



Montgomery
County Council

Committee T&E

Staff: Jeffry L. Zyontz, Senior Legislative Analyst

Purpose: To receive testimony – no vote expected

Keywords: #MoCoTreeCanopy

AGENDA ITEM #7

January 21, 2020

Public Hearing

SUBJECT

Bill 41-19, Tree Canopy Fees - Exemptions

Lead Sponsor: Councilmember Rice

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- To introduce Bill – no vote expected

DESCRIPTION/ISSUE

Bill 41-19 would amend tree canopy exemptions to include land disturbances by any public use airport. This would be an expansion of the current exemption which is limited to intrusions into navigable airspace.

SUMMARY OF KEY DISCUSSION POINTS

- Bill 41-19 would have a January 1, 2017 effective date. This would allow for a refund of tree canopy fees paid by public airports on or after that effective date.
- As introduced, Bill 41-19 was advertised as an amendment to tree canopy fees. The text of the Bill would create an exemption from all aspects of the tree canopy law. The sponsor will recommend an amendment in Committee to keep Bill 41-19 within the scope of the advertisement.

This report contains:

Staff Report

Bill 41-19

Legislative Request Report

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MEMORANDUM

January 16, 2020

TO: County Council

FROM: Jeffrey L. Zyontz, Senior Legislative Analyst

SUBJECT: Bill 41-19, Tree Canopy Fees - Exemptions

PURPOSE: Public Hearing – no Council votes required

Bill 41-19, Tree Canopy Fees - Exemptions, sponsored by Lead Sponsor Councilmember Rice, was introduced on December 10, 2019. A Transportation and Environment Committee worksession is tentatively scheduled for February 6, 2020 at 10:00 a.m.

Bill 41-19 would amend tree canopy fee exemptions to include land disturbances by any public use airport.¹ Public airports require areas cleared of trees for runways and airport operations. When public airports expand, tree clearing is unavoidable. Even though public airports have public benefits, tree canopy fees are a financial disincentive to an airport's expansion. The current exemption for a Federal Aviation Administration determination that trees would be a hazard to aviation, does not cover all airports and does not cover all circumstances at all airports.

As introduced, Bill 41-19 was advertised as an amendment to tree canopy fees. The text of the Bill would create an exemption from all aspects of the tree canopy law. The sponsor will recommend an amendment in Committee to keep Bill 41-19 within the scope of the advertisement.

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¹#MoCoTreeCanopy

Bill No. 41-19
Concerning: Tree Canopy Fees - Exemptions
Revised: 12/2/2019 Draft No. 4
Introduced: December 10, 2019
Expires: June 10, 2021
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Rice

AN ACT to:

- (1) amend tree canopy fee exemptions to include land disturbances by any public use airport;
and
- (2) generally amend the provisions for tree canopy fee exemptions.

By amending

Montgomery County Code
Chapter 55, Tree Canopy
Section 55-5

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 A

1 **Sec. 1 Section 55-5 is amended as follows:**

2 **Sec. 55-5. Exemptions.**

3 This Chapter does not apply to:

- 4 (a) any activity that is subject to Article II of Chapter 22A;
- 5 (b) any commercial logging or timber harvesting operation with an approved
6 exemption ~~[from]~~under Article II of Chapter 22A;
- 7 (c) any tree nursery activity ~~[performed with an]~~ approved under Section 19-
8 48 Soil Conservation and Water Quality Plan [as defined in Section
9 19-48];
- 10 (d) cutting or clearing trees in a public utility right-of-way for the
11 construction or modification of electric generation facilities approved
12 under the Maryland Code Public Utilities Article if:
 - 13 (1) the person cutting or clearing the trees [has] obtained a certificate
14 of public convenience and necessity required under Sections 7-207
15 and 7-208 of the Public Utilities Article; and
 - 16 (2) the cutting or clearing of forest or tree canopy [is conducted so as
17 to minimize] minimizes the loss of both;
- 18 (e) routine maintenance of a public utility right-of-way, and cutting or
19 clearing any tree by a public utility as necessary to comply with
20 applicable vegetation management requirements, to maintain, repair,
21 replace, or upgrade any public utility transmission or distribution line, or
22 for a new transmission or distribution line;
- 23 (f) any activity conducted by:
 - 24 (1) the County Parks Department; or
 - 25 (2) any public use airport;

- 26 (g) routine or emergency maintenance of an existing stormwater
- 27 management facility, including an existing access road, if the person
- 28 performing the maintenance [has] obtained all required permits;
- 29 (h) any stream restoration project if the person performing the work [has]
- 30 obtained all necessary permits;
- 31 (i) [cutting or clearing any tree by an existing airport currently operating
- 32 with all applicable permits to comply with applicable provisions of any
- 33 federal law or regulation governing the obstruction of navigable airspace
- 34 if the Federal Aviation Administration has determined that the trees
- 35 create a hazard to aviation];
- 36 [(j)] cutting or clearing any tree to comply with [applicable provisions of] any
- 37 applicable federal, state, or local law governing the safety of dams;
- 38 [(k)](j) any development activity permitted as a small land disturbing
- 39 activity under Section 19-5B; or
- 40 [(l)](k) any non-coal surface mining conducted [in accordance with] under
- 41 applicable state law.

42 **Sec. 2. Effective Date.**

43 This Bill is effective on January 1, 2017 and applies to any fees paid on or after that
 44 date.

LEGISLATIVE REQUEST REPORT

Bill 41-19

Tree Canopy Fees - Exemptions

DESCRIPTION:	Bill 41-19 would amend tree canopy fee exemptions to include land disturbances by any public use airport.
PROBLEM:	Public airports require areas cleared of trees for runways and airport operations. When public airports expand, tree clearing is unavoidable. Even though public airports have public benefits, tree canopy fees are a financial disincentive to an airport's expansion. The current exemption for a Federal Aviation Administration determination that trees would be a hazard to aviation, does not cover all airports and does not cover all circumstances at all airports.
GOALS AND OBJECTIVES:	To eliminate future tree canopy fees for public airports and refund any fees paid since January 1, 2017.
COORDINATION:	Department of Permitting Service and Department of Environmental Protection
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Jeffrey L. Zyontz, Senior Legislative Analyst
APPLICATION WITHIN MUNICIPALITIES:	Not applicable.
PENALTIES:	Not applicable