



**Committee:** TE  
**Committee Review:** At a future date  
**Staff:** Christine Wellons, Senior Legislative Attorney  
**Purpose:** To receive testimony – no vote expected

AGENDA ITEM #7  
November 28, 2023  
**Public Hearing**

## SUBJECT

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

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

## EXPECTED ATTENDEES

Members of the public

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A; to receive testimony.

## 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  
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**MEMORANDUM**

November 22, 2023

TO: County Council

FROM: Christine Wellons, Senior Legislative Attorney

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

PURPOSE: Public Hearing – no receive testimony

Bill 40-23, Tree Canopy and Roadside Tree Requirements – Fee Revisions, sponsored by Lead Sponsors Council Vice-President Friedson and Council President Glass, was introduced on November 7, 2023. A public hearing is scheduled for November 28, 2023 and a Transportation and Environment (TE) Committee worksession is tentatively scheduled for December 11, 2023.

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 generally pays 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

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

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**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

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



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.