



Committee: TE
Committee Review: At a future date
Staff: Christine Wellons, Senior Legislative Attorney
Purpose: To introduce agenda item – no vote expected
Keywords: #TreeCanopy

AGENDA ITEM #9A
November 7, 2023
Introduction

SUBJECT

Bill 40-23, Tree Canopy and Roadside Tree Requirements – Fee Revisions

Lead Sponsors: Council Vice-President Friedson and Council President Glass

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A

DESCRIPTION/ISSUE

Bill 40-23 would:

- (1) amend fees payable to the Tree Canopy Conservation Account
- (2) amend fees payable to the Street Tree Planting Fund; and
- (3) generally amend the laws regarding tree canopy requirements and roadside tree work.

SUMMARY OF KEY DISCUSSION POINTS

N/A

This report contains:

Staff Report
Bill 40-23

Pages 1-2
© 1

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MEMORANDUM

November 2, 2023

TO: County Council

FROM: Christine Wellons, Senior Legislative Attorney

SUBJECT: Bill 40-23, Tree Canopy and Roadside Tree Requirements – Fee Revisions

PURPOSE: Introduction – no Council votes required

Bill 40-23, Tree Canopy and Roadside Tree Requirements – Fee Revisions, sponsored by Lead Sponsors Council Vice-President Friedson and Council President Glass, is scheduled for introduction on November 7, 2023. A public hearing is tentatively scheduled for November 28, 2023 and a Transportation and Environment (TE) Committee worksession will be scheduled at a later date.

Bill 40-23 would:

- (1) amend fees payable to the Tree Canopy Conservation Account;
- (2) amend fees payable to the Street Tree Planting Fund; and
- (3) generally amend the laws regarding tree canopy requirements and roadside tree work.

BACKGROUND

Under the County’s roadside tree law, a permittee who removes a tree in the County’s right of way generally must pay a fee into the Street Tree Planting Fund maintained by the Department of Transportation (DOT). Similarly, under the County’s sediment control laws, an applicant for a sediment control permit must pay a fee into the Tree Canopy Conservation Account.

The current structure for each of the fees has been insufficient to reflect actual costs of tree planting and maintenance, and it does not rise with inflation. The purpose of the bill is to provide for a fee structure that is commensurate with costs.

BILL DESCRIPTION

Bill 40-23 would set the fee payable to the Street Tree Planting Fund at \$450 per tree, with a biannual increase based upon inflation. The bill would set the fee payable to the Tree Canopy Conservation Account at \$470 per tree, with a biannual increase based upon inflation.

The base fees for the two funds – \$450 and \$470, respectively – would differ from each other because the costs to replace the roadside trees are generally less than the costs related to tree planting and maintenance under the Tree Canopy Law.

This packet contains:
Bill 40-23

Circle #
© 1

Bill No. 40-23
Concerning: Tree Canopy and Roadside
Tree Requirements – Fee Revisions
Revised: 10/31/2023 Draft No. 2
Introduced: November 7, 2023
Expires: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Council Vice-President Friedson and Council President Glass

AN ACT to:

- (1) amend fees payable to the Tree Canopy Conservation Account;
- (2) amend fees payable to the Street Tree Planting Fund; and
- (3) generally amend the laws regarding tree canopy requirements and roadside tree work.

By amending

Montgomery County Code
Chapter 49, Streets and Roads
Section 49-36A

Chapter 55, Tree Canopy
Sections 55-5, 55-6, 55-9, and 55-10

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 49-36A, 55-5, 55-6, 55-9, and 55-10 are amended as**
 2 **follows:**

3 **49-36A. Roadside tree work.**

4 * * *

5 (e) *Tree replacement.*

6 (1) Each permittee who removes a roadside tree in a County right-
 7 of-way must:

8 * * *

9 (B) pay an amount into a Street Tree Planting Fund
 10 maintained by the Department of Transportation, unless
 11 the Director waives this requirement because the
 12 removed tree was already dead or posed a danger to
 13 persons or property, at a rate set [by regulation] under
 14 paragraphs (C) or (D) that will allow the Department of
 15 Transportation to plant 2 more suitable replacement trees,
 16 or 3 more replacement trees if the Director has waived the
 17 on-site planting requirement because compliance at the
 18 particular site would not be feasible, at suitable locations
 19 in the right-of-way of a public road in the County.

20 (C) Except as provided under subparagraph (D), the rate to
 21 calculate the amount payable under subparagraph (B)
 22 equals \$450 per tree, as adjusted on July 1st of each odd
 23 numbered year by the percentage amount of the cumulative
 24 increase or decrease in the Consumer Price Index for all
 25 urban consumers in the Washington-Baltimore
 26 metropolitan area, or any successor index, for the two most
 27 recent calendar years.

28 (D) By resolution after a public hearing, the Council may set
29 the rate to calculate the amount payable per tree under
30 subparagraph (B).

31 (E) The Director must:

32 (i) calculate an annual fee adjustment under
33 subparagraph (C) to the nearest multiple of 5 cents;
34 and

35 (ii) publish an amount of a fee adjustment under
36 subparagraphs (C) or (D) not later than May 1st of
37 each odd numbered year.

38 * * *

39 **55-6. Shade Tree Planting.**

40 * * *

41 (d) *Fees.*

42 (1) If the applicant concludes that any required shade tree cannot be
43 planted on the affected property because sufficient open surface
44 area is not available or for any other reason, the applicant must
45 pay into the Tree Canopy Conservation Account a fee, at a rate
46 set under paragraphs (2) or (3), for each required shade tree that
47 is not planted on the affected property. [The fee must be equal to
48 the applicable rate the Department sets for bonding trees in the
49 right-of-way.]

50 (2) Except as provided under paragraph (3), the rate to calculate the
51 amount payable under paragraph (1) equals \$470 per tree, as
52 adjusted on July 1st of each odd numbered year by the percentage
53 amount of the cumulative increase or decrease in the Consumer

54 Price Index for all urban consumers in the Washington-Baltimore
55 metropolitan area, or any successor index, for the two most recent
56 calendar years.

57 (3) By resolution after a public hearing, the Council may set the rate
58 to calculate the amount payable per tree under paragraph (1).

59 (4) The Director must:

60 (A) calculate an annual fee adjustment under paragraph (2) to
61 the nearest multiple of 5 cents; and

62 (B) publish an amount of a fee adjustment under paragraphs (2)
63 or (3) not later than May 1st of each odd numbered year.