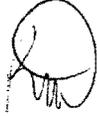


MEMORANDUM

TO: Public Safety Committee

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Worksession:** Expedited Bill 46-10, Motor Vehicles and Traffic – Parking Regulations – Utility Trailers

Expedited Bill 46-10, Motor Vehicles and Traffic – Parking Regulations – Utility Trailers, sponsored by Councilmember Knapp, was introduced on July 27, 2010. A public hearing was held on September 28.

Background

Bill 27-08, enacted by the Council on January 27, 2009, restricted recreational and heavy commercial vehicle parking on a public roadway in residential areas. Since the enactment of this law, the Police Department reports that some owners of utility trailers have unhooked the utility trailer from a truck in order to park the trailer in a residential area overnight without violating the new restrictions on recreational and heavy commercial vehicle parking.

Bill 46-10 would prohibit parking a utility trailer on any public roadway except:

- (1) for up to 18 hours while actively engaged in loading or unloading passengers, merchandise or materials; or
- (2) for up to 48 hours if the vehicle is involuntarily parked because of mechanical failure or other emergency.

The Bill adds the following definition on lines 6-17 at ©2:

Utility trailer: A general use vehicle designed to be towed by a motor vehicle. A utility trailer includes a:

- (a) homemade trailer;
- (b) small box trailer;
- (c) freight trailer;
- (d) semi-freight trailer;
- (e) boat trailer;
- (f) camping trailer;
- (g) tent trailer;

- (h) travel trailer;
- (i) flatbed trailer; and
- (j) horse trailer.

Public Hearing

Police Captain Thomas Didone testified in support of the Bill on behalf of the Executive. Captain Didone explained the need to amend the recently enacted on-street parking restrictions for recreational and heavy commercial vehicles to prevent the overnight parking of utility trailers in residential areas. Max Bronstein, on behalf of the Strathmore Bel-Pre Civic Association, supported the Bill. See ©6-7. Mr. Bronstein also asked if the Bill could be extended to prohibit parking large portable storage structures on County roads.

Issues

1. What is the fiscal and economic impact of the Bill?

The OMB Fiscal Impact statement concludes that the Bill would have no fiscal or economic impact. Council staff concurs.

2. Should the Bill be extended to prohibit on-street parking of portable storage facilities?

On-street parking of portable storage structures is already covered by other Code sections. County Code §49-10 prohibits placing a structure on a County road unless authorized by a permit issued by the Director of the Department of Permitting Services (DPS). See ©8. Code §49-11 authorizes the DPS Director to issue a permit to “install a temporary, removable obstruction or occupation of a right-of-way.” See ©9. A violation of these sections is a Class A violation, punishable by a fine of up to \$500, under Code §49-13. See ©11. A description of this permit process published by DPS is at ©12.

Bill 46-10 restricts on-street parking of certain classes of vehicles. Although the potential traffic hazard from placing a portable storage structure on a County road is similar to the potential traffic hazard resulting from on-street parking of utility trailers, portable storage structures are not vehicles. DPS is responsible for evaluating and acting on a request to temporarily place a portable storage structure on a County road. Amendments to these Code sections would be beyond the advertised scope of Bill 46-10. Mr. Bronstein’s description of the placement of a portable storage structure on a County road without a permit raises a potential enforcement issue rather than a need for new legislation. **Council staff recommendation:** do not amend the Bill to include restrictions on portable storage structures.

3. Should utility trailers be permitted to park overnight on County roads?

County roads are designed for traffic flow. They are not designed to serve as a storage facility for commercial vehicles. Parking a utility trailer on a County road when not actively loading or unloading the vehicle creates the same traffic hazard as recreational vehicles. **Council staff recommendation:** enact the Bill as introduced.

This packet contains:

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Expedited Bill No. 46-10
Concerning: Motor Vehicles and Traffic –
Parking Regulations – Utility Trailers
Revised: July 20, 2010 Draft No. 2
Introduced: July 27, 2010
Expires: January 27, 2012
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Knapp

AN EXPEDITED ACT to:

- (1) prohibit the parking of certain utility trailers in certain areas; and
- (2) generally amend the law regarding vehicle parking.

By amending

Montgomery County Code
Chapter 31, Motor Vehicles and Traffic
Sections 31-1 and 31-14

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:

Sec. 1. Sections 31-1 and 31-14 are amended as follows:

33-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this article:

* * *

Utility trailer: A general use vehicle designed to be towed by a motor vehicle. A utility trailer includes a:

- (a) homemade trailer;
- (b) small box trailer;
- (c) freight trailer;
- (d) semi-freight trailer;
- (e) boat trailer;
- (f) camping trailer;
- (g) tent trailer;
- (h) travel trailer;
- (i) flatbed trailer; and
- (j) horse trailer.

* * *

33-14. Parking of heavy commercial vehicles, recreational vehicles, utility trailers, or buses.

- (a) A person must not park any recreational vehicle or utility trailer on any public roadway except:
 - (1) for up to 18 hours while actively engaged in loading or unloading passengers, merchandise or materials, or
 - (2) for up to 48 hours if the vehicle is involuntarily parked because of mechanical failure or other emergency.

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Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

Approved:

Nancy Floreen, President, County Council Date

Approved:

Isiah Leggett, County Executive Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 46-10
Motor Vehicles and Traffic – Parking Regulations – Utility Trailers

DESCRIPTION: The Bill would prohibit parking a utility trailer on any public roadway except:
(1) for up to 18 hours while actively engaged in loading or unloading passengers, merchandise or materials, or
(2) for up to 48 hours if the vehicle is involuntarily parked because of mechanical failure or other emergency.

PROBLEM: Bill 27-08, enacted by the Council on January 27, 2009, restricted parking recreational vehicles and heavy commercial vehicles on a public roadway in residential areas. Since the enactment of this law, the Police Department reports that some business owners of utility trailers have unhooked the utility trailer from the truck in order to park the trailer in residential areas overnight without violating the new restrictions on recreational vehicles and heavy commercial vehicles.

GOALS AND OBJECTIVES: To prevent the routine overnight parking of utility trailers on public roadways when not in use.

COORDINATION: Police

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Robert H. Drummer, Senior Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: To be researched.

PENALTIES: Class B Violation – Fine established by regulation not to exceed \$200.



OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

MEMORANDUM

Joseph F. Beach
Director

September 15, 2010

TO: Nancy Floreen, President, County Council

FROM: Joseph F. Beach, Director, Office of Management and Budget

SUBJECT: Expedited Bill 46-10, Motor Vehicles and Traffic – Parking Regulations – Utility Trailers

The purpose of this memorandum is to transmit a fiscal and economic impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

Bill 27-08, enacted by the Council on January 27, 2009, restricted the parking of recreational vehicles and heavy commercial vehicles on a public roadway in residential areas. This Bill would prohibit parking a utility trailer on any public roadway except:

- (1) for up to 18 hours while actively engaged in loading or unloading passengers, merchandise or materials, or
- (2) for up to 48 hours if vehicle is involuntarily parked because of mechanical failure or other emergency.

FISCAL AND ECONOMIC SUMMARY

The purpose of this legislation is to expand the parking restrictions of recreational vehicles, heavy commercial vehicles, and buses on a public roadway in residential areas to include utility trailers. The Department of Police reports that some business owners of utility trailers have unhooked the utility trailer from the truck in order to park the trailer in residential areas overnight without violating the restrictions on recreational vehicles and heavy commercial vehicles. The Department of Police does not anticipate a fiscal impact with the enactment of this legislation as the Department is already performing the enforcement function with respect to abandoned and impounded vehicles. The owners of abandoned and impounded vehicles, as well as utility trailers will, however, be responsible for payment of the tow bill. The Department of Finance has reviewed the bill and determined that there is no economic impact to the County.

The following contributed to and concurred with this analysis: Captain John Didone, and Neil Shorb, of the Department of Police, Mike Coveyou, Department of Finance, and Ed Piesen, Office of Management and Budget.

JBF:ep

c: Kathleen Boucher, Assistant Chief Administrative Officer
Tom Street, Assistant Chief Administrative Officer
Dee Gonzalez, Officers of the County Executive
J. Thomas Manger, Chief of Police
John Didone, Captain, Department of Police

Office of the Director

Testimony of Max Bronstein on Expedited Bill 46-10
September 28, 2010

I am the External Affairs Chair of the Strathmore Bel-Pre Civic Association which has approved my remarks. The overwhelming majority of the members of our 800 home community have for a long time felt that the profusion of utility trailers parked along Hewitt Ave. constitute an eyesore and an unwelcome presence on that street which serves as a major entrance and exit for our neighborhood. These same conditions apply in many areas of this county.

Accordingly, we very strongly support Bill 46-10 to prohibit the parking of utility trailers on our public roadways.

Additionally, we must comment on a situation that has come to our attention in recent weeks. We refer to the parking of large portable on demand storage structures often referred to as "pods" on our public roads. We have been informed by Officer Di Carlo, Traffic Complaint Officer from District Four, that these units may be legally placed on the street if a permit has been obtained from Permitting Services. Let me point out that the "pod" left on Hewitt Ave. for approximately a month measured 12' in length, 8' in width, and was 7 1/2' high. It was the size of a small room. Since it had no permit, it was finally removed. These units are typically seen in a driveway or in a yard for the purpose of storing household furniture and items while

a home is being renovated. We have no objection to their being located on private property. However, we strongly object to their being located on public roads.

The typical street in our community and other neighborhoods is 30' to 35' feet wide and an object 12' long x 8' wide x 7 ½ feet high is a safety hazard as well as an unacceptable eyesore on public roads. Many pedestrians, adults as well as young children, cross in mid-block on Hewitt Ave., for example, because there is no intersecting street between Georgia Ave. and Bluff Point Lane, a distance equivalent to an average 3 block span. A "pod" at a width of 8' is wider than the usual large auto at less than 6'. As these storage units have solid sides they restrict vision and make for very unsafe conditions. I use Hewitt Ave. only as an example due to familiarity, and again, these objectionable conditions prevail in many county communities. We submit these "pods" should not be allowed on any public road.

Accordingly, we urge that language be added to Bill 46-10 that prohibits placement of these storage units referred to as "pods" on public roads and that the issuance of permits for that purpose be discontinued.

Thank You.

MONTGOMERY COUNTY CODE

Sec. 49-10. Obstruction of public rights-of-way.

Except as provided in Section 49-11, in the public right-of-way, a person must not:

- (a) do any reconstruction or maintenance work; or
- (b) erect or place any structure, fence, post, rock, or other object in the right-of-way, except:
 - (1) mail boxes mounted on a support that will bend or break away on impact by a vehicle;
 - (2) individual residential newspaper boxes mounted on a support that will bend or break away on impact by a vehicle;
 - (3) street trees placed and maintained under Section 49-33(j);
 - (4) ground cover placed and maintained under Section 49-33(k);
 - (5) a temporary, removable obstruction or occupation of a right-of-way installed under a permit issued under Section 49-11; or
 - (6) as otherwise permitted by law.

Any object placed in the public right-of-way under this subsection must not unreasonably impede use of a sidewalk or other right-of-way by pedestrians or persons in wheelchairs, or impede or endanger automobiles or other vehicles. (Mont. Co. Code 1965, § 24-24; CY 1991 L.M.C., ch. 42, § 1; 1996 L.M.C., ch. 4, § 1; 1996 L.M.C., ch. 20, § 1; 1998 L.M.C., ch. 12, § 1; 2000 L.M.C., ch. 23, § 1; 2001 L.M.C., ch. 14, § 1; 2002 L.M.C., ch. 16, § 2; 2007 L.M.C., ch. 8, § 1.)

Editor's note—Section 49-10, formerly Section 49-17, was renumbered and amended pursuant to 2007, ch. 8, § 1. Former Section 49-10 was renumbered Section 49-6 pursuant to 2007, ch. 8, § 1.

See County Attorney Opinion dated 2/27/92 explaining that the Council cannot exercise its authority under the Regional District Act to amend the portion of the County Code governing road rights of way, because those provisions are not contained in the zoning ordinance.

MONTGOMERY COUNTY CODE

Sec. 49-11. Permit to obstruct public rights-of-way.

(a) Unless this Section prohibits the issuance of a permit, the Director of Permitting Services may issue a permit to:

- (1) reconstruct or repair a sidewalk, shared use path, driveway, curb, or other structure;
- (2) install, repair, locate, or replace underground utilities or infrastructure under a sidewalk or shared use path; or
- (3) install a temporary, removable obstruction or occupation of a right-of-way; or
- (4) close a curb lane, sidewalk, or shared use path in conjunction with the construction or reconstruction of an abutting structure.

(b) The Director must not issue a permit for reconstruction or repair of a sidewalk or shared use path for more than 6 months, or to close a curb lane, sidewalk, or shared use path for work on an abutting structure, utilities, or infrastructure for more than 15 days, unless a safe alternate walkway or shared use path is provided on the same side of the street:

- (1) in a Metro Station Policy Area, Town Center Policy Area, or other area expressly identified in a Council resolution;
- (2) within 20 feet of a bus stop or mass transit station entrance; or
- (3) on a road:
 - (A) designated as a major or arterial highway;
 - (B) of 4 lanes or more; or
 - (C) designated as a business district street.

The Director may allow a covered walkway to serve as an alternate walkway.

(c) The Director may issue a permit to rebuild or repair a sidewalk or shared use path for more than 6 months, or to close a curb lane, sidewalk, or shared use path for work on abutting structures, utilities, or infrastructure for more than 15 days, without requiring that a safe alternate sidewalk or shared use path be provided on the same side of the street, if the Director finds that:

- (1) based on a certification submitted by a professional engineer, construction

MONTGOMERY COUNTY CODE

of such a sidewalk or shared use path is not possible; or

(2) the street is closed.

(d) The Director may grant one extension for no more than 15 days of a permit to close a roadway lane, sidewalk, or shared use path for work on abutting structures, utilities, or infrastructure without requiring that a safe alternate walkway or shared use path be provided on the same side of the street on a showing of extreme hardship.

(e) The Director must not issue or extend in duration or area any permit to close a sidewalk or shared use path to use the area for vehicle parking or storage of construction materials.

(f) The Director must include conditions in each permit to assure public safety in the work area.

(g) Before the Director issues a permit under this Section to close a sidewalk, curb lane, or shared use path, the Director of Transportation must approve a temporary traffic control plan. A professional engineer must certify for the applicant that the plan minimizes inconvenience to the public, provides necessary warnings, and includes safe and reasonable pedestrian alternatives in accordance with accepted engineering standards.

(h) A permittee must have a valid franchise, as defined in Section 49-20, before the permittee installs, repairs, or maintains any utility or infrastructure in the public right-of-way. (Mont. Co. Code 1965, § 24-25; 1973 L.M.C., ch. 25, § 8; CY 1991 L.M.C., ch. 42, § 1; 1996 L.M.C., ch. 4, § 1; 1996 L.M.C., ch. 20, § 1; 1998 L.M.C., ch. 12, § 1; 2001 L.M.C., ch. 14, § 1; 2002 L.M.C., ch. 16, § 2; 2007 L.M.C., ch. 8, § 1; 2008 L.M.C., ch. 5, § 1.)

Editor's note—2008 L.M.C., ch. 5, § 3, states: Sec. 3. Any regulation in effect when this Act takes effect that implements a function transferred to another Department or Office under Section 1 of this Act continues in effect, but any reference in any regulation to the Department from which the function was transferred must be treated as referring to the Department to which the function is transferred. The transfer of a function under this Act does not affect any right of a party to any legal proceeding begun before this Act took effect.

See County Attorney Opinion dated 2/27/92 explaining that the Council cannot exercise its authority under the Regional District Act to amend the portion of the County Code governing road rights of way, because those provisions are not contained in the zoning ordinance.

Section 49-11, formerly Section 49-18, was renumbered, amended, and retitled pursuant to 2007, ch. 8, § 1. Former Section 49-11 was renumbered Section 49-20 pursuant to 2007, ch. 8, § 1.

MONTGOMERY COUNTY CODE

Sec. 49-13. Penalty for violation of Sections 49-10 and 49-11.

Any violation of Sections 49-10 and 49-11 or any permit granted under those Sections is a Class A violation. (Mont. Co. Code 1965, § 24-27; 1983 L.M.C., ch. 22, § 54; 2007 L.M.C., ch. 8, § 1.)

Editor's note—Section 49-13, formerly Section 49-20, was renumbered, amended, and retitled pursuant to 2007, ch. 8, § 1. Former Section 49-13 was renumbered Section 49-22 pursuant to 2007, ch. 8, § 1.



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

(240) 777-6300
<http://www.montgomerycountymd.gov/permittingservices/>

Carla Reid
Director DPS

PORTABLE STORAGE CONTAINERS IN THE COUNTY RIGHT-OF-WAY AND ON COUNTY ROADS

Permanent Portable on Demand Storage (PODS) containers are not permitted in the right-of-way.

The Department of Permitting Services (DPS) requires a Right of Way permit for the temporary placement PODS within the right-of-way or on a County road. This permit is very similar to the permit required for the placement of construction dumpsters on roadways. A right-of-way permit for PODS ensures that the container will be placed in an acceptable location that does not endanger or interfere with pedestrian and vehicular traffic. The permit may require the placement of warning devices such as traffic cones or barricades to alert motorists to the presence of the PODS.

A traffic-control plan showing any required warning devices may be required for PODS placed on high-volume roadways and within business districts. In some cases, a Right-of-Way permit might be denied if the PODS could create a sight-distance problem or if the roadway is a major roadway with high traffic volumes.

Right-of-way permits for PODS are valid for a maximum of six months.
Extensions will not be permitted.

*This flyer does not reflect municipality and home owner association rules and regulations. If you live in a home-