



**COUNCIL OF THE DISTRICT OF COLUMBIA
THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004**

Charles Allen
Councilmember, Ward 6
Chairperson
Committee on Transportation and the Environment

Committee Member
Business and Economic Development
Health
The Judiciary & Public Safety

November 15, 2023

Nyasha Smith, Secretary
Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Secretary Smith:

Today, along with Councilmembers Vincent C. Gray and Zachary Parker, I am introducing the ***“Protecting Historic Homes Amendment Act of 2023”***. Please find enclosed a signed copy of the legislation.

When the Council passed the Historic Landmark and Historic District Protection Act of 1978 (“Act”), it declared “as a matter of public policy that the protection, enhancement, and perpetuation of properties of historical, cultural, and esthetic merit are in the interests of the health, prosperity, and welfare, of the people of the District of Columbia.” The Act set up the District’s current historic preservation framework, which tasks the Historic Preservation Review Board, within the Office of Planning (“OP”), with reviewing proposed construction for compatibility with the character of a historic district or neighborhood and OP with general enforcement. A property owner who fails to obtain or stay within the scope and conditions of a building permit for a historic property may be subject to a \$4,187 civil infraction, which is the civil infraction imposed on Class 1 violations under the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985.

After a historic home was nearly demolished in the Capitol Hill neighborhood earlier this year, I reached out to the Office of Planning to learn more about the District’s enforcement of historic preservation laws. Importantly, I learned that fines imposed for violations of the District’s historic preservation laws are not nimble enough to account for the severity of the violation and can easily be absorbed as a cost of doing business by a property owner. For example, I learned that the \$4,187 civil infraction covers all conduct ranging from a violation of repointing, or repairing the joints in brickwork, to outright demolition and substantial alterations of a historic home. Without a sufficient deterrent mechanism in place, a property owner can easily absorb the cost of the \$4,187 civil infraction, and that in turn, results in a destroyed historic home and diminished

historic district. I'll note that Advisory Neighborhood Commission 6B has met frequently to discuss observations and issues with the enforcement structure of our historic preservation laws.

This legislation amends the Historic Landmark and Historic District Protection Act of 1978 to provide that civil fines, penalties, or fees assessed by the Historic Preservation Office, and governed by the fine schedule issue pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, be variable by degree of severity and not be more than \$10,000 per violation. For instances where there is substantial demolition, alteration, or new construction, this legislation would create a new civil penalty that will be variable by degree of severity and start off at \$10,000 and not be more than \$100,000 per violation. This new penalty seeks to prevent historic homes in a district from being unrecoverable and lost. Overall, these changes will allow OP to protect historic homes in the District that give historical, cultural, and aesthetic value to our neighborhoods.

Please feel free to reach out to me or my Legislative Director, Antonio Nunes, with any questions or for additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charles Allen", with a stylized, cursive script.

Councilmember Charles Allen, Ward 6
Chairperson, Committee on Transportation & the Environment
Vice Chair, Metropolitan Washington Council of Governments

1 Vincent C. Gray
2 Councilmember Vincent C. Gray

Charles Allen
Councilmember Charles Allen

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4 Zachary Parker
5 Councilmember Zachary Parker
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10 A BILL
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15 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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20 To amend the Historic Landmark and Historic District Protection Act of 1978 to protect historic
21 homes by ensuring that civil fines, penalties, or fees assessed by the Historic Preservation
22 Office account for the severity of the violation, start at the amount set for a Class 1
23 violation and not be more \$10,000 per violation, and to require that civil fines, penalties,
24 or fees assessed for substantial demolition, alternation, or new construction account for
25 the severity of the violation and start at \$10,000 but not be more than \$100,000 per
26 violation.
27

28 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
29 act may be cited as the “Protecting Historic Homes Amendment Act of 2023”.

30 Sec. 2. Section 11(c) of the Historic Landmark and Historic District Protection Act of
31 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code § 6-1110(c)), is amended to
32 read as follows:

33 “(c)(1) Civil fines, penalties, and fees may be imposed as alternative sanctions for any
34 infraction of the provisions of this subchapter, or any rules or regulations issued under the
35 authority of this subchapter, pursuant to titles I-III of the Department of Consumer and
36 Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42;
37 D.C. Official Code § 2-1801.01 *et seq.*).

38 “(2)(A) Civil fines, penalties, and fees imposed for any infraction of the
39 provisions of this subchapter, or any rules or regulations issued under the authority of this
40 subchapter, pursuant to title I-III of the Department of Consumer and Regulatory Affairs Civil
41 Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-
42 1801.01 *et seq.*), shall:

43 “(i) Account for the severity of the violation; and

44 “(ii) Not exceed \$10,000 per violation; and

45 “(B) Notwithstanding subparagraph (A), civil fines, penalties, and fees for
46 substantial demolitions, alterations, or new construction shall:

47 “(i) Account for the severity of the violation; and

48 “(iii) Start at \$10,000 per violation but not exceed \$100,000 per
49 violation.

50 “(3) Adjudication of any infraction of this subchapter shall be pursuant to titles I-
51 III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,
52 effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*)”.

53 Sec. 3. Fiscal impact statement.

54 The Council adopts the fiscal impact statement in the committee report as the fiscal
55 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
56 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

57 Sec. 4. Effective date.

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

61 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
62 Columbia Register.