintenance plan required pursuant to section 158-78(a)(2) of this Article shall describe the types of restoration and maintenance that may be needed at the property, estimate the property's annual restoration and maintenance cost, and identify the source(s) of funding for the estimated annual restoration and maintenance cost. To the extent that the commissioner identifies the Tree Trust Fund as one of the sources of funding, any specific allocation of dollars from the Tree Trust Fund shall be limited to the Forested Property account and shall only be used for initial short-term tree restoration and stabilization related to the protection, preservation and regeneration of trees on the property. This includes the removal of dead, dying or hazardous trees or invasive species that present a significant threat to the health of the trees, and staff or contractors to administer such services. This initial stabilization, clean-up and maintenance period shall not exceed three (3) years from the purchase date of the property. Any expenses beyond three (3) years after the purchase date shall be considered long-term maintenance costs and shall not be funded from the Tree Trust Fund but rather from the operations and maintenance budget of the Department of Parks and Recreation or a source other than the Tree Trust Fund. No funds from the Tree Trust Fund may be used for permanent infrastructure, including but not limited to the development or maintenance of roads, parking lots, trails, buildings or similar infrastructure, on the property.
- (2) *Tree Canopy Studies.* The Tree Trust Fund may be used to update tree canopy imagery and analyses on a four (4) to six (6) year cycle.
- (3) *Planting Enhancements.* The Tree Trust Fund may be used to support the purchase and/or installation of structural soil, soil cells, or other suspended pavement systems for public street tree planting including the modification of existing conditions, such as concrete cutting or stump grinding to enable new tree planting.
- (4) *Retention of Sidewalk Trees.* The Tree Trust Fund may be used to design, purchase, construct, and implement techniques and materials for sidewalk and/or roadway improvements or repairs performed by or at the direction of the Department of Public Works, but only if the expenditures are used to prevent the destruction of existing healthy trees.
 - a. Implementing techniques include, without limitation, alternative sidewalk materials, root bridging and hand digging.
 - b. Cumulative expenditures pursuant to this subsection that exceed \$100,000 in any fiscal year, must be authorized by duly enacted legislation, even if

not required under the City Procurement Code.

(5) *Urban Forest Master Plan.* Expenditures in furtherance of the Urban Forest Master Plan detailed in Section 158-80.

(6) *Assistance for low-income homeowners.*

- a. In each fiscal year, two percent (2%) of the Tree Trust Fund's revenue for the preceding fiscal year, or \$200,000, whichever is less, shall be placed in a Tree Trust Fund Financial Assistance account, with the funds being used to assist low-income homeowners with the assessment, removal, and replacement of DDH trees on their property.
- b. All trees removed using financial assistance from the Financial Assistance account must be replaced on the same property from which they were removed with no less than one new tree for every tree removed; planting must be implemented in accordance with this Article.
- c. The standards to qualify for assistance from the Financial Assistance account will be established in writing by the Department of City Planning and posted for public review.

158-79 Tracking and Reporting of Tree Trust Fund.

It is the policy of the City to ensure transparency regarding the use of funds from the Tree Trust Fund, including the accounts established thereunder pursuant to this Article.

- (a) *Separate Accounting within Tree Trust Fund.* The accounts established by this Article for (i) Tree Planting; (ii) Educational Outreach; (iii) Forested Property; and (iv) Financial Assistance, shall each be designated with a unique account number in the City's general ledger and be separately accounted for within the Tree Trust Fund. Funds placed in one of these accounts in accordance with the provisions of Section 158-78 of this Article that are not used during a fiscal year shall remain in such account and be available in subsequent fiscal years to be expended consistent with the account's established purpose.
- (b) *Review and Approval of Expenditures.* The Department of Parks and the Department of Planning shall each prepare a proposed annual budget of Tree Trust Fund fiscal year expenditures for review and comment by the Tree Conservation Commission. The proposed budget shall be provided to the Tree Conservation Commission no later than thirty (30) days before annual budgets are developed by the City Council Finance/Executive Committee (or any future governing committee). Any comments to the proposed budget by the Tree Conservation Commission shall accompany the submission of the proposed budget to the Finance/Executive Committee for its review in developing the Tree Trust Fund budget for the upcoming fiscal year. Within (90) days of the end of the fiscal year, the Administrative Assistant shall submit to the Community Development/Human Services Committee a report of all expenditures and activities of the preceding fiscal year.
- (c) *Financial Reporting.* Within ninety (90) days of the end of the fiscal year, the Department of City Planning shall submit to the Community Development/Human Services Committee of the City Council a financial report of all revenue collected and credited to the Tree Trust Fund during the preceding fiscal year. The report shall include a separate

accounting of funds received as recompense. Recompense totals shall be accounted for quarterly and reported on the Department of Planning website within twenty (20) days of the last day of each fiscal quarter.

- (d) *Expenditures.* Within ninety (90) days of the end of the fiscal year, the Department of City Planning shall submit to the Community Development/Human Services Committee of City Council a report of all expenditures charged to the Tree Trust Fund during the preceding fiscal year.
- (e) *Audit.* The Tree Trust Fund shall be audited by the City after the close of the Tree Trust Fund's first full fiscal year being governed by this Article, and the audit results shall be publicly available on the City's website. Thereafter, audits shall be conducted every five (5) years unless City Council determines an interim audit is required.

158-80 Urban Forest Master Plan.

The purpose of the Urban Forest Master Plan is to promote efficient and cost-effective management of the urban forest and to maximize the ecological and green infrastructure benefits of trees and forests throughout the City.

- (a) *Principles of Master Plan.* The Urban Forest Master Plan should support the Tree Protection Ordinance and seek to improve the Urban Forest based on the following principles:
 - (1) preserve existing trees and forests;
 - (2) increase space for tree plantings;
 - (3) preserve and improve the quality of the tree-growing environment;
 - (4) provide an inventory of existing trees in the City;
 - (5) select trees for diversity and long-term sustainability;
 - (6) select appropriate and efficient planting locations; and
 - (7) manage the urban forest as a continuous resource regardless of ownership boundaries.
- (b) *Oversight by Tree Conservation Commission.* The Tree Trust Fund may be expended on activities associated with the creation and implementation of the City's Urban Forest Master Plan. The Urban Forest Master Plan shall be overseen by the Tree Conservation Commission. The Master Plan shall be created and implemented no later than one (1) year after approval of this Article and shall be updated at least every three (3) years.
- (c) *Advisory Committee.* The Tree Conservation Commission may appoint an advisory committee to assist in the preparation of the master plan. Expenditures for professional fees associated with the cost of developing the Urban Forest Master Plan may be authorized from the Tree Trust Fund upon approval by the Tree Conservation Commission.