



United States Department of State

Washington, D.C. 20520

September 16, 2022

NOTICE

DDOT “Special Tree” Permit

The Department of State wishes to share with all foreign missions information regarding changes to the District of Columbia’s Special Tree Law (D.C. Code 8-651.01, et seq) per the passage of the Urban Forest Preservation Authority Amendment Act of 2022 (UFPAAA). The Act was passed by D.C. Council on June 28, 2022, and went into effect on August 16, 2022.

The Special Tree Law provides protections to trees over 44” circumference in the District of Columbia, which it classifies as Special Trees. Trees over 100” circumference are classified as Heritage Trees and are afforded additional protections. Under the law, permits are required for the removal of Special or Heritage Trees, and prescribes a fee, calculated per inch of circumference, to be paid for the removal of Special Trees.

All applicants for a Special Tree Permit may elect to have the proposed removal inspected by a District Department of Transportation, Urban Forestry Division (DDOT-UFD) arborist, who will coordinate a site visit with the property owner. Applicants may also have proposed removals evaluated by a third-party arborist, hired by the applicant, who can transmit a report of the findings to DDOT-UFD for evaluation.

More information regarding this matter can be found at: [B24-0444 - Urban Forest Preservation Authority Amendment Act of 2021 \(dccouncil.gov\)](#) and the enclosed attachment from DDOT.

Questions regarding this may be directed to John O’Neill, Lead Forester, at john.oneill@dc.gov.

<https://code.dccouncil.us/dc/council/code/titles/8/chapters/6B/>

[§ 8–651.01. Findings.](#)

[§ 8–651.02. Definitions.](#)

[§ 8–651.03. Urban Forest Preservation Program.](#)

[§ 8–651.04. Preservation of Special Trees; permits; penalties.](#)

[§ 8–651.04a. Protection of Heritage Trees.](#)

[§ 8–651.05. Notification requirements for removal of trees on public space.](#)

[§ 8–651.06. Hazardous Trees.](#)

[§ 8–651.07. Tree Fund.](#)

[§ 8–651.08. Enforcement.](#)

[§ 8–651.09. Urban Forestry Advisory Council.](#)

§ 8–651.01. 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.

§ 8–651.02. Definitions

For the purposes of this chapter, the term:

(1) “Circumference” means the linear distance around the trunk of a tree, when measured at a height of 4 1/2 feet.

(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) “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.

(3A) "Heritage Tree" means a tree with a circumference of 100 inches or more.

(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 between 44 inches and 100 inches.
- (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 [§ 8-651.07](#).
- (8) “Tree Preservation Plan” means:
- (A) A site plan that indicates the location of:
 - (i) Permitted work or 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 of Heritage Trees.

§ 8–651.03. 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 [subchapter I of Chapter 5 of Title 2](#), 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 chapter.
- (b) The Mayor shall be responsible for preparing and annually updating a 5-year urban forest report and master plan.

§ 8–651.04. Preservation of Special Trees; permits; penalties.

(a) It shall be unlawful for any person or entity, including the District government, 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; or

(3) Paid into the Tree Fund an amount not less than \$55 for each inch of the circumference of the Special Tree in question.

(4) Repealed.

(c) Repealed.

(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 \$300 per each inch of the circumference of the Special Tree in question.

(e) The Mayor may increase the fee described in subsection (b)(3) of this section or the fine described in subsection (d) of this section by regulation.

§ 8–651.04a. Protection of Heritage Trees.

(a) It shall be unlawful for any person or entity, including the District government, without a Heritage Tree removal permit issued by the Mayor, to top, cut down, remove, girdle, break, or destroy any Heritage Tree.

(b)(1) The Mayor shall issue a Heritage Tree removal permit under this section where the applicant has:

(A) Shown that the Heritage Tree in question is a Hazardous Tree; or

(B) Shown that the Heritage Tree in question is of a species that has been identified, by regulation, as appropriate for removal.

(2) The Mayor may issue a Heritage Tree removal permit under this section where the applicant has averred in the Heritage Tree removal permit application that the applicant will relocate and replant, in compliance with any applicable regulations, the Heritage Tree to an identified new location within the District, without significant harm to the tree; provided, that it shall be a violation of subsection (a) of this section if a Heritage Tree that is relocated and replanted pursuant to this paragraph dies within 3 years of replanting.

(c) A violation of subsection (a) of this section, or a failure to comply with the conditions contained in a Heritage Tree removal permit, shall constitute a violation subject to a fine of not less than \$300 per each inch of the circumference of the Heritage Tree in question.

(d) The Mayor may increase the fine described in subsection (c) of this section by regulation.

§ 8-651.04b. 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;

(2) All trees on adjacent properties of 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.

(b) After reviewing a declaration submitted pursuant to subsection (a) of this section, of 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 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.”

§ 8–651.05. 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 [§ 8-651.03\(a\)](#).

§ 8–651.06. Hazardous Trees.

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

(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.

§ 8–651.07. 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 section pursuant to an act of Congress. Donations, fees and penalties collected pursuant to this chapter or any rules established to implement this chapter 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)(1) The Fund shall be used to:

(A) Plant trees on public space and on District-owned land, including parks and school property; and

(B) Provide income-contingent subsidies to assist District residents with costs related to the removal and replacement of hazardous trees.

(2) The Fund may be used:

(A) In coordination with the District Department of the Environment, to support tree planting on private land;

(B) To conduct survival checks of replacement trees planted on public or private land; and

(C) For any associated costs incurred by the District in administering [this chapter](#).

(b-1) The Mayor shall ensure that trees planted pursuant to this section are checked for survival at appropriate intervals to evaluate canopy replacement and inform future planting decisions.

(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.

§ 8–651.08. Enforcement.

(a) Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this chapter, or any regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2.

(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 nay 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.

(b)(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 a review, and the deadline to file such a request.

(b)(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.

(b)(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.

(b)(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

(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.

(b)(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.

(b)(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.

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

(b)(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 Attorney General for the District of Columbia may bring an action in the Superior Court of the District of Columbia for injunctive relief.

(b)(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 the his act, and where that Special 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 willfully and reckless violations that occur after the effective date of this act.

(d)(2) The Mayor shall revoke, for 2 years, ay 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.

(f) The enforcement measures described in subsections (b), (c), and (d) of this subsection ma 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.

§ 8–651.09. Urban Forestry Advisory Council.

- (a) There is established an Urban Forestry Advisory Council ("UFAC").
- (b) The UFAC shall be composed of 12 members, as follows:
 - (1) The Director of the District Department of Transportation, or the Director's designee;
 - (2) The Director of the District Department of the Environment, or the Director's designee;
 - (3) The Director of the Department of Parks and Recreation, or the Director's designee;
 - (4) The Director of the Department of General Services, or the Director's designee;
 - (5) The General Manager of District of Columbia Water and Sewer Authority, or the General Manager's designee;
 - (6) A representative of the U.S. National Park Service;
 - (7) A representative of the U.S. General Services Administration;
 - (8) A representative of the District's electric utility;
 - (9) Three community representatives appointed by the Mayor knowledgeable in the fields of urban forestry, public policy, environmental protection, public administration, or environmental justice and equity; and
 - (10) One community representative appointed by the Chairperson of the Council committee with oversight of the District Department of the Environment.
- (c)(1) The community representatives shall be appointed for a term of 3 years, with initial staggered appointments of one community representative appointed for one year, 2 community representatives appointed for 2 years, and one community representative appointed for 3 years. The community representative to serve the one-year term, the community representatives to serve the 2-year term, and the community representative to serve the 3-year term shall be determined by lot at the first meeting of the UFAC.
- (2) Vacancies shall be filled in the same manner as the original appointment to the position that became vacant. Community representatives who are appointed to fill vacancies that occur before the expiration of a community representative's full term shall serve only the unexpired portion of the community representative's term.

(d) The UFAC shall be co-chaired by the Director of the District Department of Transportation and the Director of the District Department of the Environment, or their designees. The UFAC may designate other officers and create temporary, ad-hoc committees as necessary.

(e)(1) The UFAC shall hold at least 3 meetings per year.

(2) The UFAC shall conduct its meetings in compliance with [subchapter IV of Chapter 5 of Title 2](#).

(f) The purpose of the UFAC shall be to:

(1) Ensure coordination between the District agencies responsible for achieving the District's tree canopy goals and partners engaged in programs and activities geared toward achieving those goals.

(2) Advise District agencies responsible for achieving the District's tree canopy goals regarding policies, programs, and partnerships for the purpose of maintaining, protecting, and increasing the District's tree canopy; and

(3) Provide input on the 5-year urban forest report and master plan required by [§ 8-651.03\(c\)](#).

(g) The District Department of Transportation and the District Department of the Environment shall provide the UFAC with an annual operating budget, which shall include funds to maintain a website where the UFAC shall provide a public listing of members, meeting notices, and meeting minutes.

§ 42–608. Covenant for further assurances; contracts to contain soil characteristics information.

(a) A covenant by a grantor, in a deed of land, “that he will execute such further assurances of said land as may be requisite,” shall have the same effect as if he had covenanted that he, his heirs or devisees, will, at any time, upon any reasonable request, at the charge of the grantee, his heirs or assigns, do, execute, or cause to be done and executed, all such further acts, deeds, and things, for the better, more perfectly and absolutely conveying and assuring the lands and premises conveyed unto the grantee, his heirs and assigns, as intended to be conveyed, as by the grantee, his heirs or assigns, or his or their counsel learned in the law, shall be reasonably devised, advised, or required.

(b) All contracts drawn for the purpose of conveying real property in the District of Columbia shall contain the following information:

(1) The characteristic of the soil on the property in question as described by the Soil Conservation Service of the United States Department of Agriculture in the Soil Survey of the District of Columbia published in 1976 and as shown on the Soil Maps of the District of Columbia at the back of that publication;

(2) A notation that for further information the buyer can contact a soil testing laboratory, the District of Columbia Department of Environmental Services or the Soil Conservation Service of the Department of Agriculture;

(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.