

AN ACT

*Codification
District of
Columbia
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To establish an urban forest preservation program; to require a Special Tree removal permit and community notification prior to the removal or replacement of a tree with a circumference of 55 inches or more, to establish a Tree Fund to be used to plant trees and defray costs associated with the implementation of this act; to amend An Act For the preservation of the public peace and the protection of property within the District of Columbia to revise penalties for injuring trees on public space and private property; and to repeal section 847 of An Act To establish a code of law for the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Urban Forest Preservation Act of 2002".

TITLE I. URBAN FOREST PRESERVATION.

Sec. 101. Findings.

(a) The urban forest of the District of Columbia, growing on both public and private land, is one of the District's great natural resources.

(b) A healthy, vibrant urban forest provides numerous environmental benefits, including:

- (1) Heat island effect mitigation and reduced energy use;
- (2) Better air quality and reduced water pollution; and
- (3) Quieter and more beautiful neighborhoods.

(c) The trees comprising the urban forest have significant aesthetic value, which enhances property values and the quality of life in neighborhoods throughout the District.

Sec. 102. Definitions.

For the purposes of this title, the term:

(1) "Circumference" means the linear distance around the trunk of a tree, when measured at a height of 4½ feet.

(2) "Director" means the Director of the Department of Transportation.

(3) "Hazardous tree" means a tree that, in the opinion of a certified arborist, is defective, diseased, dying, or dead and should be removed; poses a high risk of failure or

fracture with the potential to cause injury to people or damage to property and should be removed; or is causing damage to property or structures that cannot be mitigated in any manner other than removal of the tree. In any case, the Mayor shall have the authority to determine that a tree is not hazardous.

(4) "Public parking" means that area of public space devoted to open space, greenery, parks, or parking that lies between the property line, which may or may not coincide with the building restriction line, and the edge of the actual or planned sidewalk that is nearer to the property line, as the property line and sidewalk are shown on the records of the District.

(5) "Special Tree" means a tree with a circumference of 55 inches or more.

(6) "Top" means, as defined by the latest edition of the ANSI-A300 pruning standards, the unacceptable act of tree pruning resulting in the indiscriminate reduction of the tree's crown leading to disfigurement or death of the tree.

(7) "Tree Fund" means the Tree Fund established pursuant to section 107.

Sec. 103. Urban Forest Preservation Program.

(a)(1) There is hereby established an Urban Forest Preservation Program for the District of Columbia which shall be administered by the Mayor. The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall promulgate standards and regulations governing the administration of this program and the protection of trees.

(2) The regulations shall allow public utility companies regulated by the Public Service Commission to conduct utility construction, line maintenance, and emergency work within the District's rights-of-way without a Special Tree removal permit otherwise required by this title.

(b) The Mayor shall transmit the regulations prescribed in subsection (a) of this section to the Council no later than 270 calendar days following the effective date of this act for approval or disapproval, by resolution. These regulations and each revision of these regulations shall be transmitted to the Council for a 45-day review period, excluding Saturdays, Sundays, holidays and periods of Council recess, and deemed disapproved in the absence of Council action within the 45-day review period.

(c) The Mayor shall be responsible for preparing and annually updating a 5-year urban forest report and master plan.

Sec. 104. Preservation of Special Trees; permits; penalties.

(a) It shall be unlawful for any person or nongovernmental entity, without a Special Tree removal permit issued by the Mayor, to Top, cut down, remove, girdle, break, or destroy any Special Tree.

(b) The Mayor shall issue a Special Tree removal permit under this section where the applicant has:

(1) Shown that the Special Tree in question is a Hazardous Tree;

(2) Shown that the Special Tree in question is of a species that has been identified, by regulation, as appropriate for removal;

(3) Paid into the Tree Fund an amount equal to \$35 for each inch of the circumference of the Special Tree in question; or

(4) Averred in a signed Special Tree removal permit application that the applicant will plant, in compliance with the applicable regulations, a quantity of saplings whose aggregated circumference equals or exceeds the circumference of the Special Tree in question.

(c) The showings required by subsection (b) of this section may be satisfied by a combination of payments and plantings pursuant to subsection (b)(3) and (b)(4) of this section.

(d) A violation of subsection (a) of this section, or a failure to comply with the conditions contained in a Special Tree removal permit, shall constitute a violation subject to a fine of not less than \$100 per each inch of the circumference of the Special Tree in question.

Sec. 105. Notification requirements for removal of trees on public space.

(a) Unless the tree is a Hazardous Tree, before removing a tree on public space, the Director shall provide not less than 15 days written notice to the affected Advisory Neighborhood Commission, and shall set forth the reason for the proposed removal.

(b) Public utility companies shall provide not less than 20 days written notice to the Director or his or her designee prior to performing any work which affects trees on public space, except for permitted utility construction or emergency work conducted by a public utility company regulated by the Public Service Commission, as provided in section 103(a).

Sec. 106. Hazardous Trees

(a) Nothing in this title shall prohibit the Mayor or a property owner from immediately removing a Hazardous Tree.

(b) No property owner shall permit a tree or tree part, dead or alive, to stand on his or her property, including the public parking area associated with that property if it is a hazard to the public at-large, or endangers any public improvement or other public facility.

(c) If the Mayor identifies a tree hazard as described in subsection (b) of this section, the Mayor shall notify the property owner of the hazardous situation, and shall give the property owner not less than 10 days written notice, excluding Saturdays, Sundays, and legal holidays, to eliminate the hazard.

(d) Where the District has notified a property owner of a hazard and no action is taken by the property owner to eliminate the hazard, the Mayor may take corrective action to abate the hazard. The Mayor shall then send the property owner a bill for the cost of the abatement action including any administrative costs incurred by the District. If the bill remains unpaid after 60-days, it shall become a tax lien against the property.

Sec. 107. Tree Fund.

(a) There shall be established a fund designated as the Tree Fund, which shall be a sub-fund of the Local Road Construction and Maintenance Fund and separate from the General Fund of the District of Columbia. Monies deposited into the Tree Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this pursuant to an act of Congress. Donations, fees and penalties collected pursuant to this act or any rules established to implement this act shall be deposited into the Tree Fund. All receipts shall be deposited as soon as practicable. The Director shall maintain the fund in coordination with the Chief Financial Officer of the District of Columbia.

(b) The Fund shall be used to plant trees and for any associated costs incurred by the District in administering this title, and may include providing income contingent subsidies that assist District residents with the removal costs of hazardous trees in accordance with regulations provided for in section 103.

(c) The Chief Financial Officer shall submit to the Mayor and to the Council an annual statement of all receipts and disbursements for the Fund.

(d) Private voluntary donations to the Fund shall be tax deductible for purposes of District income and franchise taxes.

Sec. 108. Enforcement.

Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this title, or any regulations issued under the authority of this title, pursuant to Titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Code § 2-1801.01 *et seq.*) ("Civil Infractions Act").

TITLE II. PROTECTION OF TREES AS PROPERTY.

Sec. 201. Section 13 of An Act For the preservation of the public peace and the protection of property within the District of Columbia, approved July 29, 1892 (27 Stat. 324; D.C. Official Code § 22-3310), is amended to read as follows:

Amend
§ 22-3310

"Sec. 13. It shall be unlawful for any person willfully to top, cut down, remove, girdle, break, wound, destroy, or in any manner injure any vine, bush, shrub, or tree not owned by that person, or any of the boxes, stakes or any other protection thereof, under a penalty not to exceed, for each and every such offense:

(a) In the case of any tree 55 inches or greater in circumference when measured at a height of four and one half feet, \$15,000 or imprisonment for not more than 90 days, or both, or

(b) For vines, bushes, shrubs, and smaller trees, \$5,000 or imprisonment for not more than 30 days, or both."

Sec. 202. Section 847 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1327; D.C. Official Code § 22-3308) is repealed.

Repeal
§ 22-3308

TITLE III. FISCAL IMPACT STATEMENT, EFFECTIVE DATE.

Sec. 301. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 302. 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 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia