

Bill No. 1-16
Concerning: Solid Waste - Illegal
Dumping and Litter Control
Revised: March 10, 2016 Draft No. 3
Introduced: January 19, 2016
Enacted: March 15, 2016
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmembers Navarro and Rice
Co-sponsors: Councilmembers Leventhal and Reimer, Council President Floreen, and
Councilmembers Katz, Elrich, Hucker, and Berliner

AN ACT to:

- (1) prohibit the disposal of ~~[[litter]]~~ garbage or other solid waste on certain public and private property;
- (2) provide penalties for violations in accordance with State law; and
- (3) generally amend the County law regarding Solid Waste.

By amending

Montgomery County Code
Chapter 48, Solid Waste (Trash)
Sections 48-1 and 48-11

By adding

Montgomery County Code
Chapter 48, Solid Waste (Trash)
Section 48-11A

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 48-1 and 48-11 are amended as follows:**

2 **48-1. Definitions.**

3 In this Chapter, the following words and phrases have the following meanings:

4 *Base solid waste management services*[: Those] means those solid waste
5 management services that benefit all generators of solid waste and all persons who
6 collect, store, transport, or otherwise handle solid waste.

7 *Base systems benefits charge*[: The] means the portion of the systems benefit
8 charge which covers all or a portion of the costs of base solid waste management
9 services.

10 *Bi-county unit* means:

11 (1) the Maryland-National Capital Park and Planning Commission; or

12 (2) the Washington Suburban Sanitary Commission.

13 *Collection contractor*[: A] means a private company under contract with the
14 County to provide solid waste collection services to dwelling units with less than
15 [[7]] seven units within the Solid Waste Collection Districts.

16 *Collector*[: Any] means any person who contracts to collect and provide
17 services for collection and/or transporting the solid waste of others to its disposal
18 site.

19 *Commercial gain* means compensation in money, services, or other
20 consideration.

21 *Director*[: The] means the Director of the Department of Environmental
22 Protection, or the Director's designee.

23 [*Director of Finance*: The Director of Finance or the Director's designee.]

24 *Director of Finance*[: The] means the Director of Finance or the Director's
25 designee.

26 *Disposal refuse*[: All] means all solid waste which is acceptable for disposal,
27 as designated in executive regulations adopted by the County Executive pursuant to

28 Section 48-6 of this Chapter, which is delivered to a County solid waste acceptance
29 facility for disposal by the County.

30 *Dumpster*[: A] means a container for solid waste collection or storage with a
31 volume at least 90 gallons or one-half cubic yard.

32 *Dwelling unit*[: A] means a building or part thereof arranged or designed for
33 occupancy by not more than one family for living purposes and having cooking
34 facilities.

35 *Garbage*[: All] means all organic waste materials resulting from the
36 preparation, cooking, handling or storage of food.

37 *Generator*[: The] means the owner or occupant of any dwelling unit where
38 solid waste is generated, and the owner or occupant of any other business, entity or
39 institution at, from, or by which solid waste is generated.

40 *Hauler*[: Any] means any person operating a commercial business or engaged
41 in any enterprise regularly generating solid waste which requires collecting and
42 hauling to an approved point of disposal, when such collecting and hauling is done
43 by the person generating such material in his own vehicles or in vehicles leased for
44 the purpose, in lieu of having a licensed collector perform this service.

45 *Incremental solid waste management services*[: Those] means those solid
46 waste management services that benefit some but not all generators of solid waste
47 or some but not all persons who collect, store, transport, or otherwise handle solid
48 waste.

49 *Integrated solid waste management system*[: The] means the County's system
50 of managing solid waste as that system is revised from time to time in the County's
51 Comprehensive Solid Waste Management Plan. The system may include all aspects
52 of solid waste management and handling, including any waste reduction program,
53 recycling program or facility, disposal program or facility, and any other program
54 related to the collection, management and disposal of solid waste.

55 *Incremental systems benefit charge*[: The] means the portion of the systems
56 benefit charge which covers all or a portion of the costs of incremental solid waste
57 management services.

58 [[Litter means solid waste.]]

59 *Medical waste*[: Waste] means waste, sometimes classified as "special,"
60 "hazardous," "contaminated," "infectious," etc., including utensils, bandages,
61 containers or any other material issuing from all human patient care, diagnosis and
62 surgical areas; animal bedding and feces; disposable laboratory equipment, and their
63 contents; materials resulting from and/or exposed to infectious animal care and
64 laboratory procedures; all disposable needles and syringes; all other disposable
65 materials from out-patient areas for human and animal patients, where presence of
66 pathogenic organisms are diagnosed or suspected.

67 *Medical/pathological waste generator*[: Any] means any hospital, laboratory,
68 clinic, institution, medical building, physician's office or any other point of origin
69 where medical/pathological wastes are produced.

70 *Medical/pathological waste incinerator*[: Any] means any incinerator located
71 on the premises of a medical/pathological waste generator which is designed and
72 constructed to be used exclusively for the disposal of medical and/or pathological
73 wastes.

74 *Motor vehicle administration*[: The] means the motor vehicle administration,
75 Department of Transportation, for the State of Maryland.

76 *Pathological waste*[: Waste] means waste, some of which may be
77 considered infectious, including human or animal organs or body parts, carcasses
78 and similar organic waste from hospitals, laboratories, animal pounds,
79 slaughterhouses or other similar sources.

80 *Person*[: The] means the County or any agency or institution thereof, public
81 or private corporation, individual, partnership or other entity, including any officer

82 or governing or managing body of any public or private corporation.

83 Public or private property means:

- 84 (1) the right-of-way of a road or highway;
 85 (2) a body of water or watercourse or the shores or beaches of a body of
 86 water or watercourse;
 87 (3) a park;
 88 (4) a parking facility;
 89 (5) a playground;
 90 (6) public service company property or transmission line right-of-way;
 91 (7) a building;
 92 (8) a refuge or conservation or recreation area;
 93 (9) residential, commercial, industrial, or farm property; or
 94 (10) timberlands or a forest.

95 *Slant-sided refuse container*[: "Slant-sided refuse container"] means a metal
 96 receptacle with a top surface area greater than the bottom surface area and having an
 97 internal volume greater than one cubic yard which temporarily receives and holds
 98 refuse for ultimate disposal either by unloading into the body or loading hopper of a
 99 refuse collection vehicle or by other means.

100 *Sludge*[: Residual] means residual materials, usually in a highly concentrated
 101 form, which result from the treatment of sewage and/or water, including industrial
 102 and domestic wastewater; such residue may include but is not limited to digested,
 103 undigested, dewatered and underwatered residuals.

104 *Solid waste*[: All] means all waste materials and debris, including any
 105 garbage, sludge, medical/pathological waste, debris from building construction,
 106 ashes, junk, industrial waste, dead animal, salvable waste, dead or felled tree,
 107 uprooted tree stump, slash, tree limb, bush, plant, leaves, grass, garden trimmings,
 108 street refuse, abandoned vehicle, machinery, bottle, can, waste paper, cardboard,

109 sawdust and slash from sawmill operations, and any other waste materials. Solid
110 waste also includes any automobile, truck, box, container, tire, appliance, furniture,
111 or recreational equipment that is in a state of disrepair or disfunction, unless the item
112 is awaiting removal or being repaired or renovated for the personal use of the owner
113 or occupant and the repair, renovation or removal is completed within 30 days. Solid
114 waste also includes any recyclable solid waste.

115 *Solid waste acceptance facility*[: Any] means any state-approved sanitary
116 landfill, central processing facility, transfer station, medical/pathological waste
117 incinerator or any other type of plant the primary purpose of which is for the
118 disposal, treatment or processing of solid waste.

119 *Solid waste acceptance fee*[: The] means the charge established for use of the
120 County solid waste acceptance facilities.

121 *Solid waste collection charge*[: A] means a charge established for the service
122 of collecting solid waste in a Solid Waste Collection District.

123 *Solid waste collection districts*[: Special] means special service districts
124 established from time to time, consisting of certain areas of the County as defined
125 on maps in the office of the Director, in which solid waste is collected by the County
126 or its contractor.

127 *Solid waste charge*[: A] means a charge established for use of County solid
128 waste acceptance facilities for disposal, recycling, or otherwise processing or
129 handling of solid waste.

130 *Solid waste management district*[: A] means a special service district
131 consisting of all of Montgomery County.

132 *Solid waste management service*[: Any] means any service provided by or on
133 behalf of the County to plan, implement, or administer any part of an integrated solid
134 waste management system.

135 *Systems benefit charge*[: An] means an annual service charge reflecting all or

136 a portion of the cost to the County of providing base and incremental solid waste
 137 management services.

138 *Tax bill*[: The] means the real property tax bill prepared by the Director of
 139 Finance as collector of State and County taxes and sent to all persons against whom
 140 State and County real property taxes are assessed.

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142 **48-11. [Dumping garbage or solid waste on land of another, or into another's**
 143 **container(s), or upon any public highway; penalty] ~~[[Illegal dumping and litter~~**
 144 **control]] Unlawful disposal of garbage or solid waste.**

145 [It shall be unlawful for any person to throw, dump or deposit any garbage or other
 146 solid waste upon the land or property of another or into the approved container(s)
 147 for storage of solid waste owned, rented by or maintained by a collector on behalf
 148 of another without written consent first having been obtained from the owner or
 149 rightfully intended user thereof, or under the personal direction of such owner or
 150 rightfully intended user, or to throw, dump or deposit any garbage or other solid
 151 waste upon any public highway of the county; and any violation of this section shall
 152 be punished as a class A violation as set forth in section 1-19 of chapter 1 of the
 153 County Code.]

- 154 (a) [[Littering prohibited.]] Prohibited conduct. A person must not:
- 155 (1) dispose of ~~[[litter]]~~ garbage or other solid waste on a highway or
 156 violate State vehicle laws regarding disposal of litter, glass, and
 157 other prohibited substances on highways; or
 - 158 (2) dispose of, or cause or allow the disposal of, ~~[[litter]]~~ garbage or
 159 other solid waste on public or private property unless:
 - 160 (i) the property is designated by the State, a unit of the State,
 161 or a political subdivision of the State for the disposal of
 162 ~~[[litter]]~~ garbage or other solid waste and the person is

163 authorized by the proper public authority to use the
 164 property; or
 165 (ii) the ~~[[litter]]~~ garbage or other solid waste is placed into a
 166 ~~[[litter]]~~ garbage or solid waste receptacle or container
 167 ~~[[installed]]~~ on the property.

168 (b) Presumption of responsibility.

169 (1) If two or more individuals occupy a vehicle from which ~~[[litter]]~~
 170 garbage or other solid waste is disposed in violation of subsection
 171 (a), and it cannot be determined which occupant is the violator:

172 ~~[[1]]~~(A) if present, the owner of the vehicle is presumed to be
 173 responsible for the violation; or

174 ~~[[2]]~~(B) if the owner of the vehicle is not present, the operator
 175 is presumed to be responsible for the violation.

176 (2) If the occupants of a vehicle from which garbage or other solid
 177 waste is disposed in violation of subsection cannot be determined,
 178 the owner of the vehicle is presumed to be responsible for the
 179 violation.

180 (c) Property owner not in court. Notwithstanding any other law, if the facts
 181 of a case in which a person is charged with violating this Section are
 182 sufficient to prove that the person is responsible for the violation, the
 183 owner of the property on which the violation allegedly occurred need
 184 not be present at a court proceeding regarding the case.

185 (d) Penalty. A person who violates this Section is subject to the following
 186 penalties:

187 (1) a maximum civil fine of \$500 for a first offense, and \$1,000 for
 188 subsequent offenses; or

189 (2) a criminal penalty as follows:

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- (A) A person who disposes of [[litter]] garbage or other solid waste in violation of this Section in an amount not exceeding 100 pounds or 27 cubic feet and not for commercial gain is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 30 days or a fine not exceeding \$1,500 or both.
- (B) A person who disposes of [[litter]] garbage or other solid waste in violation of this Section in an amount exceeding 100 pounds or 27 cubic feet, but not exceeding 500 pounds or 216 cubic feet, and not for commercial gain is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding one year or a fine not exceeding \$12,500 or both.
- (C) A person who disposes of [[litter]] garbage or other solid waste in violation of this Section in an amount exceeding 500 pounds or 216 cubic feet or in any amount for commercial gain is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding five years or a fine not exceeding \$30,000 or both.
- (3) In addition to the penalties provided under paragraphs (1) and (2) of this subsection, a court may order the violator to:
 - (A) remove [[or render harmless]] the [[litter]] garbage or other solid waste disposed of in violation of this Section;
 - (B) repair or restore any property damaged by, or pay damages for, the disposal of the [[litter]] garbage or other solid waste in violation of this Section;
 - (C) perform public service relating to the removal of [[litter]]

217 garbage or other solid waste disposed of in violation of this
218 Section or to the restoration of an area polluted by [[litter]]
219 garbage or other solid waste disposed of in violation of this
220 Section; or

221 (D) reimburse the State, the County, or a municipal
222 corporation or bi-county unit for its costs incurred in
223 removing the [[litter]] garbage or other solid waste
224 disposed of in violation of this Section.

225 (e) Nothing in this Section authorizes a person to deposit or dispose of
226 garbage or other solid waste in another's container without written
227 consent or personal direction required under Section 48-11A.

228 **Sec 2. Section 48-11A is added as follows:**

229 **48-11A. Disposal of garbage or solid waste in a [[collector's]] another's**
230 **container.**

231 A person must not dispose of garbage or solid waste in an approved container
232 for storage of solid waste owned, rented by or maintained by [[a collector on behalf
233 of]] another without first obtaining written consent from the owner or rightfully
234 intended user, or under the personal direction of the owner or rightfully intended
235 user.

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