

**MEMORANDUM**

TO: Transportation, Infrastructure, Energy & Environment Committee

FROM: *MF* Michael Faden, Senior Legislative Attorney  
Amanda Mihill, Legislative Attorney *AMihill*

SUBJECT: **Public Hearing:** Bill 41-12, Streets and Roads – Roadside Trees - Protection

Bill 41-12, Streets and Roads – Roadside Trees - Protection, sponsored by Councilmembers Berliner and Elrich, was introduced on December 11, 2012. A Transportation, Infrastructure, Energy and Environment Committee worksession is tentatively scheduled for January 28, 2013 at 9:30 a.m., along with Bill 35-12, Trees – Tree Canopy Conservation.

Bill 41-12 would require certain applicants to obtain a permit for certain roadside tree activities as part of the existing right-of-way permit that the Department of Permitting Services issues, would authorize the Department of Transportation to create a tree replacement fund to pay for needed roadside trees, and would direct the County Executive to adopt regulations further specifying roadside tree work standards.

This Bill would implement a 2009 state law (2009 Laws of Maryland Chapter 289, codified at Maryland Code, Nat. Res. Art. §5-403(d)-(e)), which gave counties the authority to supplement state laws governing roadside trees. It has been the subject of extensive pre-introduction discussions with staff from relevant County Departments and other stakeholders.

This packet contains:	<u>Circle #</u>
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Bill No. 41-12  
Concerning: Streets and Roads -  
Roadside Trees - Protection  
Revised: 12-6-12 Draft No. 11  
Introduced: December 11, 2012  
Expires: June 11, 2014  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Ch.     , Laws of Mont. Co.     

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmembers Berliner and Elrich

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**AN ACT** to:

- (1) require a permit for certain activities affecting roadside trees;
- (2) require certain persons to pay into a roadside tree replacement fund under certain circumstances;
- (3) require the County Executive to adopt regulations specifying certain roadside tree protection, conservation, and replacement standards; and
- (4) generally amend the law regarding streets and roads.

By amending

Montgomery County Code  
Chapter 49, Streets and Roads  
Sections 49-35 and 49-36

By adding

Chapter 49, Streets and Roads  
Section 49-36A.

<b>Boldface</b>	<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:*



28 met those requirements.

29 [(f)] (g) \* \* \*

30 [(g)] (h) \* \* \*

31 **49-36A. Roadside tree work.**

32 (a) Definitions. In this Section, the following words have the meanings  
33 indicated:

34 Certified arborist means a person who is certified as an arborist by the  
35 International Society of Arboriculture or who the Director finds has an  
36 equivalent level of experience and training.

37 Critical root zone means the minimum area beneath a tree (typically a  
38 concentric circle not less than 1.5 feet per diameter/inch of the tree,  
39 measured at 4.5 feet above ground level) that must be protected to  
40 preserve sufficient root mass to give the tree a reasonable chance of  
41 long-term survival.

42 Licensed tree expert means a person licensed under Title 5, Subtitle 4 of  
43 the Natural Resources Article of the Maryland Code or any successor  
44 provision.

45 Pesticide means a:

46 (1) chemical or biological preparation used to kill, inhibit, or regulate  
47 growth on a targeted plant, plant spore, or plant seed, including:

- 48 (A) an herbicide;
- 49 (B) an insecticide;
- 50 (C) a tree growth regulator; and
- 51 (D) a fungicide; or

52 (2) substance or mixture of substances intended:

- 53 (A) to prevent, destroy, repel, or mitigate a pest;
- 54 (B) for use as a plant regulator, defoliant, or desiccant; or

55 (C) for use as a spray adjuvant, such as a wetting agent or  
 56 adhesive.

57 Recommended County tree list means a list of trees approved by the  
 58 Director after consulting the Chief of Tree Maintenance in the  
 59 Department of Transportation. The recommended tree list must include  
 60 each tree that the Department identifies as suitable for planting on  
 61 specific sites and conditions in the right-of-way of a public road.

62 Roadside tree means any single-stem plant that has a woody stem or  
 63 trunk that grows all, or in part, in the right-of-way of any County or  
 64 State public road or shared use trail. Roadside tree includes the tree's  
 65 critical root zone.

66 Tree work means any activity affecting a roadside tree, including:

- 67 (1) removal of a roadside tree or a remaining stump;  
 68 (2) planting pruning, root-pruning, or trimming a roadside tree;  
 69 (3) application of pesticide directly to or in the critical root zone of a  
 70 roadside tree;  
 71 (4) protection of a roadside tree; or  
 72 (5) treatment that may adversely affect the health or growth of a  
 73 roadside tree.

74 (b) Applicability; exceptions.

75 (1) The following activities do not require a right-of-way and  
 76 roadside tree work permit:

- 77 (A) cutting or clearing a public utility right-of-way or land for  
 78 an electric generating station licensed under Sections 7-  
 79 204, 7-205, 7-207, or 7-208 of the Public Utilities Article  
 80 of the Maryland Code, or any successor provision, if:

- 81                   (i) any required certificate of public convenience and  
 82                   necessity has been issued under Section 5-1603(f) of  
 83                   the Natural Resources Article of the Maryland Code  
 84                   or any successor provision; and
- 85                   (ii) the cutting or clearing is conducted in a way that  
 86                   minimizes the loss of forest;
- 87                   (B) routine maintenance of a public utility right-of-way; or  
 88                   (C) cutting or clearing a public utility right-of-way or land for  
 89                   a new transmission or distribution line.
- 90                   (2) A licensed tree expert need not obtain a permit for work  
 91                   performed on:
- 92                   (A) a tree that is uprooted or truncated because of a storm or  
 93                   vehicular collision;
- 94                   (B) a tree branch that is broken and contacts a telephone, cable  
 95                   television, electric power, or other wire carrying electric  
 96                   current; or
- 97                   (C) a tree or tree branch that a certified arborist or licensed tree  
 98                   expert finds is endangering a person or property.
- 99                   (3) A certified arborist or licensed tree expert who provides tree  
 100                   work under paragraph (2) must, within one week after an action  
 101                   is taken, give the Department:
- 102                   (A) notice of the property address, if available, and general  
 103                   area where the action was taken; and
- 104                   (B) a proposed plan to upgrade the work, if necessary, to the  
 105                   tree work standards in this Section and applicable  
 106                   regulations.

107 The Department must approve, modify, or reject the proposed  
 108 plan, after reviewing the actions taken, within 14 days after  
 109 receiving the information. If the Department does not act on the  
 110 proposed plan within 14 days, the plan is approved by default.  
 111 The Department may require further information, and may extend  
 112 this deadline once for an additional 15 days in extenuating  
 113 circumstances. The Director also may extend this deadline at the  
 114 request of the applicant.

115 (c) Right-of-way and roadside tree work permit required.

116 (1) The Department must not issue a building or related permit to an  
 117 applicant for any demolition, clearing, pre-construction activity,  
 118 construction, or development that is likely to result in the  
 119 trimming, pruning, root-pruning, cutting, removal, or injury of a  
 120 roadside tree unless the applicant first obtains a right-of-way and  
 121 roadside tree work permit from the Department.

122 (2) A right-of-way and roadside tree work permit is required for any  
 123 tree work on a utility located in a right-of-way, such as a:

124 (A) sewer;

125 (B) water or gas pipe;

126 (C) storm drain;

127 (D) electric, telephone, or television cable or conduit;

128 (E) sidewalk;

129 (F) driveway;

130 (G) sewer pump;

131 (H) gutter outflow line; or

132 (I) roadway or similar structure.

133 (3) A person may receive a right-of-way and roadside tree work

- 134 permit to perform tree work if the person:  
135 (A) holds title to the land where the roadside tree is located;  
136 (B) owns property abutting the right-of-way at the point where  
137 the tree is located  
138 (C) is a government agency that has an easement for the public  
139 right-of-way where the tree is located;  
140 (D) is responsible for providing tree care to the tree; or  
141 (E) is an authorized agent of any of these.

142 (d) Permit issuance and administration.

- 143 (1) After receiving an application for a right-of-way and roadside  
144 tree work permit, the Department may meet with the applicant  
145 and conduct an on-site examination of the proposed tree work.  
146 (2) The Department should consult with the Chief of Tree  
147 Maintenance in the Department of Transportation regarding any  
148 application under which the applicant would perform tree work.  
149 (3) The Department may issue a permit if the applicant shows that  
150 the proposed tree work is necessary to:  
151 (A) protect the health of the tree;  
152 (B) eliminate or reduce a hazard to property, public safety, or  
153 health;  
154 (C) improve or prevent a deteriorated tree condition;  
155 (D) improve the overall appearance of the right-of-way; or  
156 (E) carry out a development which has received all other  
157 applicable development approvals.  
158 (4) The Department may issue:



- 159                   (A) a permit for a specific tree or group of trees for specific  
 160                   tree work for a term not to exceed 1 year after the permit is  
 161                   issued; and
- 162                   (B) a permit for a comprehensive and continuing program of  
 163                   general tree work.
- 164                   (5) A permit issued under paragraph (4)(B) must specify the types of  
 165                   tree work it covers, as allowed by the license of the person who  
 166                   will supervise the program.
- 167                   (6) If the Department denies a permit application, the Department  
 168                   must notify the applicant of the reason.
- 169                   (7) The Department may:
- 170                   (A) modify any term or condition of a permit to best achieve  
 171                   the objectives of this Article; or
- 172                   (B) suspend or revoke a permit if the holder violates a  
 173                   condition of the permit or a provision of this Section or the  
 174                   Natural Resources Article of the Maryland Code.
- 175                   (e) *Tree work performance; inspection; replacement.*
- 176                   (1) Each permittee must take all necessary measures to protect a  
 177                   roadside tree from damage during all phases of clearing,  
 178                   construction, or development of a building or other structure,  
 179                   including installing protective fencing, avoiding soil compaction,  
 180                   and protecting critical root zones.
- 181                   (2) A permittee must repair any damage a tree sustains during  
 182                   construction or development, including any broken limb, root, or  
 183                   scarred trunk, and any damage caused by soil compaction.
- 184                   (3) (A) Before any bond filed with the Department under this  
 185                   Chapter is released, or (if no bond has been filed) before

186 any certificate of occupancy or similar final approval is  
187 issued, the Department must inspect each affected roadside  
188 tree to determine, after consulting the Chief of Tree  
189 Maintenance in the Department of Transportation, whether  
190 the tree has a reasonable chance of achieving the typical  
191 maximum age of a roadside tree in that location.

192 (B) If the Department does not find that an affected tree has a  
193 reasonable chance of achieving the typical maximum age  
194 of a roadside tree in that location, or if the permittee has  
195 removed a roadside tree, the Department must require the  
196 permittee to pay an amount set by regulation into a tree  
197 replacement fund maintained by the Department of  
198 Transportation.

199 (C) The amount of payment must be set by Method 3  
200 regulation; must be proportionate to the cost of replacing  
201 each affected tree, using a replacement ratio specified by  
202 regulation that takes into account the survival rate of  
203 newly-planted trees; must be computed according to the  
204 size of the affected tree; may consider the species, age,  
205 rarity, and historical value (if any) of the affected tree; and  
206 must not be less than \$35 per circumference/inch of the  
207 affected tree.

208 (D) The permittee must pay the required amount within 30  
209 days after the Director notifies the permittee that the  
210 payment is required. The Director may treat any unpaid  
211 funds as a lien on the property where the affected tree is  
212 located, and must not issue a certificate of occupancy or

213 similar final approval for the site until full payment is  
214 received.

215 (f) Use of pesticides.

216 (1) Any permittee who applies a pesticide directly to a roadside tree  
217 must be certified and licensed as required by the State  
218 Department of Agriculture, and must comply with applicable  
219 state regulations.

220 (2) Any permittee who applies a pesticide must only use a pesticide  
221 that is registered for that use by the U.S. Environmental  
222 Protection Agency and the State Department of Agriculture. Any  
223 permittee who applies a pesticide must follow the manufacturer's  
224 label directions for proper use.

225 (3) Before applying a pesticide, a permittee must notify the  
226 Department of the approximate time and place of application.

227 (4) Unless the Department directs otherwise, a permittee must not  
228 apply an herbicide to a tree if the tree is 6 feet tall or higher.

229 (5) A permittee must remove dead plant material resulting from the  
230 application of an herbicide if removal is necessary for safety  
231 reasons.

232 (6) A permittee must take reasonable precautions in selecting and  
233 applying a pesticide on or near a roadside tree to:

234 (A) avoid the use of an herbicide on vegetation that contributes  
235 to soil retention, especially at a highway cut or fill and any  
236 other area with a steep slope; and

237 (B) prevent stream pollution and damage to any adjoining  
238 property.

239 (g) Roadside tree planting.

- 240 (1) Any tree that is planted on a public right-of-way must be of a  
241 species and variety from the recommended County tree list and  
242 must conform to the American Standard for Nursery Stock or  
243 standards that the Director identifies as equivalent.
- 244 (2) Each roadside tree planting must comply with a planting plan  
245 approved by the Department after consulting the Chief of Tree  
246 Maintenance in the Department of Transportation. The planting  
247 plan must cover:
- 248 (A) stump removal, including a requirement to fill in any  
249 resulting hole;
- 250 (B) size and type of planting stock;
- 251 (C) planting specifications;
- 252 (D) spacing;
- 253 (E) species;
- 254 (F) proximity to overhead wires;
- 255 (G) care and maintenance; and
- 256 (H) any other site consideration.
- 257 (h) Regulations. The County Executive must adopt regulations under  
258 Method 2 that are at least as stringent as applicable state roadside tree  
259 standards and requirements. These regulations may specify further:
- 260 (1) criteria for right-of-way and roadside tree work permit issuance;  
261 (2) roadside tree work standards and practices, including  
262 construction practices that will minimize damage to roadside  
263 trees;
- 264 (3) criteria for the use of pesticides; and
- 265 (4) roadside tree planting requirements.

## LEGISLATIVE REQUEST REPORT

Bill 41-12

*Streets and Roads – Roadside Trees - Protection*

**DESCRIPTION:** Would require certain applicants to obtain a permit for certain roadside tree activities as part of the existing right-of-way permit that the Department of Permitting Services issues; would authorize the Department of Transportation to create a tree replacement fund to pay for needed roadside trees; and would direct the County Executive to adopt regulations further specifying roadside tree work standards

**PROBLEM:** Need to better protect and maintain roadside trees in County rights-of-way.

**GOALS AND OBJECTIVES:** To authorize the County to supplement state regulation and protection of roadside trees.

**COORDINATION:** Departments of Permitting Services, Transportation, Environmental Protection

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Michael Faden, Senior Legislative Attorney, 240-777-7905; Amanda Mihill, Legislative Attorney, 240-777-7815

**APPLICATION WITHIN MUNICIPALITIES:** To be researched.

**PENALTIES:** Class A.



ROCKVILLE, MARYLAND

MEMORANDUM

January 14, 2013

TO: Nancy Navarro, President, County Council

FROM: Jennifer A. Hughes, <sup>JAH</sup>Director, Office of Management and Budget  
Joseph F. Beach, <sup>JFB</sup>Director, Department of Finance

SUBJECT: Council Bill 41-12 – Streets and Roads – Roadside Trees – Protection

Please find attached the fiscal impact statement and economic impact statement for the above-referenced legislation.

JAH:dh

c: Kathleen Boucher, Assistant Chief Administrative Officer  
Lisa Austin, Offices of the County Executive  
Joy Nurmi, Special Assistant to the County Executive  
Patrick Lacefield, Director, Public Information Office  
Joseph F. Beach, Director, Department of Finance  
Michael Coveyou, Dpartment of Finance  
Bob Hoyt, Department of Environmental Protection  
Art Holmes, Department of Transportation  
Diane Schwartz Jones, Department of Permitting Services  
Alex Espinosa, Office of Management and Budget  
Amy Wilson, Office of Management and Budget  
Dennis Hetman, Office of Management and Budget  
Ayo Apollon, Office of Management and Budget

**Fiscal Impact Statement**  
**Council Bill 41-12, Streets and Roads – Roadside Trees - Protection**

**1. Legislative Summary**

The proposed bill requires certain applicants to obtain a permit for certain roadside tree activities as part of the existing right-of-way permit issued by the Department of Permitting Services (DPS); authorizes the Department of Transportation (DOT) to create a tree replacement fund to pay for needed roadside trees; and directs the County Executive to adopt regulations further specifying roadside tree work standards.

The Department of Permitting Services will administer the law. The Department of Transportation's Chief of Tree Maintenance will manage the consultations pertaining to a recommended county tree list that will include each tree the Department identifies as suitable for planting on specific sites and conditions in the right-of-way of a public road.

**2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

- The Department of Permitting Services (DPS) estimates additional staffing will be necessary to meet the required reviews and inspections:
  - 1 Certified Arborist (Grade 26)
  - .25 Senior Permitting Services Specialist (Grade 26)
  - 2 Senior Permitting Services Inspectors (Grade 23)
  - .30 Senior Permit Technician (Grade 19)

First year expenditures are projected at \$347,075 consisting of \$258,687 in personnel costs and \$88,388 in operating costs of which \$71,464 are one-time costs for vehicles and equipment. DPS estimates the bill will generate an additional 500 permits per year at a minimum of \$135 per permit for projected additional annual revenues of \$67,500. DPS has indicated they can absorb the fractional positions within existing staff.

- The Department of Environmental Protection (DEP) does not anticipate any measurable fiscal impact from the proposed bill.
- The Department of General Services (DGS) estimates the cost of an average county project will increase between \$2,000 and \$12,500 with consultant costs comprising an estimated \$1,500 to \$5,000 per project and construction costs an estimated \$500 to \$7,500 per project. DGS notes it will take several iterations of the proposed projects in order to accurately project a predictable cost. For the purpose of the FY15-20 CIP, each project will be budgeted and scheduled using the high end projections given implementation of the bill. DGS estimates permit fee costs of \$250 to \$1,500 per project and assumes five project starts per year.
- The Department of Transportation (DOT) does not anticipate additional costs associated with the proposed changes. Projects that currently need NRI/FSD and forest conservation plan (FCP) approval through M-NCPPC will continue to follow the current permit issuance process and will therefore be exempt from requirements of the proposed bill. Any projects small enough to be covered under the proposed bill of 40,000 square feet and less will be required to have tree replacement and stump grinding or tree protection. All of these activities are currently completed on most DOT projects of this

size. Montgomery County Code, Chapter 49 exempts DOT from the permit process when conducting routine tree maintenance and emergency tree maintenance in the County right-of-way. Consequently, this bill will have little or no effect on DOT's tree maintenance programs.

The proposed bill creates a Tree Replacement Fund for fees collected as a result of tree disturbance and as the source of funds to pay for needed roadside trees. DOT would manage this fund. The tree replacement fund would have additional work hours attributed to office staff to maintain the fund and to the field operations portion of the planting program. DOT has a \$100,000 annual planting program where the additional tree planting completed as a consequence of the replacement fund can be implemented into the current program efficiently and with relative ease and negligible costs. With respect to revenue, DOT has indicated the number of payments to the tree fund cannot be predicted.

**3. Revenue and expenditure estimates covering at least the next 6 fiscal years.**

- DPS projects expenditures of \$347,075 during year one and \$276,331 annually thereafter for a six year total of \$1,728,730. The bill is estimated to generate an additional 500 permits per year at a minimum of \$135 per permit for projected additional annual revenues of \$67,500 or \$405,000 for six years.
- DGS estimates the cost of an average county project will increase between \$2,000 and \$12,500 for a six year total between \$12,000 and \$75,000. DGS notes it will take several iterations of the proposed projects in order to accurately project a predictable cost.

**4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

Not applicable. The proposed bill does not affect retiree pension or group insurance costs.

**5. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

The proposed bill requires the County Executive to amend the law regarding streets and roads and adopt regulations that are at least as stringent as applicable state roadside tree standards and requirements specifying road side tree protection, conservation, and replacement standards. The County Executive's amendments in addition to potential state actions may cause expenditures to change on imposed mandatory requirements particularly if the County adopts requirements that are more stringent than statewide requirements.

**6. An estimate of the staff time needed to implement the bill.**

DPS estimates additional staffing will be necessary to meet the required reviews and inspections:

- 1 Certified Arborist (Grade 26)
- .25 Senior Permitting Services Specialist (Grade 26)
- 2 Senior Permitting Services Inspectors (Grade 23)
- .30 Senior Permit Technician (Grade 19)



For the certified arborist job class the enactment of the bill includes an additional 1,550 hours of time or the equivalent of 1 work year.

- 150 hours or ½ hour per plan for review of roughly 300 existing DNR permits for tree removal
- 500 hours or ½ hour per plan for review of roughly 1,000 existing ROW and sediment control permits that affect critical root zone
- 250 hours or ½ hour per plan for review of approximately 500 existing activities not currently requiring a DPS ROW or sediment control permit such as house additions, plumbing, and utility activities outside of the right of way
- 300 hours for blanket permits as specified in the proposed bill.
- 250 hours for administration of exceptions as specified in the proposed bill for emergency work and certain utility work
- 100 hours to work with other agencies on administration, technical support, construction standards and training

For the 2 senior permitting inspector positions the enactment of the bill includes an additional 3,050 hours of time for inspection staff or the equivalent of 2 work years.

- 1,500 hours or 1.5 additional inspections for roughly 1,000 existing ROW and sediment control permits that affect critical root zone
- 1,000 hours or 2 inspections per permit for approximately 500 existing activities not currently requiring a DPS ROW or sediment control permit such as house additions, plumbing, and utility activities outside of the right of way
- 300 hours for blanket permits
- 250 hours for administration of exceptions for emergency work and certain utility work

**7. An explanation of how the addition of new staff responsibilities would affect other duties.**

DPS projects the need for 3 additional staff to meet the required number of reviews and inspections. DPS will absorb the fractional positions within existing staff.

**8. An estimate of costs when an additional appropriation is needed.**

No additional appropriation is required in FY13. In FY14 and beyond additional appropriation will be required to cover estimated costs for DPS (\$276,331). Additional costs for DGS (\$75,000) will be reflected in the cost of CIP projects. Costs will be offset by increased revenues.

**9. A description of any variable that could affect revenue and cost estimates.**

Article I, Section 49-35 (b) states the County Executive must collect a fee for each right-of-way and roadside tree work permit. This fee would be set by method 3 regulation and must be proportionate to the cost of replacing each affected tree using a replacement ratio specified by regulation that takes into account the survival rate of newly planted trees; must be computed according to the size of the affected tree, may consider the species, age, rarity, and historical value (if any) of the affected tree; and must not be less than \$35 per circumference/inch of the affected tree. All listed fee calculation variables have a potential impact on revenue estimates.

The proposed bill also defines a recommended County list of approved trees. Any tree that is planted on a public right-of-way must be a species and variety from the

recommended County tree list and must conform to the American Standard for Nursery Stock. The breadth of criteria for an approved tree will affect the volume of permits and thereby corresponding revenues and cost estimates.

DOT has indicated the number of payments to the tree fund cannot be predicted.

**10. Ranges of revenue or expenditures that are uncertain or difficult to project.**

See #9

**11. If a bill is likely to have no fiscal impact, why that is the case.**

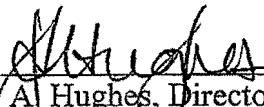
Not applicable.

**12. Other fiscal impacts or comments.**

Not applicable.

**13. The following contributed to and concurred with this analysis:**

Rick Brush, Department of Permitting Services;  
Donald Scheuerman Jr., Department of General Services;  
Stan Edwards, Department of Environmental Protection;  
R. Keith Compton, Department of Transportation;  
Brett Linkletter, Department of Transportation;  
Amy Wilson, Office of Management and Budget;  
Dennis Hetman, Office of Management and Budget

  
\_\_\_\_\_  
Jennifer A. Hughes, Director  
Office of Management and Budget

1/11/13  
Date

**Economic Impact Statement**  
Council Bill 41-12  
Streets and Road, - Roadside Trees - Protection

**Background:**

This proposed legislation would:

- require a permit for certain roadside tree activities as part of the existing right-of-way permit issued by the Department of Permitting Services (DPS);
- authorize the Department of Transportation (DOT) to create a tree replacement fund to pay for needed roadside trees;
- direct the County Executive to adopt regulations further specifying roadside tree work standards;
- amend Chapter 49, Sections 49-35 and 49-36, of the Montgomery County Code;
- require the Department of Permitting Services to administer the law; and
- require the Department of Transportation's Chief of Tree Maintenance to manage the consultations pertaining to a recommended county tree list that will include each tree the Department identifies as suitable for planting on specific sites and conditions in the right-of-way of a public road.

**1. The sources of information, assumptions, and methodologies used.**

Estimates of permit activity, permit costs, and additional development costs as a result of the subject legislation per the Departments of Permitting Services, Transportation, and General Services (see Fiscal Impact Statement).

**2. A description of any variable that could affect the economic impact estimates.**

The number of projects subject to the new permitting requirements, the cost of permit fees, and the additional consultation and construction costs required to comply with the terms of the subject legislation and resulting regulations.

**3. The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.**

Based on preliminary estimates of permit costs, additional development costs, and the number of projects subject to the new permitting requirements, the legislation is not expected to have a material or quantifiable impact on employment, spending, saving, investment income, or property values in the County. Development costs may increase based on the legislation because of the permit fees and the costs of compliance with the legislation. The cost per project will vary based on the location, scope, nature, and other circumstances of each project. However, using the estimate of the potential number of new permits from DPS and the range of cost impact per County project by DGS the table below indicates a range of potentially increased development costs.

**Economic Impact Statement**  
**Council Bill 41-12**  
**Streets and Road, - Roadside Trees - Protection**

	Number of Permits	Permit Fee	Total Permit Fees	Costs Per Project	Total Costs Per Project (including Fees)
Low Range	500 \$	135 \$	67,500 \$	2,000 \$	1,067,500
High Range	500 \$	135 \$	67,500	12500 \$	6,317,500

**4. If a Bill is likely to have no economic impact, why is that the case?**

See item #3.

**5. The following contributed to and concurred with this analysis: David Platt and Mike Coveyou, Finance and Richard Brush, Department of Permitting Services.**

  
 \_\_\_\_\_  
 Joseph F. Beach, Director  
 Department of Finance

1/14/13  
 \_\_\_\_\_  
 Date