

COUNCIL OF THE DISTRICT OF COLUMBIA

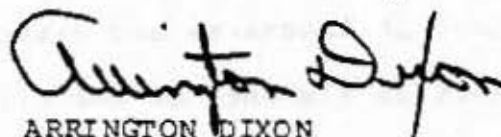
NOTICE

D. C. LAW 2-144

"Historic Landmark and Historic District Protection
Act of 1978"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 2-367, on first, amended first, and second readings October 31, 1978, November 14, 1978 and November 28, 1978 respectively. Following the signature of the Mayor on December 27, 1978, this legislation was assigned Act 2-318, published in the January 26, 1979, edition of the D.C. Register, (Vol. 25 page 6939) and transmitted to Congress on January 18, 1979 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and, therefore, cites the following legislation as D.C. Law 2-144, effective March 3, 1979.


ARRINGTON DIXON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January	18, 19, 22, 23, 24, 25, 26, 29, 30, 31
February	1, 2, 5, 6, 7, 8, 9, 13, 14, 15, 16, 20, 21, 22, 23, 26, 27, 28
March	1, 2

D.C. LAW 2-144

EFFECTIVE DATE MAR 03 1979

AN ACT

2-318

: IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 27, 1978

To provide protection for historic landmarks and historic districts in the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "Historic Landmark and Historic District Protection Act of 1978".

Sec. 2. Purposes.

(a) It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of properties of historical, cultural and aesthetic merit are in the interests of the health, prosperity and welfare of the people of the District of Columbia. Therefore, this act is intended to:

(1) effect and accomplish the protection, enhancement and perpetuation of improvements and landscape features of landmarks and districts which represent distinctive elements of the city's cultural, social, economic, political and architectural history;

(2) safeguard the city's historic, aesthetic and cultural heritage, as embodied and reflected in such landmarks and districts;

-2-

(3) foster civic pride in the accomplishments of the past;

(4) protect and enhance the city's attraction to visitors and the support and stimulus to the economy thereby provided; and

(5) promote the use of landmarks and historic districts for the education, pleasure and welfare of the people of the District of Columbia.

(b) It is further declared that the purposes of this act are:

(1) with respect to properties in historic districts:

(A) to retain and enhance those properties which contribute to the character of the historic district and to encourage their adaptation for current use;

(B) to assure that alterations of existing structures are compatible with the character of the historic district; and

(C) to assure that new construction and subdivision of lots in an historic district are compatible with the character of the historic district;

(2) with respect to historic landmarks:

-3-

(A) to retain and enhance historic landmarks in the District of Columbia and to encourage their adaptation for current use; and

(B) to encourage the restoration of historic landmarks.

Sec. 3. Definitions.

For the purposes of this act the term:

(a) "alter" or "alteration" means a change in the exterior appearance of a building or structure or its site, not covered by the definition of demolition, for which a permit is required: EXCEPT, That "alter" or "alteration" also means a change in any interior space which has been specifically designated as an historic landmark.

(b) "Commission of Fine Arts" means the United States Commission of Fine Arts established pursuant to the Act of May 17, 1910 (36 Stat. 371; 40 U.S.C. 104).

(c) "demolish" or "demolition" means the razing or destruction, entirely or in significant part, of a building or structure and includes the removal or destruction of any facade of a building or structure.

(d) "design" means exterior architectural features including height, appearance, texture, color and nature of materials.

-4-

(e) "historic district" means an historic district (1) listed in the National Register of Historic Places as of the effective date of this act; (2) nominated to the National Register by the State Historic Preservation Officer for the District of Columbia; or (3) which the State Historic Preservation Officer for the District of Columbia has issued a written determination to nominate to the National Register after a public hearing before the Historic Preservation Review Board.

(f) "historic landmark" means a building, structure, object or feature, and its site, or a site (1) listed in the National Register of Historic Places as of the effective date of this act; or (2) listed in the District of Columbia's inventory of historic sites, or for which application for such listing is pending with the Historic Preservation Review Board: PROVIDED, That the Review Board will determine within ninety (90) days of receipt of an application pursuant to section 5, 6, 7, 8 or 9 of this act whether to list such property, and any property not so listed will not be considered an historic landmark within the terms of this act.

(g) "Historic Preservation Review Board" or "Review Board" means the board designated pursuant to section 4 of this act and pursuant to regulations promulgated by the

United States Secretary of the Interior under the Act of October 15, 1966 (80 Stat. 915 et seq.; 16 U.S.C. 470 et seq.)(Historic Preservation Act of 1966).

(h) "Mayor" means the Mayor of the District of Columbia, or his designated agent.

(i) "National Register of Historic Places" or "National Register" means that national record of districts, sites, buildings, structures and objects significant in American history, architecture, archeology and culture established pursuant to section 101 of the Act of October 15, 1966 (80 Stat. 915, 16 U.S.C. 470a)(Historic Preservation Act of 1966).

(j) "necessary in the public interest" means consistent with the purposes of this act as set forth in section 2(b) or necessary to allow the construction of a project of special merit.

(k) "spacial merit" means a plan or building having significant benefits to the District of Columbia or to the community by virtue of exemplary architecture, specific features of land planning, or social or other benefits having a high priority for community services.

(l) "State Historic Preservation Officer" means the person designated by the Mayor to administer the National Register Program within the District of Columbia established

pursuant to the Act of October 15, 1966 (80 Stat. 915; 16 U.S.C. 470 et seq.) (Historic Preservation Act of 1966).

(m) "subdivide" or "subdivision" means division of a lot into two (2) or more lots of record.

(n) "unreasonable economic hardship" means that failure to issue a permit would amount to a taking of the owner's property without just compensation or, in the case of a low-income owner(s) as determined by the Mayor, failure to issue a permit would place an onerous and excessive financial burden upon such owner(s).

Sec. 4. Historic Preservation Review Board.

(a) The Mayor is authorized to establish an Historic Preservation Review Board whose members shall be confirmed by the Council of the District of Columbia. The Review Board shall be constituted and its members qualified so as to meet the requirements of a State Review Board under regulations issued by the Secretary of the Interior pursuant to the Act of October 15, 1966 (80 Stat. 915 et seq.; 16 U.S.C. 470 et seq.). Any body which functions as the District of Columbia State Review Board pursuant to the Act of October 15, 1966 (80 Stat. 915 et seq.; 16 U.S.C. 470 et seq.) as of the effective date of this act, shall function as the Review Board pursuant to this section until a Review Board is established and its members nominated by the Mayor

and confirmed by the Council of the District of Columbia pursuant to this section.

(b) Subject to the requirements of subsection (a) of this section, all appointments to the Historic Preservation Review Board shall be made with a view toward having its membership represent to the greatest practicable extent the composition of the adult population of the District of Columbia with regard to race, sex, geographic distribution and other demographic characteristics.

(c) The Review Board shall:

(1) advise the Mayor on the compatibility with the purposes of this act (as set forth in section 2) of the applications referred to it by the Mayor pursuant to sections 5 through 9 of this act;

(2) perform the functions and duties of a State Review Board as set forth in regulations issued pursuant to the Act of October 15, 1966 (80 Stat. 915 et seq.; 16 U.S.C. 470 et seq.)

(3) designate and maintain a current inventory of historic landmarks and historic districts in the District of Columbia and, in connection therewith, adopt and publish appropriate procedures; and

(4) perform such other functions and duties relating to the protection, preservation, enhancement and

-8-

perpetuation of the historic, architectural, cultural and aesthetic heritage of the District of Columbia as the Mayor may from time to time assign.

Sec. 5. Demolitions.

(a) Before the Mayor may issue a permit to demolish an historic landmark or a building or structure in an historic district, the Mayor shall review the permit application in accordance with this section and place notice of the application in the District of Columbia Register.

(b) Prior to making the finding required by subsection (e) of this section, the Mayor may refer the application to the Historic Preservation Review Board for a recommendation, but shall so refer all applications that are not subject to review by the Commission of Fine Arts under the Act entitled an Act to regulate the height, exterior design, and construction of private and semipublic buildings in the Georgetown area of the National Capital (hereinafter the "Old Georgetown Act"), approved September 22, 1950 (64 Stat. 903; D.C. Code, secs. 5-801 et seq.). The Mayor shall consider any recommendation by the Review Board or by the Commission of Fine Arts pursuant to such referral.

(c) Within one hundred and twenty (120) days after the Review Board receives the referral, the Mayor shall, after a public hearing, make the finding required by subsection (e)

of this section: PROVIDED, That the Mayor may make such finding without a public hearing in the case of a building or structure in an historic district or on the site of an historic landmark if the Review Board has advised in its recommendation that the building or structure does not contribute to the historic district or the historic landmark.

(d) If the Review Board recommends against granting the permit, it shall promptly notify the applicant in writing of its recommendation and the reasons therefor.

(e) No permit shall be issued unless the Mayor finds that issuance of the permit is necessary in the public interest, or that failure to issue a permit will result in unreasonable economic hardship to the owner.

(f) The owner shall submit at the hearing such information as is relevant and necessary to support his application.

(g)(1) In any instance where there is a claim of unreasonable economic hardship, the owner shall submit, by affidavit, to the Mayor at least twenty (20) days prior to the public hearing, at least the following information:

(A) for all property:

(i) the amount paid for the property, the date of purchase and the party from whom purchased.

-10-

including a description of the relationship, if any, between the owner and the person from whom the property was purchased;

(ii) the assessed value of the land and improvements thereon according to the two (2) most recent assessments;

(iii) real estate taxes for the previous two (2) years;

(iv) annual debt service, if any, for the previous two (2) years;

(v) all appraisals obtained within the previous two (2) years by the owner or applicant in connection with his purchase, financing or ownership of the property;

(vi) any listing of the property for sale or rent, price asked and offers received, if any; and

(vii) any consideration by the owner as to profitable adaptive uses for the property; and

(B) for income-producing property:

(i) annual gross income from the property for the previous two (2) years;

(ii) itemized operating and maintenance expenses for the previous two (2) years;

-11-

(iii) annual cash flow, if any, for the previous two (2) years.

(2) The Mayor may require that an applicant furnish such additional information as the Mayor believes is relevant to his determination of unreasonable economic hardship and may provide in appropriate instances that such additional information be furnished under seal. In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his affidavit a statement of the information which cannot be obtained and shall describe the reasons why such information cannot be obtained.

(h) In those cases in which the Mayor finds that the demolition is necessary to allow the construction of a project of special merit, no demolition permit shall be issued unless a permit for new construction is issued simultaneously under section 8 of this act and the owner demonstrates the ability to complete the project.

Sec. 6. Alterations.

(a) Before the Mayor may issue a permit to alter the exterior or site of an historic landmark or of a building or structure in an historic district, the Mayor shall review the permit application in accordance with this section and

place notice of the application in the District of Columbia Register.

(b) Prior to making the finding required by subsection (e) of this section, the Mayor may refer the permit application to the Historic Preservation Review Board for a recommendation, but shall so refer all applications that are not subject to review by the Commission of Fine Arts under the Old Georgetown Act (64 Stat. 903; D.C. Code, secs. 5-801 et seq.) or the Act entitled An Act to regulate, the height, exterior design, and construction of private and semipublic buildings in certain areas of the National Capital (hereinafter the "Shipstead-Luce Act"), approved May 16, 1930 (46 Stat. 367; D.C. Code, sec. 5-410). The Mayor shall consider any recommendation by the Review Board or by the Commission of Fine Arts pursuant to such referral.

(c) Within one hundred and twenty (120) days after the Review Board receives the referral pursuant to subsection (b), the Mayor shall make the finding required by subsection (f).

(d) If the Review Board recommends against granting the application, it shall promptly notify the applicant in writing of its recommendation and the reasons therefor.

(e) In cases in which a claim of unreasonable economic hardship or special merit is made and in any other case he

-13-

deems appropriate or in which the applicant so requests, the Mayor shall hold a public hearing on the permit application.

(f) No permit shall be issued unless the Mayor finds that such issuance is necessary in the public interest or that a failure to issue a permit will result in unreasonable economic hardship to the owner.

(g) The owner shall submit at the hearing such information as is relevant and necessary to support his application. In any instance where there is a claim of unreasonable economic hardship, the owner shall comply with the requirements of subsections (f) and (g) of section 5 of this act.

Sec. 7. Subdivisions.

(a) Before the Mayor may admit to record any subdivision of an historic landmark or of a property in an historic district, the Mayor shall review the application for admission to record in accordance with this section and place notice of the application in the District of Columbia Register.

(b) Prior to making the finding on the application for admission to record required by subsection (a) of this section, the Mayor shall refer the application to the Historic Preservation Review Board for its recommendation.

(c) Within one hundred and twenty (120) days after the Review Board receives the referral, the Mayor shall, after a public hearing, make the finding required by subsection (e) of this section: PROVIDED, That the Mayor may make such finding without a public hearing in the case of a subdivision of a lot in an historic district if the Review Board advises him that such subdivision is consistent with the purposes of this act.

(d) If the Review Board recommends against granting the application, it shall promptly notify the applicant in writing of its recommendation and the reasons therefor.

(e) No subdivision subject to this act shall be admitted to record unless the Mayor finds that admission to record is necessary in the public interest or that a failure to do so will result in unreasonable economic hardship to the owner.

(f) The owner shall submit at the hearing such information as is relevant and necessary to support his application. In any case in which there is a claim of unreasonable economic hardship, the owner shall comply with the requirements of subsections (f) and (g) of section 5 of this act.

(g) In those cases in which the Mayor finds that the subdivision is necessary to allow the construction of a

project of special merit, no subdivision permit shall be issued unless a permit for new construction is issued simultaneously under section 8 of this act and the owner demonstrates the ability to complete the project.

Sec. 8. New Construction.

(a) Before the Mayor may issue a permit to construct a building or structure in an historic district or on the site of an historic landmark, the Mayor shall review the permit application in accordance with this section and shall place notice of the application in the District of Columbia Register.

(b) Prior to making the finding on the permit application required by subsection (f) of this section, the Mayor may refer the application to the Historic Preservation Review Board for a recommendation, but shall so refer all applications that are not subject to review by the Commission of Fine Arts under the Old Georgetown Act (64 Stat. 903; D.C. Code, secs. 5-801 et seq.) or the Shipstead-Luce Act (46 Stat. 357; D.C. Code, sec. 5-410). The Mayor shall consider any recommendation by the Review Board or by the Commission of Fine Arts pursuant to such referral.

(c) Within one hundred and twenty (120) days after the Review Board receives the referral, the Mayor shall make the finding required by subsection (f) of this section.

(d) If the Review Board recommends against granting the application, it shall promptly notify the applicant in writing of its recommendation and the reasons therefor.

(e) In any case where the Mayor deems appropriate, or in which the applicant so requests, the Mayor shall hold a public hearing on the permit application.

(f) The permit shall be issued unless the Mayor, after due consideration of the zoning laws and regulations of the District of Columbia, finds that the design of the building and the character of the historic district or historic landmark are incompatible: PROVIDED, that in any case in which an application is made for the construction of an additional building or structure on a lot upon which there is presently a building or structure, the Mayor may deny a construction permit entirely where he finds that any additional construction will be incompatible with the character of the historic district or historic landmark.

Sec. 9. Application for Preliminary Review.

An applicant may apply to the Mayor for a preliminary review of a project for compliance with the provisions of this act relating to new construction, and to any demolition, alteration or subdivision necessary for such new construction. Upon the provision of such information and upon compliance with such other conditions as the Mayor may

require, such application shall be considered by the Mayor without the necessity of the applicant completing other permit requirements not necessary for a finding under this act. Where an application for a preliminary review is received pursuant to this section, the Mayor will determine, in accordance with the procedures and requirements specified in sections 5, 6, 7 and/or 8, as applicable, whether to issue a preliminary finding of compliance with this act: PROVIDED, That no permit shall be granted except in accordance with all other permit requirements, and after final review by the Mayor under this act: PROVIDED FURTHER, That where the final review shows that the project is not consistent with the preliminary review, the application will again be processed in accordance with the procedures and requirements of sections 5, 6, 7 and/or 8, as applicable.

Sec. 10. Regulations.

The Mayor is authorized to issue such regulations as may be necessary or appropriate to carry out his duties under this act. Such regulations shall be issued to take effect within sixty (60) days from the effective date of this act.

Sec. 11. Penalties and Remedies.

(a) Criminal Penalty. Any person who willfully violates any provision of this act or of any regulation issued under the authority of this act shall, upon

conviction, be fined not more than one thousand dollars (\$1,000) or be imprisoned for not more than ninety (90) days, or both. All prosecutions for violations of this act or of any regulations issued under the authority of this act shall be brought in the name of the District of Columbia in the Superior Court of the District of Columbia by the Corporation Counsel or any of his assistants.

(b) Civil Remedy. Any person who demolishes, alters or constructs a building or structure in violation of sections 5, 6 or 8 of this act shall be required to restore the building or structure and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the Corporation Counsel. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

Sec. 12. Insanitary and Unsafe Buildings.

(a) Nothing in this act shall interfere with the authority of the Board of Condemnation to put a building or structure into sanitary condition or to demolish it pursuant to the provisions of the Act of May 1, 1906 (34 Stat. 157; D.C. Code, secs. 5-616 through 5-634): EXCEPT, That no permit for the demolition of an historic landmark or building or structure in an historic district shall be

issued to the owner except in accordance with the provisions of this act.

(b) Nothing in this act shall affect the authority of the District of Columbia to secure or remove an unsafe building or structure pursuant to the Act of March 1, 1899 (30 Stat. 923; D.C. Code, secs. 5-501 through 5-503).

Sec. 13. Administrative Procedures.

(a) In any case of demolition, alteration or new construction in which a hearing was held, the Mayor's decision on such application shall not become final until fifteen (15) days after issuance.

(b) All proceedings pursuant to this act shall be conducted in accordance with the applicable provisions of the District of Columbia Administrative Procedure Act (D. C. Code, secs. 1-1501 et seq.). Any final order of the Mayor under this act shall be reviewable in the District of Columbia Court of Appeals.

Sec. 14. Report. At the end of each twelve (12) month period following the effective date of this act, the Mayor shall transmit to the Council a detailed report on the implementation of this act including, but not limited to:

(a) the number of applications for alterations in historic districts;

-20-

(b) the number of such applications granted without hearing as pertaining to buildings in historic districts that do not contribute to the historic district;

(c) the number of such applications granted after hearing as in the public interest;

(d) the number of applications granted after hearing on the basis of economic hardship;

(e) the number of such applications which are denied. For each denial the report should specify:

(1) the nature of the requested alteration;

(2) why it was found to not be in the public interest; and

(3) whether economic hardship was claimed and if so, why it was found not to exist.

Sec. 15. Repealers.

Regulation No. 73-25 (D.C. Building Code, sec. 109.10) and the Historic Sites Subdivision Amendment of 1976, effective September 2, 1976 (D.C. Law 1-80), are hereby repealed.

Sec. 16. Severability.

The sections of this act are hereby declared to be severable. In the event that any section of this act or portion thereof is held void or unenforceable for whatever

reason, all remaining provisions shall remain in full force and effect.

Sec. 17. Effective Date.

This act shall become effective as provided for acts of the Council of the District of Columbia in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act. Notwithstanding any other provision of law, upon the effective date of this act, all pending applications for permits shall be subject to this act and no outstanding permits shall be renewed or reissued except in accordance with the provisions of this act.

Docket No: Bill 2-367

Presented to the Mayor: DEC 12 1978

Robert Williams
Secretary to the Council

Action of the Mayor: 27 DEC 1978

- Approved: Disapproved;
- Disapproved in part --*Reference Document:
- *Budget Actions.

Walter Washington 27 DEC 1978
Mayor of the District of Columbia

Returned Without Action

Executive Secretary, D. C.

Enacted without Mayor's Signature

Secretary to the Council

Council Reenactment:

VOICE VOTE:

Secretary to the Council

ROLL CALL VOTE:

COUNCIL MEMBER	ATE	RAT	NO.	AL.	COUNCIL MEMBER	ATE	RAT	NO.	AL.	COUNCIL MEMBER	ATE	RAT	NO.	AL.
TUCKER					MASON					SPAVLDING				
HARDY					MOORE, D.					WILSON				
BARRY					MOORE, L.					WINTER				
CLAPKE					ROLARK									
DIXON					SACKLETON									

Y-Indivisible Vote A-Enrolled N-V-Not Taken

Secretary to the Council

Presented to the President:

Secretary to the Council

Action of the President:

- Reenactment Approved
- Mayor's Veto Sustained

President of the U. S.

Submitted to the Congress:

Secretary to the Council

Senate Action:
Resolution Number:

House Action:
Resolution Number:

Secretary of the Senate

Clerk of the House

Enacted Without Congressional Action:

D. C. Law No. Effective Date

Secretary to the Council

RECORD OF OFFICIAL COUNCIL ACTION

Docket No: Bill 2-367

First Reading Action: October 31, 1978

VOICE VOTE: _____

Secretary to the Council

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	AB.	COUNCIL MEMBER	AYE	NAY	N.V.	AB.	COUNCIL MEMBER	AYE	NAY	N.V.	AB.
TUCKER	X				MASON	X				SPAULDING	X			
HARDY		X			MOORE, D.		X			WILSON	X			
BARRY	X				MOORE, J.	X				WINTER	X			
CLARKE	X				ROLARK	X								
DIXON	X				SHACKLETON	X								

X—Indicates Vote A. B.—Absent N. V.—Not Voting

Secretary to the Council

Amended First Reading Action: November 14, 1978

VOICE VOTE: Adopted Unanimously (3 abs JMoore, D Moore, Spaulding)

Ant. Patricia E. Hines

Secretary to the Council

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	AB.	COUNCIL MEMBER	AYE	NAY	N.V.	AB.	COUNCIL MEMBER	AYE	NAY	N.V.	AB.
TUCKER					MASON					SPAULDING				
HARDY					MOORE, D.					WILSON				
BARRY					MOORE, J.					WINTER				
CLARKE					ROLARK									
DIXON					SHACKLETON									

X—Indicates Vote A. B.—Absent N. V.—Not Voting

Secretary to the Council

Final Reading or Emergency Action: November 28, 1978

VOICE VOTE: Adopted Unanimously (2 abs Barry, Dixon)

Ant. Patricia E. Hines

Secretary to the Council

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	AB.	COUNCIL MEMBER	AYE	NAY	N.V.	AB.	COUNCIL MEMBER	AYE	NAY	N.V.	AB.
TUCKER					MASON					SPAULDING				
HARDY					MOORE, D.					WILSON				
BARRY					MOORE, J.					WINTER				
CLARKE					ROLARK									
DIXON					SHACKLETON									

X—Indicates Vote A. B.—Absent N. V.—Not Voting

Secretary to the Council