

RESOLUTION NO. 9068-19

BY: BULLOCK

A RESOLUTION establishing a program on certain streets in Lakewood to enable the City to plant street trees on front lawns of private properties, contingent upon a signed contract with the property owner.

WHEREAS, the City of Lakewood has established tree canopy goals to improve property values, lower energy bills, manage stormwater, and beautify neighborhoods, among other benefits of street trees; and

WHEREAS, to attain those goals, it is necessary to maximize the number of planting sites for City-planted street trees; and

WHEREAS, upon certain streets in Lakewood, the tree lawn is too narrow to allow for viable planting and establishment of street trees, or utility poles and wires and other obstacles prevent the same; and

WHEREAS, in a spirit of equity, property owners on those streets ought to be afforded the same opportunity to receive a City-purchased and -planted street tree, if they agree to it; and

WHEREAS, this program is a means to achieve the above-named goals; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power of local self-government, and the power to enact laws that are for the health, safety, welfare; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The City hereby establishes a program on certain streets in Lakewood to enable the City to plant street trees on front lawns of privately-owned properties where permission from the owner is granted and contingent upon a contract signed by both the City and said owner specifying the terms of the agreement, including such details as the location of the tree and obligations of each party for planting and care, with the contract substantially in the form attached hereto as **Exhibit A**.

Section 2. The streets eligible for this program shall be annually designated and communicated to Council by the Director of Public Works or his or her designee. The primary factors for inclusion of a street in this program shall be the lack of availability of viable street tree planting sites on tree lawns of a street due to their narrowness, the presence of obstacles to planting or viability, or both.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council

and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Adopted: \_\_\_\_\_

\_\_\_\_\_  
President

\_\_\_\_\_  
Clerk

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Exhibit A

*[See attached agreement.]*

## **“OPT-IN” AGREEMENT FOR PLANTING OF TREES ON PRIVATE PROPERTY BY THE CITY OF LAKEWOOD**

This Agreement is made on the day of \_\_\_\_\_, by and between the City of Lakewood (“City”) and \_\_\_\_\_ (“Owner”).

### **1. PURPOSE:**

The City has developed a program whereby the City has agreed to plant a tree on private property (front yard location only) in order to improve and increase the City’s urban tree canopy cover. Owner’s property does not have the minimum required tree lawn space within which to plant a tree. Therefore, Owner’s property has been identified as a location on which to plant a tree so that mutual ecological benefits can be delivered to both the City and Owner.

### **2. TERMS AND CONDITIONS:**

The City and the Owner agree to the following terms and conditions:

A. The City will plant, free of charge, an appropriate urban shade tree as designated by the City at the following property address: \_\_\_\_\_.

B. The City will not plant a tree on private property within 5 feet of any public sidewalk to allow for adequate root space and no further than 10 feet from the public sidewalk UNLESS overhead utilities warrant a tree to be planted farther back from the sidewalk. Owner may designate planting site in coordination with City within these parameters.

C. The City shall have the sole discretion to decide the date and the planting season in which the tree will be planted and the selection of shade tree species. Owner may choose tree species to be planted from a group of City-approved tree selections. Small and/or ornamental trees are excluded from this private property planting program.

D. The City agrees to replace, free of charge, any tree that becomes damaged, diseased or dies within the one-year warranty period from the date of planting.

E. The owner will provide adequate watering of tree during the one-year warranty period and within its first two years after planting to help establish the tree root system and optimum growth rate. If a tree dies from lack of water, it will not be replaced.

F. The City will install deer protection around the tree trunk if the planting location is within the deer protection zones of the City or known by the City to have had deer damage to trees. Deer protection should remain on the tree for a minimum of five years until the tree has developed a more substantial trunk to withstand deer antler rubbing.

G. After one year, the City will remove the stakes installed from tree and the Owner will have the obligation to maintain the tree from that point forward. Maintenance includes but is not limited to (1) pruning the tree so that branches and leaves do not obstruct the public way, and (2) removing hazardous conditions to prevent injury to the public.

**Please Note: THE CITY DOES NOT MAINTAIN TREES ON PRIVATE PROPERTY, WITH THE EXCEPTION OF KEEPING THE RIGHT-OF-WAY CLEAR OF LOW HANGING LIMBS OR REMOVING HAZARDOUS LIMBS THAT MAY BE PRESENT OVER THE PUBLIC RIGHT-OF-WAY.**

H. The Owner agrees to hold harmless, defend, and indemnify the City, its officials, agents and assigns, from and against any claim, loss, damage, obligation, liability, expense, suit, late charge or cost of any kind or amount whatsoever including, without limitation, reasonable attorneys' fees, resulting from or arising out of any liabilities that relate to the planting of a tree(s) on the Owner's property.

**Please Note: IT IS THE OWNER'S RESPONSIBILTIY TO LOCATE AND MARK ANY UNDERGROUND SPRINKLER SYSTEM THAT MAY BE PRESENT WITHIN THE PROPOSED PLANTING SITE.**

IN WITNESS WHEREOF, the parties have executed this agreement for the reasons stated herein and on the date(s) so noted below.

Date: \_\_\_\_\_

\_\_\_\_\_  
Property Owner

Date: \_\_\_\_\_

\_\_\_\_\_  
Director of Public Works

**APPROVED AS TO LEGAL  
FORM AND CORRECTNESS:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Law Director