


OFFICE OF  
**MARY M. CHEH**

Councilmember, Ward 3 | Chair, Committee on Transportation & the Environment

**MEMORANDUM**

**TO:** Chairman Phil Mendelson  
**FROM:** Councilmember Mary M. Cheh   
**DATE:** April 12, 2022  
**SUBJECT:** Requests for April 19, 2022, Meeting of the Committee of the Whole

I request that the following measures be agendaized for the April 19, 2022, meeting of the Committee of the Whole. These measures were marked up by the Committee on Transportation and the Environment on April 6, 2022, and have been filed with the Secretary.

- B24-410, the Flood Resilience Amendment Act of 2022

This legislation would authorize DOEE to issue rules establishing flood hazard areas and requiring flood insurance as a condition of occupancy for new or substantially improved buildings in those flood hazard areas.

Currently, the floodplain maps used in the District are the Flood Insurance Rate Maps promulgated by the Federal Emergency Management Agency (FEMA). FEMA has not updated these maps in a number of years, and the maps do not reflect the worsening realities of flood risks in the District due to climate change. This bill would address the lack of accurate floodplain maps by authorizing DOEE to designate flood hazard areas, enabling the agency to expand the District's floodplain map beyond FEMA's map to reflect expanding flood risks in the District.

The bill would also authorize DOEE to enact regulations requiring new or substantially improved buildings in designated flood hazard areas to carry flood insurance as a condition of occupancy. This would ensure that, should property owners face catastrophic loss of their home or other property as the result of flooding, they will at least be able to recover financially. A flood insurance mandate would also provide a financial incentive for property owners to take steps to mitigate their vulnerability to flooding.

- B24-444, the Urban Forest Preservation Authority Amendment Act of 2022

In furtherance of the District's longstanding goal of increasing its tree canopy to 40%, current law prohibits the removal of certain large trees ("Special Trees") without a permit, and prohibits removal altogether of even larger trees ("Heritage Trees") unless the tree is a hazard or the applicant avers that she will relocate the tree. B24-444 comprehensively reforms and

updates the District's tree canopy preservation laws to better protect these large trees and prevent accidental violations of the law.

Specifically, B24-444 incorporates the tree protections into the existing permitting process and protects the "critical root zone" of Special and Heritage trees in order to protect residents from unanticipated and accidental fines. Under the bill, before the issuance of certain permits that are likely to involve interference with a protected tree's roots, applicants must submit a declaration specifying all trees on the property and whether they are Special or Heritage Trees. If the Mayor determines that the planned work could result in a violation of the tree protections, the applicant must submit a "Tree Preservation Plan" for the Mayor's approval. This will ensure that residents know the law, and the best way to stay in compliance with the law, before starting work.

B24-444 also authorizes the Mayor to issue stop work orders when the tree protection laws are in imminent danger of violation. Recent illegal removals of Heritage Trees by developers—one of whom purportedly said, "I don't care. Everybody does it, all developers do it. We pay the fines, nobody cares"—have demonstrated the need for more direct enforcement of tree protections beyond fines. This provision mirrors a recently passed emergency bill. The bill enables property owners to request review of a stop work order by UFD and to appeal a stop work order to OAH.

The bill also strengthens penalties for permitholders and licensees who willfully or recklessly violate the law. Fines are inherently backward-looking. Once a Heritage Tree has been removed, it will take a lifetime for newly planted trees to reach the same maturity and provide the same number of benefits to the community. Thus, for the very small subset of developers determined to illegally remove a Heritage Tree on their property, increased penalties are necessary to deter such unlawful behavior. Under the bill, when an actor negligently, willfully, or recklessly violates the tree protection laws by killing a tree, and where that tree would have been ineligible for a removal permit, the Mayor may revoke the permit under which the violation occurred. The Mayor shall also deny a construction permit to anyone who willfully or recklessly violated the tree protection laws for tree years, except as is necessary to address a health and safety hazard on a property. Finally, the Mayor shall revoke the license held by an actor (i.e., the contractor) who willfully or recklessly violates the tree protection laws. If a property owner hires an unlicensed contractor to violate the act and knows that the contractor is unlicensed, the fine levied to the owner is tripled.

B24-444 also expands the Special and Heritage Tree protections to the District government. This would require the District to abide by the same standards it requires of private actors. It also protects the large trees on District-owned land, which provide innumerable benefits to residents at public schools, in public housing, and more, who often are those who most need said benefits.

Finally, the bill improves notice of Heritage Tree protections for purchasers of property and updates the process through which regulations issued to implement the tree canopy preservation act are issued.

Please contact my legislative director Michael Porcello in my office at 724-8062 or [mporcello@dccouncil.us](mailto:mporcello@dccouncil.us) if you have any questions.