

GOVERNMENT OF THE DISTRICT OF COLUMBIA
District Department of Transportation



Public Hearing on
B25-0472, the “Tree Preservation Amendment Act of 2023”
and
B25-0487, the “Office of Natural Area Conservation Establishment Act of 2023”

Testimony of
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District Department of Transportation

Before the
Committee on Transportation and the Environment
Council of the District of Columbia

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9:30 a.m.
John A. Wilson Building
1350 Pennsylvania Avenue NW
Washington, D.C. 20004

Good morning, Chairperson Allen, members of the Committee, staff, and District residents. My name is Earl Eutsler, and I am the Associate Director of the Urban Forestry Division (UFD) and serve as the State Forester at the District Department of Transportation, commonly referred to as DDOT. I am here today to present testimony on behalf of Mayor Muriel Bowser and Acting Director Sharon Kershbaum regarding the following bills:

- B25-0472, the “Tree Preservation Amendment Act of 2023”, and
- B25-0487, the “Office of Natural Area Conservation Establishment Act of 2023”.

Tree Preservation Amendment Act of 2023

B25-0472, the “Tree Preservation Amendment Act of 2023” amends the Urban Forest Preservation Act of 2002 to change the definition of a Special Tree, increase the fee for removal of Special Trees, establish a fee for the removal of Heritage Trees, and limits the use of the Tree Fund for plantings on public property.

DDOT is proud of our work caring for the District’s tree canopy, ensuring that this important resource stays healthy, safe and growing. Our trees improve air and water quality, cool our neighborhoods, and provide a critical habitat for birds, bees, and people too. Trees are also an essential part of two of DDOT’s moveDC

goals: Sustainability and Enjoyable Spaces. We applaud the Council's past actions to ensure the tree canopy is protected, especially through the Tree Canopy Protection Amendment Act of 2016 that expanded protections for Heritage Trees, our largest and typically oldest trees. We support legislative actions taken by Council that support our agency in our work to maintain a healthy and growing tree canopy. I would like to take this opportunity to discuss some concerns we have regarding bill provisions that we believe have the potential to set the District back in our tree canopy goals.

The D.C. Code currently defines a Special Tree as between 44 and 100 inches in circumference. The bill proposes an expansion of this category, dropping the circumference down to a starting point of 25 inches. While we appreciate that more trees will be protected under this proposal, we believe that it will create significant challenges to ensure these additional 300,000 trees are adequately protected. The current definition provides a natural barrier for improper tree removal as it often requires a homeowner to contact a tree removal service who will prompt the owner to apply for a permit when necessary. This acts as a nudge towards good behavior and compliance with our laws and regulations, without requiring valuable staff resources. Additionally, UFD currently reviews more than 2,000 Special Tree permits annually. Expanding the definition would require

significantly more staff time devoted to permit review and enforcement for Special Trees, taking away from other valuable activities.

Second, the bill proposes adding language that allows those who receive the Homestead Deduction to pay a lower fee for their Special Tree permit. While verification of the applicant's status would add to the review time, we have more pressing concerns over who this would benefit. Research done by the DC Fiscal Policy Institute¹ shows that owners of homes with lower values apply for the Homestead Deduction at lower rates. We believe this provision would primarily benefit those who can already afford to pay the full permit fee while also unnecessarily complicating the process.

Third, the D.C. Code and DC Municipal Regulations currently only allow removal of a heritage tree if it is hazardous or is a species identified as appropriate for removal. This bill allows the removal of a heritage tree if the permit applicant simply pays a fee into the Tree Fund or create a perpetual conservation easement and pay a smaller fee, based on tree circumference. To restore a monetary payment or easement creation option now would gut the Heritage Tree protections the Council made into law in 2016 and lead to the irreversible loss of the city's largest

¹ Eliana Golding and Erica Williams, "Better Targeted Property Tax Benefits Would Advance Racial Equity", DC Fiscal Policy Institute Reports, October 19, 2023.

trees, which in turn would negatively impact the city's progress toward its canopy goals. We strongly encourage Council to reconsider the inclusion of this provision.

Finally, this bill adds language that limits the use of the Tree Fund to 25% of the 5-year average of the receipts of the fund to plant trees annually on public space and District-owned land, including parks and school property. This cap on annual funding does not give the Urban Forestry Division the programmatic freedom to be able to plant trees as needed and could jeopardize our ability to make important progress in expanding our tree canopy.

Office of Natural Area Conservation Establishment Act of 2023

Next I'd like to discuss B25-0487, the "Office of Natural Area Conservation Establishment Act of 2023," which establishes the Office of Natural Area Conservation within the Department of Energy and Environment (DOEE) to manage, conserve, and activate forested natural areas and forest patches owned or managed by the District, develop a forest health and invasive plant response plan, and establish an Adopt a Patch Forest Stewardship program.

DDOT's Urban Forestry Division cares for both trees and forests. Additionally, DDOT's Establishment Act tasks the agency with the care and maintenance of all District trees. Many of the activities described in this legislation align with existing [authorities and programs](#), as described in the [2020 DC State](#)

[Forest Action Plan](#). The Urban Forestry Division already monitors and supports the overall health of the District's forest resources, through efforts such as [invasive species monitoring](#), pruning, inspections, tree-watering, and an ambitious tree planting campaign. Recent examples of our natural area stewardship include invasive tree eradication across priority sites to combat the spread of the Spotted Lanternfly. Additionally, DDOT has already identified, mapped, and characterized all existing forested natural areas and forest patches in the District, including those originating from federal land, further demonstrating the active stewardship role DDOT contributes to this space currently. While we agree that proper management of our forested natural areas and forest patches is a worthwhile effort, we do have some concerns with the establishment of this office as outlined in the bill.

First, the bill as introduced has the potential to create confusion around the division of agency roles and responsibilities. Because DDOT's Establishment Act currently assigns the responsibility for care and maintenance of all of the District's trees and forests to the Urban Forestry Division, we request clarifying language about the roles and responsibilities between DDOT's Urban Forestry Division and this proposed new Office of Natural Area Conservation within DOEE. Failure to clarify responsibilities related to tree management will likely create challenges related to regulatory compliance, such as when a proposed Office of Natural Area Conservation plan contemplates tree removal on District land. This would require a

permit for a Special Tree or Heritage Tree from DDOT, and creates a cumbersome process unless the delineation of authorities is clear.

Second, DDOT has concerns over language that allows District government resources to be used to address maintenance on National Park Service (NPS) lands. District resources should be prioritized to support this ongoing work on District-owned land. If Council feels it necessary to keep this provision, at the very least we recommend a clearly established hierarchy for prioritization prior to District resources being used elsewhere.

To close my testimony, I would like to thank the Council and District residents for their collaboration and work to ensure District trees and forests continue to flourish. Thank you for the opportunity to testify today. I am available to answer any questions that you may have.