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: March 23, 2016

Effective: June 22, 2016

Sunset Date: None

Ch. 6 , Laws of Mont. Co. 2016

**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** *Heading or defined term.*

Underlining *Added to existing law by original bill.*

**[**Single boldface brackets**]** *Deleted from existing law by original bill.*

Double underlining *Added by amendment.*

**[[**Double boldface brackets**]]** *Deleted from existing law or the bill by amendment.*

\* \* \* *Existing law unaffected by bill.*

*The County Council for Montgomery County, Maryland approves the following Act:*

 **Sec 1. Sections 48-1 and 48-11 are amended as follows**:

**48-1. Definitions.**

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

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

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

 *Bi-county unit* means:

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

(2) the Washington Suburban Sanitary Commission.

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

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

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

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

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

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

 *Disposal refuse***[***:* All**]** means all solid waste which is acceptable for disposal, as designated in executive regulations adopted by the County Executive pursuant to Section 48-6 of this Chapter, which is delivered to a County solid waste acceptance facility for disposal by the County.

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

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

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

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

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

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

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

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

 **[[***Litter* means solid waste.**]]**

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

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

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

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

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

 *Person***[***:* The**]** means the County or any agency or institution thereof, public or private corporation, individual, partnership or other entity, including any officer or governing or managing body of any public or private corporation.

 *Public or private property* means:

 (1) the right-of-way of a road or highway;

 (2) a body of water or watercourse or the shores or beaches of a body of water or watercourse;

 (3) a park;

 (4) a parking facility;

 (5) a playground;

 (6) public service company property or transmission line right-of-way;

 (7) a building;

 (8) a refuge or conservation or recreation area;

 (9) residential, commercial, industrial, or farm property; or

 (10) timberlands or a forest.

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

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

 *Solid waste***[***:* All**]** means all waste materials and debris, including any garbage, sludge, medical/pathological waste, debris from building construction, ashes, junk, industrial waste, dead animal, salvable waste, dead or felled tree, uprooted tree stump, slash, tree limb, bush, plant, leaves, grass, garden trimmings, street refuse, abandoned vehicle, machinery, bottle, can, waste paper, cardboard, sawdust and slash from sawmill operations, and any other waste materials. Solid waste also includes any automobile, truck, box, container, tire, appliance, furniture, or recreational equipment that is in a state of disrepair or disfunction, unless the item is awaiting removal or being repaired or renovated for the personal use of the owner or occupant and the repair, renovation or removal is completed within 30 days. Solid waste also includes any recyclable solid waste.

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

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

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

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

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

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

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

 *Systems benefit charge***[***:* An**]** means an annual service charge reflecting all or a portion of the cost to the County of providing base and incremental solid waste management services.

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

**\* \* \***

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

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

(a) **[[***Littering prohibited.***]]** *Prohibited conduct.* A person must not:

(1) dispose of **[[**litter**]]** garbage or other solid waste on a highway or violate State vehicle laws regarding disposal of litter, glass, and other prohibited substances on highways; or

(2) dispose of, or cause or allow the disposal of, **[[**litter**]]** garbage or other solid waste on public or private property unless:

(i) the property is designated by the State, a unit of the State, or a political subdivision of the State for the disposal of **[[**litter**]]** garbage or other solid waste and the person is authorized by the proper public authority to use the property; or

(ii) the **[[**litter**]]** garbage or other solid waste is placed into a **[[**litter**]]** garbage or solid waste receptacle or container **[[**installed**]]** on the property.

(b) *Presumption of responsibility.*

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

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

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

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

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

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

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

(2) a criminal penalty as follows:

(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**]]** garbage or other solid waste disposed of in violation of this Section or to the restoration of an area polluted by **[[**litter**]]** garbage or other solid waste disposed of in violation of this Section; or

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

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

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

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

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

*Approved:*

/s/ 3/15/16

Nancy Floreen, President, County Council Date

*Approved:*

/s/ 3/23/16

Isiah Leggett, County Executive Date

*This is a correct copy of Council action.*

/s/ 3/29/16

Linda M. Lauer, Clerk of the Council Date