



Montgomery Soil Conservation District

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June 26, 2025

The Honorable Kathleen Stewart, President
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Subject: Written Testimony on Bill 18-25, Forest Conservation – Trees

Dear Council President Stewart:

The Montgomery Soil Conservation (MSCD) hereby submits our written testimony on Bill 18-25 and respectfully request our communication be entered into the public record for the July 8, 2025 public hearing. Our opposition to the bill in its current form, and recommendations for improvements are outlined as follows:

1) Definition of what constitutes a "Tree"

Bill 18-25 would change the definition of "Tree" within County Code by adopting the following language: *"Tree means a large, woody plant having one or several self-supporting stems or trunks measuring at least one inch caliper and numerous branches that reach a height of at least 20 feet at maturity."* It is important to understand that trees begin life as a seed. As obvious as that sounds, it is important to understand that as with all forms of life, there is a definitive life or growth cycle. The ability to reproduce is an important consideration in maturity as without the ability to reproduce, there is no continuance of life. The Montgomery District Board believes the capability for a tree to reproduce by producing flowers and seeds must be the key factor in determining the definition of what constitutes being classified as a tree. Saplings which are immature trees, typically are characterized by having a flexible trunk, smoother bark than mature trees, and an inability to produce fruit or flowers within a diameter range between one and four inches. For the purposes of Forest Conservation, saplings should not be classified as a tree. The definition of a tree should be a perennial plant with a woody elongated stem that has a diameter in excess of four inches and produces flowers and seeds.

The proposed application of one inch diameter as the standard for defining a tree is too restrictive and seems to be applying protection at the wrong growth stage. Additionally, this standard would have the practical effect of requiring the landowner or manager to obtain a forest conservation plan for almost any land management activity. This is an untenable burden on the farmer and rural landowner and a misallocation of valuable staff time associated with reviewing unnecessary applications.

Controlling vegetation on farmland has long been accepted as an appropriate agricultural land management practice. Farmers need to maintain the ability to control unwanted vegetation either through mechanical or chemical control so that this vegetation does not impede farming practices. Farmers need to maintain the ability to control invasive species that threaten crops or livestock. For example, operations with horses in pastures need to make sure their animals don't have access to trees such as wild black cherry due to toxic leaves. Additionally, other native trees, oak and black walnut for example, occasionally need to be controlled as parts of these trees can be toxic to horses as well.

2) Legislative Intent

The legislative intent of the Montgomery County Forest Conservation Law is to apply forest conservation standards when the proposed land use changes seek to convert forest and other open lands to developed uses. However, the removal of unwanted vegetation is an agricultural practice as old as farming itself and does not represent conversion of land to a developed use. We believe that through this bill MNCPPC is seeking to alter the application of the Forest Conservation Law in a manner it was never intended to function. Montgomery County's Forest Conservation Law is already more restrictive than the state law and we do not need to make it even harder for landowners and managers to properly tend to their property.

3) Vesting of Authority

Throughout the rest of the State, the Soil Conservation Districts (SCD's) are viewed as the local expert and authority for the management of agricultural land and are typically the "determining entity" as to what agricultural land management practices are exempt from forest conservation requirements. Why must Montgomery County be different?

We understand the current Montgomery County Forest Conservation Law includes an exemption process for agriculture. However, this process has proven to be burdensome, and time consuming for both the landowner or manager and MSCD staff. Furthermore, MNCPPC interprets the exemption provision as only being exempt from the requirement of having to develop a formal plan but still enforces other components of the law on farmland. The District feels the current exemption process is not an outright exemption and should be viewed as unnecessary as it is being implemented for an activity that everywhere else in the state is considered an appropriate agricultural land management practice.

Bill 18-25 will make it harder for the District to provide our services to landowners and managers because in many cases offering conservation assistance includes controlling unwanted vegetation.

It is the District Board's belief that the authority to approve agriculturally related land activities should be vested solely with the Montgomery Soil Conservation District as is currently the standard practice in the other Counties across the State. We therefore offer the following amendment to Bill 18-25:

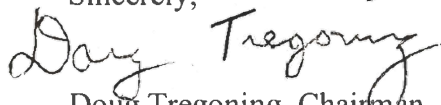
“An agricultural land management practice undertaken by landowner/farm operator for controlling vegetation on land zoned and/or assessed for agriculture is outright exempted from Forest Conservation requirements and does not require a formal agricultural exemption to be submitted and approved by the Maryland National Capital Park Planning Commission if the agricultural land management practice is under the guidance and supervision of the Montgomery Soil Conservation District in accordance with the Natural Resource Conservation Service (NRCS) Field Office Technical Guide (FOTG) and is incorporated within a District approved Soil Conservation and Water Quality Plan.”

For clarity purposes, our amendment is in concert with State Law in defining what constitutes an agricultural land management practice and the authority vested with local SCD's. The MSCD also wants to further clarify that agricultural land management ***does not include clearing forests for agricultural production***. MSCD does not have a NRCS Field Office Technical Guide standard that would allow the District to assist landowners or managers with this type of practice. For this land management activity, DPS and MNCPPC would be the lead approving authority.

For the stated reasons above the Montgomery Soil Conservation District is opposed to Bill 18-25 in its current form and would like the County Council to consider the District's amendment to the Forest Conservation Law.

Thank you in advance for considering our written testimony on Bill 18-25 and the District will look forward to participating in Council work sessions as the merits of the Bill and our suggested amendments are weighed.

Sincerely,



Doug Tregoning, Chairman
Montgomery Soil Conservation District

cc: County Council
Mike Scheffel, Director: Office of Agriculture
Doug Lechliden, President: Montgomery County Farm Bureau
Robert Cissel, Executive Director: MAP
John P. Zawitoski, MSCD District Manager