

## DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

## NOTICE OF FINAL RULEMAKING

The Director of the District of Columbia Department of Transportation, pursuant to the authority of section 3(b) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code § 50-921.02(b)); sections 103(a)(1) and 107(b) of the Urban Forest Preservation Act of 2002 (UFPA), effective June 12, 2003 (D.C. Law 14-309; D.C. Official Code §§ 8-651.03(a)(1) and 8-651.07(b)); and Mayor's Order 2003-173 (December 1, 2003), hereby gives notice of the adoption of the following amendments to Chapter 37 of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations. New section 3706 establishes an income-contingent program to assist District residents with the removal of hazardous Special Trees (*i.e.*, hazardous trees that have a minimum circumference of fifty-five inches (55 in.)).

A Notice of Proposed Rulemaking (Notice) was published on April 3, 2009 (56 DCR 2605). No comments were received on this Notice.

Pursuant to section 103(b) of the UFPA (D.C. Official Code § 8-651.03(b)), the Director submitted the Notice to the Council of the District of Columbia for approval. The Council approved the Notice, pursuant to Resolution No. 18-140, on June 2, 2009.

These final rules will become effective upon publication of this notice in the *D.C. Register*.

**Chapter 37 (Special Trees) of Title 24 DCMR is amended as follows:**

Adding a new section 3706 to read as follows:

**3706 INCOME CONTINGENT PROGRAM FOR HAZARDOUS TREE REMOVAL**

- 3706.1 The owner of a single-family dwelling in the District of Columbia that receives a homestead deduction on the single-family dwelling from the District of Columbia Office of Tax and Revenue may apply to the Department on an application provided by the Department for assistance with the removal of a hazardous tree on the owner's private property on which the single-family dwelling is located or on the public parking area abutting the owner's private property.
- 3706.2 To be eligible for hazardous tree removal assistance, the owner must meet the income eligibility requirements of, and provide evidence of enrollment in, an income-contingent District government assistance program.
- 3706.3 Within thirty (30) calendar days of the Department's receipt of a complete application submitted by the owner pursuant to § 3706.1, an Urban Forestry Administration arborist, with the consent of the owner, shall inspect the tree to determine whether the tree is a hazardous tree.

- 3706.4 If, during the inspection, the Urban Forestry Administration arborist determines that the tree is not a hazardous tree, the Department shall notify the owner within fifteen (15) calendar days of the inspection explaining the determination.
- 3706.5 If the Urban Forestry Administration arborist determines that the tree is a hazardous tree, the Urban Forestry Administration may remove any or all of the hazardous tree, at the sole discretion of the Urban Forestry Administration. The Department shall provide notice to the owner of the hazardous tree of the date of removal of any or all of the hazardous tree. Removal of any or all of the hazardous tree shall be completed by the Urban Forestry Administration within thirty (30) calendar days notice of removal to the owner. Removal of any or all of the hazardous tree shall be completed within one-hundred twenty (120) calendar days of the date of the inspection.
- 3706.6 The Department shall not be responsible for the removal of any part of the hazardous tree that cannot be safely accessed by tree removal equipment or personnel in the sole discretion of the Urban Forestry Administration. The Department shall not be responsible for removing any hazardous tree debris from the owner's private property or the abutting public parking when the hazardous tree debris cannot be safely removed in the sole discretion of the Urban Forestry Administration.
- 3706.7 The owner shall hold harmless the District of Columbia and its officers, employees, and agents for any loss or damage to persons or property arising out of or in any way related to the Department's activities contemplated under this section.
- 3706.8 Funding in a fiscal year from the Tree Fund for the income-contingent program for hazardous tree removal shall be predicated on the availability of funds in the Tree Fund, and shall be limited to fifteen percent (15%) of the ending balance of the Tree Fund from the prior fiscal year.
- 3706.9 When used in this section, the following terms and phrases shall have the meanings ascribed below:

**Department** – the District Department of Transportation.

**Fiscal Year** – a twelve (12) month period beginning on October 1 and ending on the following September 30.

**Owner** – the owner of a single-family dwelling in the District of Columbia who receives a homestead deduction on the single-family dwelling from the District of Columbia Office of Tax and Revenue.

**Single-family dwelling** – a structure housing one family or household.