

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to amend the Urban Forest Preservation Act of 2002 to authorize the Mayor to issue stop work orders to preserve Special and Heritage Trees.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Urban Forest Preservation Stop Work Order Authority Emergency Declaration Resolution of 2022”.

Sec. 2. (a) Trees are an essential component of a sustainable city and provide us with a multitude of important benefits. These include better air and water quality, of particular relevance in the District, where one in six residents suffer from asthma—50% higher than the national average. Trees naturally help reduce stormwater runoff and combined sewer overflows, helping reduce the number of contaminants released into the Anacostia and Potomac Rivers and Rock Creek Park. They also reduce our burden under the District’s 2005 Consent Decree with the Environmental Protection Agency. Shade from our tree canopy saves energy, reduces urban heat island effects, and reduces the damaging effects of heat on asphalt, making our roads last longer. Further, trees have been shown to increase worker productivity, decrease the recovery time of hospital patients, and lead to stronger bonds between neighbors. Of course, trees also create jobs in planning, planting, and maintenance. Nearly all of these benefits are magnified by the size of the tree—older, taller trees create more of these benefits.

33 (b) With these benefits in mind, the District has taken drastic action to expand our tree  
34 canopy and protect existing trees. In the Sustainable DC Plan, the District set a goal of increasing  
35 the District’s Tree Canopy cover from 35 to 40% by 2032. While the District is nearing that goal,  
36 adding about 8,000 new trees per year, we are still shy of 40%; and, new tree plantings are  
37 almost exclusively young, immature trees that will not provide the full benefits of a mature tree  
38 for decades. Thus, to reach our goal, it is essential that we continue our work to protect existing  
39 mature trees, while increasing the overall tree count via aggressive annual plantings.

40 (c) With this in mind, in 2002, the District passed legislation to protect certain mature  
41 trees; since that time, the Council has acted to update and expand the protection is that law  
42 several times. Today, it is illegal to remove certain large, mature trees, called Special Trees or  
43 Heritage Trees, without a permit. The Urban Forestry Division (“UFD”) within the District  
44 Department of Transportation (“DDOT”) issues these permits; Special Tree removal permits  
45 may be obtained for any special tree where the permit seeker pays a fee; permits to remove a  
46 Heritage Tree may only be obtained where the tree is hazardous, or the applicant avers that she  
47 will relocate the tree. As noted, these laws exist to protect the District’s tree canopy, which  
48 provides innumerable benefits to the District.

49 (d) Currently, however, UFD’s only tool to enforce our tree protection laws is a monetary  
50 penalty. These fines are not *de minimis*: for the illegal removal of a Heritage Tree, for example, a  
51 property owner may be fined \$300 per inch of the tree’s circumference; as Heritage Trees are at  
52 their smallest 100 inches in circumference, fines start at \$30,000. For some property owners,  
53 these fines are dispositive, compelling them to follow the law either by changing their work  
54 plans to accommodate a protected tree, or working with an arborist to safely relocate the tree on  
55 the property.

56 (e) Unfortunately, fines alone are not always sufficient to the protect these trees and our  
57 tree canopy. It has become common practice with some property owners to cut down heritage  
58 and special trees, with these individuals seeing the fines as the “cost of doing business;” in fact,  
59 property owners may make no attempt to preserve these trees, simply incorporating the fines into  
60 the budget of the project. Just earlier this year, a property owner in the Takoma neighborhood of  
61 Ward 4 cut down a heritage tree and two special trees, despite UFD, the Metropolitan Police  
62 Department, and neighbors making clear to him that removal of the tree was illegal. The property  
63 owner was reported as saying, “I don’t care. Everybody does it, all developers do it. We pay the  
64 fines, nobody cares.” Clearly, fines alone are an insufficient tool to protect these trees. What’s  
65 more, the current scheme creates inequities: wealthier property owners are in effect allowed to  
66 remove trees at their leisure, as they can pay, while less affluent residents cannot, due to the high  
67 cost of the fine.

68 (f) UFD has long noted that a scheme in which their only tool to protect Special and  
69 Heritage Trees is a fine provides them no method to actually stop a tree from being illegally  
70 removed; the fines are inherently backward-looking, and can only penalize past behavior, not  
71 prevent the illegal actions from occurring in the first place. Providing UFD with the authority to  
72 issue a Stop Work Order where work appears poised to harm or destroy a Special or Heritage  
73 Tree will ensure that these trees are actually protected.

74 (g) Currently, the Committee on Transportation and the Environment is considering B24-  
75 444, the Urban Forest Preservation Authority Amendment Act of 2022, which would, among  
76 other legislative changes, provide UFD with the authority to issue stop work orders for work that  
77 would illegal harm or remove a protected tree. That legislation, however, will not be effective  
78 until it is marked up by the Committee, approved by the Council, and undergoes mayoral and

79 congressional review; thus, it could be several months before that bill becomes law, during  
80 which time numerous protected trees could be illegally removed or otherwise harmed.

81 (h) This emergency legislation is necessary to provide the Mayor with the immediate  
82 authority to issue a stop work order when our tree protection laws are in imminent danger of  
83 being violated. As noted, it is especially vital that this power be provided on an emergency basis  
84 to prevent violations of the law by developers who may elect to pay a fine rather than comply  
85 with the law.

86 Sec. 3. The Council of the District of Columbia determines that the circumstances  
87 enumerated in section 2 constitute emergency circumstances making it necessary that the Urban  
88 Forest Preservation Stop Work Order Authority Emergency Amendment Act of 2022 be adopted  
89 after a single reading.

90 Sec. 4. This resolution shall take effect immediately.