

## **Grey-to-Green Treebate Program Administrative Rule**

July 25, 2011

### **1 Introduction**

The City of Portland manages stormwater runoff as a valuable resource to replenish groundwater supplies that feed cool, clean water to rivers and streams. Portland's average annual 37 inches of rain creates about 20 billion gallons of stormwater runoff per year. Portland's approach is to manage stormwater where rain falls with facilities that work like natural systems.

In November 2007, the Bureau of Environmental Services launched the Grey-to-Green program to substantially increase public and private efforts to manage stormwater runoff and improve the health of local watersheds. The program included targeted investments in green streets, ecoroofs, street and yard trees, revegetation activities and the control of invasive plants, land acquisition, and culvert replacement.

The Treebate Program provides a financial incentive to Portland residents to plant yard trees. The program complements a companion initiative, in partnership with Friends of Trees, to increase the planting of street trees. During the first five years of both programs, the City intends to plant more than 80,000 trees. The benefits of such investments include reduced stormwater runoff, increased evapotranspiration and groundwater recharge, increased filtering of air pollutants, the sequestering of carbon to reduce green house gases, and the stabilizing of soils to reduce erosion.

### **2 Program Goals**

The Treebate Program will supplement other Bureau yard tree initiatives to plant 33,000 trees on eligible property in the City of Portland by June 30, 2013.

### **3 Authority**

**City Council authorized the Portland Grey-to-Green Treebate Program on November 4, 2009 with the adoption of Ordinance No. 183307.**

### **4 Guiding Principles**

The Treebate Program shall adhere to the following guiding principles:

- a Access.** Provide equal access to the Treebate Program to all eligible Portland households.
- b Economy.** Employ the most economical and efficient means to market the Treebate Program, provide technical assistance and program information, and process incentives.
- c Effectiveness.** Enact polices and business practices that ensure the successful siting, planting and maintenance of yard trees.
- d Civic Engagement.** Use the Treebate Program to increase public understanding, involvement, and networking to advance stormwater management and watershed enhancement goals.

- e **Fiduciary Responsibility.** Enact accounting and financial management practices to ensure the most efficient and effective use of City resources to advance the goals of the Treebate Program.

## 5 Eligibility

The Treebate is available to Portland residents based on the following eligibility criteria:

- a **Property.** Trees must be planted on private property, and in locations outside of public rights-of-way. The private property must be located within the City of Portland, and used as residence. Eligible property may have up to four dwelling units per lot. Mixed-use developments do not qualify for Treebates. The City will rely on definitions set forth in Title 33 of the City Code when making determinations of eligible property.
- b **Applicant.** The applicant must be the City water, sewer and/or stormwater utility ratepayer for the property that is the subject of the Treebate application. The applicant need not be a City resident to be eligible for the program.
- c **Trees.** For purposes of this program, trees are defined as woody plants that have many secondary branches supported clear of the ground on a single main stem or trunk with clear apical dominance [Huxley, A., ed. (1992). *New RHS Dictionary of Gardening*. Macmillan ISBN 0-333-47494-5]. This definition does not include woody plants such as shrubs, arborescent shrubs, specimens bred or pruned to maintain an artificially reduced canopy such as topiary, espaliered or pollarded specimens, small weeping varieties, or plants used to create hedges or other thick, closely-planted buffers or borders on private property.
  - i **Ineligible Trees.** Ineligible trees include street trees, trees planted within a public right-of-way, trees that have been provided and/or planted through programs administered by Friends of Trees or other City subsidized programs, trees planted to satisfy a condition of development, trees planted to mitigate or replace the loss of existing trees, trees that do not grow to at least 15 feet tall at maturity, and the following trees on the City of Portland's Nuisance Plants List:
    - Norway maple (*Acer platanoides*)
    - tree of heaven (*Ailanthus altissima*)
    - white poplar (*Populus alba*)
    - cutleaf birch (*Betula pendula*)
    - English holly (*Ilex aquifolium*)
    - sweet cherry (*Prunus avium*)
    - English laurel (*Prunus laurocerasus*)
    - black locust (*Robinia pseudoacacia*)
    - European mountain ash (*Sorbus aucuparia*)
    - Siberian elm (*Ulmus pumila*)
    - golden chain tree (*Laburnum watereri*)
    - princess tree (*Paulownia tomentosa*)
  - ii **Eligible Trees.** Trees that are not otherwise identified as ineligible are eligible for a Treebate equal to 50% of the cost of the tree to a maximum of \$15 for small-growing trees, \$25 for medium-growing trees, and \$50 for large-growing trees based on the tree's mature size as determined by the tree's mature height and width as shown in the following table. City staff will make the final determination of mature tree size for the purposes of calculating the appropriate Treebate credit.

<b>Mature Size</b>	<b>Minimum Mature Height</b>	<b>Mature Height x Width</b>
<b>Large</b>	<b>50 feet</b>	<b><math>\geq 2,500 \text{ ft}^2</math></b>
<b>Medium</b>	<b>30 feet</b>	<b><math>&gt; 1,000 \text{ ft}^2, &lt; 2,500 \text{ ft}^2</math></b>
<b>Small</b>	<b>15 feet</b>	<b><math>\leq 1,000 \text{ ft}^2</math></b>

**iii Size.** An eligible tree must have a trunk that is one inch diameter or larger measured 6 inches above the soil line. Deciduous (broadleaf) trees must be at least six feet tall and coniferous (needle) trees must be at least four feet tall at time of purchase. Height is measured from the soil line to the highest-most point of the canopy.

**iv Spacing.** An eligible tree must be spaced at a distance from other trees and infrastructure to allow the tree the opportunity to reach its mature size.

**d Date of Planting.** Eligible trees must be purchased, planted and an application submitted to Treebate staff during a period that begins on September 1 and ends the following April 30.

## **6 Application Requirements.**

A complete Treebate application shall consist of the following information:

**a Application Form.** The applicant shall complete and sign an application form provided by the City. The City may accept a legible electronic copy or facsimile of a completed and signed application form in lieu of an original document. The application form shall list program requirements and document the applicant's agreement to comply with those requirements.

**b Limit on the Number of Trees.** The City shall limit the number of trees eligible for Treebates on any single property or in any single application to 10 trees. The City may grant exceptions to this limit if program resources are available, the program has attracted a broad distribution of participating properties, the eligible trees are appropriately spaced to ensure their individual viability, and the eligible trees advance City goals for stormwater management and watershed health. In order to grant an exception, the applicant may be required to submit a planting plan that includes new and existing tree species and spacing between trees and infrastructure.

**c Proof of Purchase or Receipt.** The applicant shall provide proof of the purchase or receipt in a form that clearly and legibly documents the date of the purchase, the type of each tree, the final sale price for each tree, and the name and address of the seller. The City may accept a legible electronic copy or facsimile in lieu of the original proof of purchase or receipt.

**d Tree Care Pledge.** The applicant shall agree to provide adequate water and care during a two-year period following the planting of each tree.

**e Tree Verification Audit.** The applicant shall authorize City staff to enter the subject property to verify the planting and care of trees that qualified for the Treebate Program.

**f Public Database Records.** The applicant shall authorize the City to include the subject property in GIS and other public database systems.

**g Proof of Authority.** If the applicant is a tenant of the subject property, the Treebate application must include written consent for the planting of trees on the subject

property, signed by the property owner. The written consent must identify the subject property, describe the location of planted trees, and contain a statement that the property owner authorizes the planting of trees as described in the application.

## **7 Treebate Award**

The City shall award Treebates based on available resources and funding authority. The City may defer the awarding of a Treebate until the start of a new fiscal year or accounting period in the event that a valid application is received after available resources have been exhausted. The City may also delay the awarding of a Treebate if technical updates and/or issues interrupt the regular processing schedule. The City shall not adjust the value of the Treebate or increase the Treebate award by adding accrued interest for the period of the delay.

## **8 Method of Payment.**

The City shall provide the Treebate in the form of a credit or adjustment to the City utility account of the subject property described in the Treebate application. The credit shall be applied to the stormwater management user service charges portion of the utility bill. For administrative convenience and efficiency, the City may accumulate accepted Treebate applications and process them in weekly or monthly batches. The City shall not issue Treebates payments by cash or warrant.

## **9 Site Visits for Tree Verification Audits.**

For the purpose of administering the Treebate Program, City staff may, upon production of proper identification and with consent from the property owner or occupant who submitted the application, enter upon the land or premises of eligible property. The purpose of such entry is to determine the eligibility of trees that are the subject of a Treebate application, to determine if the applicant has provided sufficient water and care as required by the Treebate Program, and to provide technical assistance regarding the proper siting, planting and care of yard trees. Failure to provide access to the property shall be a violation of the requirements of the Treebate Program. City staff shall prepare a report of findings of every site visit and provide, upon request, a written copy to the applicant within 30 days of the site visit. The City shall retain a copy of such report.

## **10 Remedies**

The City shall administer the Treebate Program in a manner that ensures the efficient and effective use of public resources to advance the goals of the program. To this end the City may exercise the following remedies.

- a False Filings.** In the event that an applicant files false information to receive a Treebate or files a duplicate application for a Treebate, the City shall recover any Treebates that have been awarded to the applicant for any property, plus accrued interest at a simple annual rate of 10%, and any penalty for false filing authorized by state law. The City shall provide a hearing to consider testimony from the applicant before making a final determination in such matters.
- b Failure to Comply with Application Requirements.** The City is authorized to recoup a Treebate award, plus accrued simple interest at a rate of 10% per annum, if the City determines that the applicant has failed to comply with program requirements. The City shall provide a hearing to consider testimony from the applicant before making a final determination in such matters.

- c Collections.** The City is authorized to employ any legal means to recoup Treebates, accrued interest, civil penalties, collection costs and related overhead that are imposed on an applicant as a result of a hearing to determine remedies for false filings or failures to comply with program requirements.
- d Disqualification.** The City may permanently disqualify an applicant or a property from participation in the Treebate Program as a remedy for a violation of the program requirements or administrative rules.

**11 Termination of Program.** The City shall terminate the Treebate Program on June 30, 2013, unless otherwise continued by Council by adoption of a general ordinance. The program shall cease accepting Treebate applications and terminate the program at any time prior to June 30, 2013 as a result of any of the following actions:

- a** Council adopts an ordinance terminating the program in advance of June 30, 2013.
- b** The City achieves the goals of the program in advance of the planned termination date.
- c** The City exhausts any appropriations or credit authority provided by Council.