

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Urban Forest Preservation Act of 2002 to provide that the restrictions related to Special Trees and Heritage Trees apply to the District government, to require, before the issuance of certain permits, a property owner to provide certain information to the Mayor about trees on the property for which the permit is being sought and trees on adjacent properties if those trees' critical root zones extend into the property for which the permit is sought, to require certain property owners to submit a Tree Preservation Plan to ensure that permitted work would not lead to a violation of the Urban Forest Preservation Act of 2002, to clarify that a tree may be removed when removal is necessary to address a hazard posing an imminent and substantial threat to the health and safety of persons at the property, to authorize the Mayor to issue stop work orders to preserve Special Trees and Heritage Trees, to authorize the Mayor to revoke certain permits where the negligent, willful, or reckless actions of a person or entity result in harm to a Special Tree or Heritage Tree in violation of the Urban Forest Preservation Act of 2002, to require the Mayor to deny a construction permit to an applicant where the owner, applicant, general contractor, construction manager, home improvement contractor, arborist, landscape architect, tree removal specialist, or responsible officer willfully or recklessly violated the Urban Forest Preservation Act of 2002 within the past 3 years, to require the Mayor to revoke the business license of a person or entity who, while operating under such license, willfully or recklessly violates the Urban Forest Preservation Act of 2002, to increase the penalty for violations of the Urban Forest Preservation Act of 2002 when a person hires a person to perform landscape architecture, arborist, or tree removal services with knowledge that the person hired to perform such services does not have a required license; and to amend An Act To establish a code of law for the District of Columbia to require all contracts drawn for the purpose of conveying real property in the District of Columbia to contain, if there is a Heritage Tree on the property, a notation that the Heritage Tree is located on the property and that there are restrictions on the ability of property owners to remove Heritage Trees.

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BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Urban Forest Preservation Authority Amendment Act of 2022”.

Sec. 2. The Urban Forest Preservation Act of 2002, effective June 12, 2003 (D.C. Law 14-309; D.C. Official Code § 8-651.01 *et seq.*), is amended as follows:

(a) Section 102 (D.C. Official Code § 8-651.02) is amended as follows:

(1) A new paragraph (1A) is added to read as follows:

“(1A) “Critical root zone” means the area of soil within a circle circumscribed around a tree’s trunk using a radius, measured in inches, determined by multiplying the number of inches in the tree diameter, measured via a method determined by the Mayor, by no less than 18.”.

(2) A new paragraph (8) is added to read as follows:

“(8) “Tree Preservation Plan” means:

“(A) A site plan that indicates the location of:

“(i) Permitted work or work staging areas;

“(ii) The critical root zones of all Special Trees or Heritage Trees on site; and

“(iii) The critical root zones of all Special Trees or Heritage Trees on adjacent properties if those critical root zones extend into the property for which the permit is sought; and

“(B) A description of the protective measures necessary to preserve the Special Trees or Heritage Trees.”.

(b) Section 103(b) (D.C. Official Code § 8-651.03(b)) is repealed.

(c) Section 104(a) (D.C. Official Code § 8-651.04(a)) is amended by striking the phrase “person or nongovernmental entity” and inserting the phrase “person or entity, including the District government” in its place.

(d) Section 104a(a) (D.C. Official Code § 8-651.04a(a)) is amended by striking the phrase “person or nongovernmental entity” and inserting the phrase “person or entity, including the District government” in its place.

(e) A new section 104b is added to read as follows:

“Sec. 104b. Tree Preservation Plans.

“(a) Before the issuance of a permit listed in subsection (d) of this section, the property owner or the property owner’s agent shall submit a declaration, in a form prescribed by the Mayor, to the Mayor specifying:

“(1) All trees on the property for which the permit is being sought, and whether those trees are Special Trees or Heritage Trees; and

“(2) All trees on adjacent properties if those trees’ critical root zones extend into the property for which the permit is sought, and whether those trees are Special Trees or Heritage Trees.

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“(b) After reviewing a declaration submitted pursuant to subsection (a) of this section, if the Mayor determines that the work for which the permit is sought is likely to result in a violation of this act, the Mayor shall provide notice to the property owner and to the Department of Consumer and Regulatory Affairs, requiring the property owner or the property owner’s agent to submit to the Mayor a Tree Preservation Plan, in a form prescribed by the Mayor, for the Mayor’s approval.

“(c) The Mayor shall approve a Tree Preservation Plan if the Mayor determines that the Tree Preservation Plan would adequately ensure that the permitted work would not lead to a violation of this act. If the Mayor does not approve a Tree Preservation Plan, the property owner may submit a revised Tree Preservation Plan for approval.

“(d) The following permits shall not be issued until the property owner complies with this section:

- “(1) Addition alteration permit;
- “(2) Alteration and repair permit;
- “(3) Awning permit;
- “(4) Deck permit;
- “(5) Demolition permit;
- “(6) Excavation only permit;
- “(7) Fence permit;
- “(8) Foundation permit;
- “(9) Garage permit;
- “(10) New building permit;
- “(11) Retaining wall permit;
- “(12) Raze permit;
- “(13) Scaffolding permit;
- “(14) Shed permit;
- “(15) Sheeting and shoring permit;
- “(16) Sign permit;
- “(17) Soil boring permit;
- “(18) Solar panel permit;
- “(19) Special sign permit;
- “(20) Swimming pool permit;
- “(21) Tower crane permit;
- “(22) Underground storage tank; and
- “(23) Other permits identified by the Mayor by rule.”.

(f) Section 106(a) (D.C. Official Code § 8-651.06(a)) is amended by striking the period and inserting the phrase “or from removing a tree when removal is necessary to address a hazard posing an imminent and substantial threat to the health and safety of persons at the property.” in its place.

(g) Section 108 (D.C. Official Code § 8-651.08) is amended as follows:

(1) The existing text is designated as subsection (a).

(2) New subsections (b), (c), (d), (e), and (f) are added to read as follows:

“(b)(1) The Mayor may issue a stop work order, which, upon service, would mandate the cessation or holding of work, if the Mayor finds that any work is being performed, or may be performed imminently, in violation of the provisions of this act. A stop work order under this subsection shall be in writing and in a form prescribed by the Mayor.

“(2) A stop work order under this subsection shall contain:

“(A) The reason for the stop work order;

“(B) The conditions under which the cited work will be permitted to resume;

“(C) The address of the property;

“(D) The specific areas of the property and specific activities covered by the stop work order;

“(E) The specific section of this act that was violated or that may be imminently violated; and

“(F) A description of the right to request review of the stop work order under paragraph (6) of this subsection, information on how to request such review, and the deadline to file such a request.

“(3) No stop work order under this subsection shall be issued or considered valid unless it contains all of the information specified in paragraph (2) of this subsection and the signature of the issuing official.

“(4) The Mayor shall effect service of a stop work order by:

“(A) Personal service on the property owner or on the property owner’s agent; or

“(B) Posting the stop work order in a conspicuous location on the property subject to the stop work order.

“(5) The Mayor may require, as a condition of lifting the stop work order, a property owner subject to a stop work order under this subsection to:

“(A) Implement an approved Tree Preservation Plan pursuant to section 104b; or

“(B) Sign a written statement acknowledging the requirements of this act, agreeing not to illegally remove any Special Trees or Heritage Trees after the stop work order is lifted, and acknowledging the penalties to which the property owner may be subject upon violation of this act.

“(6)(A) No later than 10 business days after receiving notice of a stop work order, the property owner or the property owner’s agent may request review by the Mayor on a form provided by the Mayor and shall state, in writing, the grounds for the requested review.

“(B) Upon receipt of a request for review that complies with subparagraph

(A) of this paragraph, the Mayor shall affirm, modify, or reverse the stop work order within 15 business days after receipt of the request. If the Mayor does not act upon the review request within the 15 business day period, the stop work order shall be lifted. A decision of the Mayor under this subparagraph shall be a final decision on the specific issue in the review request.

“(C) The property owner or the property owner’s agent may appeal a final decision of the Mayor, or portion thereof, under subparagraph (B) of this paragraph by filing an appeal with the Office of Administrative Hearings within 10 business days after the date the property owner or the property owner’s agent receives notice of the final decision.

“(7) Before a stop work order under this subsection is issued, the Mayor may issue a warning notice to the property owner or the property owner’s agent.

“(8) A violation of a stop work order issued under this subsection shall constitute a violation of this act.

“(9) Whenever it appears that any person has violated, or is about to violate, a stop work order issued under this subsection, the Office of the Attorney General for the District of Columbia may bring an action in the Superior Court of the District of Columbia for injunctive relief.

“(10) The Mayor shall notify the Department of Consumer and Regulatory Affairs or the Department of Buildings, within 5 days after the Mayor issues or lifts a stop work order under this subsection, of the address of the impacted property and the scope of the stop work order.

“(c) Where the negligent, willful, or reckless actions of a person or entity result in harm to a Special Tree or Heritage Tree in violation of this act, and where that Special Tree or Heritage Tree would have been ineligible for a removal permit under this act, the Mayor may revoke any permit listed in section 104b(d) at the site where the violation occurred.

“(d)(1)(A) The Mayor shall deny a construction permit application under the Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1401 *et seq.*), to an applicant where the owner, applicant, general contractor, construction manager, home improvement contractor, arborist, landscape architect, tree removal specialist, or responsible officer willfully or recklessly violated this act within the prior 3 years, except to the extent necessary to address a hazard posing an imminent and substantial threat to the health and safety of persons at the property.

“(B) Subparagraph (A) of this paragraph shall only apply to willful and reckless violations that occur after the effective date of this act.

“(2) The Mayor shall revoke, for 2 years, any license issued under Subchapter I-A or Subchapter I-B of Chapter 28 of Title 47 of the District of Columbia Official Code held by a person or entity who, while operating under such license, willfully or recklessly violates this act.

“(e) Any person aggrieved by a final decision or order of the Mayor under subsection (c) or subsection (d) of this section may appeal the decision or order to the Office of Administrative Hearings within 30 business days after the Mayor issues the decision or order.

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“(f) The enforcement measures described in subsections (b), (c), and (d) of this section may be used in addition to, or instead of, imposing a civil fine, penalty, or fee under subsection (a) of this section.

“(g) The Mayor shall impose a penalty equivalent to triple the amount otherwise imposed under this act on a person who hires a person or entity to perform landscape architecture, arborist, or tree removal services if:

“(1) The person knows that the person or entity hired to perform such services does not have a license required under Subchapter I-B of Chapter 28 of Title 47 of the District of Columbia Official Code; and

“(2) The person or entity hired to perform such services violates this act.”.

Sec. 3. Section 510(b) of An Act To establish a code of law for the District of Columbia, effective March 3, 1901 (31 Stat. 1269; D.C. Official Code § 42-608(b)), is amended as follows:

(a) Paragraph (1) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(b) Paragraph (2) is amended by striking the period and inserting the phrase “; and” in its place.

(c) A new paragraph (3) is added to read as follows:

“(3) If there is a Heritage Tree, as that term is defined in section 102(3A) of the Urban Forest Preservation Act of 2002, effective June 12, 2003 (D.C. Law 14-309; D.C. Official Code § 8-651.02(3A)), on the property, a notation that the Heritage Tree is located on the property and that there are restrictions on the ability of property owners to remove Heritage Trees.”.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (12 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia