

E&R-2011-04**Resolution on Citizens' Action Plan for Litter Prevention (adopted on 26 October 2011 by the Mount Vernon Council of Citizens' Associations, Fairfax County, VA, www.mvcca.org)**

WHEREAS, we are offended by the amount of trash and litter along roadsides, in streams and parks, and in commercial and residential areas of the Mount Vernon district;

WHEREAS, litter is a blight that degrades our property values, our environment, and our quality of life, and that impedes the revitalization of the Route 1 corridor and nearby neighborhoods;

WHEREAS, existing laws are inadequate at the local, state and federal level, and the litter problem seems to be growing worse;

- A. THEREFORE, BE IT RESOLVED that the Mount Vernon Council of Citizens' Associations (MVCCA) urges Fairfax County to take the following six actions (as further explained and supported in *Citizens' Action Plan for Litter Prevention*, attached) to increase recycling and reduce litter:
1. Fully implement a recycling program in Fairfax County Public Schools, and use it to support education in environmental stewardship,
 2. Revise the recycling ordinance to require all businesses to recycle cans and bottles, in addition to paper and cardboard,
 3. Adopt a litter control ordinance,
 4. Conduct anti-litter public information campaigns and increase enforcement of anti-littering laws,
 5. Request that the Virginia Litter Control and Recycling Fund Advisory Board promulgate regulations requiring that litter receptacles be placed in public places, as provided by existing state law, and
 6. Fairfax County should require recycling at county events, and should require users of outdoor park and school properties to remove all trash;
- B. BE IT FURTHER RESOLVED that the MVCCA requests the Fairfax County Board of Supervisors to add to the county's legislative agenda the following items to effectively address the litter problem over the long term:
1. Request state legislators to pass and the Governor to sign a bill that bans polystyrene and requires biodegradable packaging for take-out food,
 2. Request state legislators to pass and the Governor to sign a bill that implements a beverage container deposit law,
 3. Request state legislators to pass and the Governor to sign a bill that imposes a fee on single-use plastic or paper shopping bags, or that authorizes localities to do so, and
 4. Request the Virginia Litter Control and Recycling Fund Advisory Board and the state legislature to raise the annual litter tax (which has been \$25 since 1987) and use the proceeds to fund litter prevention, cleanups and outreach.

Citizens' Action Plan for Litter Prevention

Prepared by the Environment and Recreation Committee
to provide evidence and support for a
Resolution on Citizens' Action Plan for Litter Prevention
Adopted by the Mount Vernon Council of Civic Associations on
October 26, 2011



Trash dam on Little Hunting Creek, downstream from Janna Lee Avenue Bridge, near Route 1, April 9, 2011. Delegate Scott Surovell helped with the spring cleanup.

Our Position

As residents of the Mount Vernon magisterial district of Fairfax County, we are increasingly offended by the amount of trash and litter along our roadsides, in our streams, in our parks, and in our commercial and residential areas. Litter degrades our property values, our environment, and our quality of life. It creates the impression that Mount Vernon residents care neither about the environment nor their community. It is a blight that impedes the revitalization of the Route 1 corridor and nearby neighborhoods.

We do not want to see our community, parks, and waterways trashed. Those of us who for years have organized and participated in annual Potomac River, creek, Dyke Marsh and other cleanups would like to make cleanups unnecessary. The problem seems to be growing worse. We believe that current local, state and federal laws and programs do not effectively address the litter problem and in particular do not prevent the production of litter.

Therefore, we have reviewed possible changes to current policies and laws, with a view toward recommending that Fairfax County and our state officials take actions to prevent and more effectively address the littering problem. We recommend changes to current programs for litter prevention and removal in Fairfax County and new initiatives. We recommend six actions that we believe can be taken by Fairfax County soon, without additional legislative authority, and four additional actions that would require action by the state legislature. They are necessary to effectively reduce litter and we hope they are achievable over the longer run.

We start with background on existing programs and the pros and cons of policies or laws to reduce littering and increase recycling. We then discuss pros and cons of each recommended action in "Proposed Actions."

Background on Existing Programs in Northern Virginia

In 1987, the Virginia General Assembly passed and the Governor signed the Litter Control and Recycling Act to control, prevent, and eliminate litter and to encourage recycling within the Commonwealth. This act was then viewed as an alternative to a bottle deposit law, which was opposed by the beverage industry. The act provides for civil fines ranging from \$50 (if no penalty is specifically provided for in the Code) up to \$5,000 (for illegal disposal of solid waste). In addition to fines, the Code provides criminal penalties for littering in state parks and caves and on highways.

Establishments that sell materials that can become litter pay an annual tax of \$10 into the Litter Control and Recycling Fund. Establishments that sell groceries, soft drinks, or beer pay an extra \$15. The Litter Control and Recycling Advisory Fund Board is appointed by the governor and administers the fund. The law requires that three of the five Board members represent industry (namely, retailers, soft drink association, and beer bottlers). The other two members are a recycling coordinator and a representative of the general public.

The Act provides for the Litter Control Board to promulgate regulations requiring that litter receptacles be placed in public places, such as highways, parks, service stations, shopping centers, and retail stores. To our knowledge, the Board, established in 1987, has not yet promulgated any such regulations.

The state collects around \$2 million annually and funds are distributed to counties on the basis of population. Fairfax County receives \$100,000. This money funds the Clean Fairfax Council, a private nonprofit that conducts outreach and education about litter and recycling. A feature on its website (www.cleanfairfax.org) allows a citizen to report a litterer by providing a license plate number; local police will send a warning letter to the litterer. Five to ten such reports are received each month.

Virginia is a Dillon Rule state, so the county has only those powers that are expressly granted by the state legislature. The Litter Control and Recycling Act authorizes the County to enact a litter control ordinance and establish procedures and a schedule of penalties for their violation. Fairfax County has never enacted a litter control ordinance. (For this reason, any penalties or fines assessed for violations go to the state treasury, not to Fairfax County.) References to litter are scattered throughout county code in Chapters 82 (Motor Vehicles and Traffic), 67 (Sanitary Sewers and Sewage Disposal), 103 (Air Pollution Control), 105 (Pollution of State Waters), 106 (Storm Drainage), and 109 (Solid Waste Management). See Appendix for provisions of these ordinances.

VDOT's Adopt-A-Highway program is intended to control litter. (In fact, it appears that VDOT is the only state agency that picks up litter.) The Northern Shenandoah Valley Audubon Society adopted a two-mile stretch of US Route 255 in Clarke County and conducted an informal litter survey. Between September 1990 and September 1998, the NSVAS picked up 345 bags of litter and trash and 70% of it was beverage containers. After eight years, the group tired of the never-ending litter and withdrew from the Adopt-A-Highway program. Another litter survey conducted in 2004 along a 4.6-mile stretch of road in Middleburg, Virginia found that 4% of the litter items were from tobacco products, 1% were food products, 12% were fast food trash, 67% were beverage containers, and 8% were generic cups¹.

In southwest Virginia, an Assign-a-Highway program assigns litter cleanup duties to probationers.

Despite several efforts, the Virginia legislature did not pass legislation addressing the litter problem during its 2011 session. Delegate Joe Morrissey introduced a bill to create a fine of \$100 per cigarette butt for littering. The bill failed. A bottle deposit bill has been discussed but never moved forward. Several plastic bag bills have been introduced in recent sessions, but none have passed.

In January 2009, the District of Columbia implemented a fee on single-use disposable plastic and paper bags. The legislation, the *Anacostia River Cleanup and Protection Act of 2009*, requires stores that sell food to charge 5¢ for each plastic or paper bag distributed at the point of purchase. The store keeps 1-2¢ of the fee, and the remainder goes to a fund aimed at new efforts to restore and protect the Anacostia River. The Fund also pays for distribution of free reusable bags to low-income, elderly, and otherwise needy residents. The legislation has proven successful, with stores reporting 50-80% decreases in bag demand and nearly \$150,000 collected for the Fund in the first month alone, according to Alice Ferguson Foundation. This is expected to translate into significantly less trash littering the river.

State legislators in Maryland and Virginia have pursued similar legislative solutions. Delegate Albert Carr (D-Montgomery County) and 10 senators introduced the *Chesapeake Bay Restoration Consumer Retail Choice Act of 2010* in the 427th Maryland Assembly. The legislation sought to replicate the D.C. law in Maryland and apply funds received to the *Chesapeake and Atlantic Coastal Bays Trust Fund*.

¹ Source: Container Recycling Institute, <http://www.bottlebill.org/about/benefits/litter/2004-VA-talktrash.htm> and <http://www.bottlebill.org/about/benefits/litter/1998-VA-AAH.htm>.

The legislation received committee hearings but did not make it out of committee in either the Maryland House or Senate. In Virginia, Delegate Adam Ebbin (D-Arlington) introduced *The Virginia Waterways Clean Up and Consumer Choice Act (HB 1115)*. This legislation was tabled in committee after a hearing. A bag bill is listed on the Fairfax County Board of Supervisors' draft legislative program for 2012.

Although the Virginia legislature has not been active in addressing the problem, citizens express concern and frustration about litter. A survey conducted by the Alice Ferguson Foundation (AFF) of households in the Potomac River watershed found that nearly two-thirds of respondents are bothered "a lot" by the litter they see². Two-thirds believe the litter problem is "big enough that [they] would like to see the state and local government commit more resources to doing something about it."

Increases in littering may be due to increased consumption of packaged food and beverages away from home. When 'on the road,' people cannot readily recycle and are less likely to dispose of trash properly. According to industry figures, consumption of bottled water has increased dramatically. Plastic water bottles contribute significantly to litter.

Curbside recycling helps prevent recyclable material from becoming litter. However, since 2006, Virginia's solid waste recycling rate, as reported by the Department of Environmental Quality, has leveled off at less than 39%. Fairfax County's rate is 39%.

Adverse Impacts of Litter

Litter harms wildlife and humans. A large component of litter is polystyrene, a suspected carcinogen that breaks down but never decomposes. Cigarette butts are toxic to fish and other organisms. Plastic from cigarette butts has been found in stomachs of fish, birds, whales, and other marine animals.

Discarded glass bottles break and injure children and wildlife.

Recyclables that end up as litter are a lost resource which could have been reused.



Canada geese nest amidst bottle litter in Little Hunting Creek marsh downstream from Route 1.

Businesses must expend resources to remove litter. 40% of retail businesses in D.C. interviewed in a 2010 survey said there was unwanted litter and trash around their property, and of those, 58% had to expend personnel or financial resources to clean it up³.

²Source: *Why People Litter in the Potomac River Watershed*. www.fergusonfoundation.org/trash_initiative/08_OpinionWorksSurvey.pdf

³ Source: *Public Perceptions and Willingness to Address Litter in the District of Columbia*. www.fergusonfoundation.org/trash_initiative/AFF_DC_%20ResearchMemo021511.pdf

Virginia's "Litter Tax"

We believe that the current Virginia policy of collecting a minimal "litter tax" and using the proceeds to fund litter cleanups and other outreach activities fails to address or correct the litter problem. On the positive side, it costs industry only \$2 million per year, rates of volunteer participation are high, and volunteers pick up tons of litter each year. However, the program is inadequate because:

- It does not address behavior.
 - There are no incentives to producers to reduce the amount of disposable packaging that becomes litter.
 - There are no effective incentives not to litter. Enforcement of litter laws is difficult (and nearly non-existent) since litterers must be caught in the act. Police have better things to do than pursue litter violations. In focus groups sponsored by AFF, self-admitted chronic litterers believe the chances they will be caught are nil.
- Because it does not address behavior, it is ineffective as a means of permanently reducing the amount of litter and trash in parks, in our streams, along roadways, and other places. We believe the litter problem is growing, not declining.
- The current program may provide an *excuse* for litterers to continue littering. In focus groups, some litterers rationalized that volunteers enjoy participating in cleanups, which makes it okay to litter.
- Litter clean-ups are labor intensive, involving large numbers of volunteers in the disgusting, unpleasant, dirty, and sometimes hazardous hard work of picking up other people's trash. Volunteers who object to litter in their community should not need to spend their time to clean up someone else's mess. Volunteer time could be devoted to positive goals.
- It does not address labor costs for public and private establishments who must pay employees to pick up litter on their grounds and in parking lots.
- Bottles and cans retrieved in cleanups are often too degraded to recycle and are a lost resource.
- Programs that *prevent* litter from being deposited in the first place would reduce the need to clean it up.

Proposed Actions

- 1. Fully implement a recycling program in Fairfax County Public Schools and use it to support education in environmental stewardship.**

Recycling in the Fairfax County Public Schools is administered according the School Board's Environmental Policy 8542, Environmental Stewardship, enacted in 2008. The policy states that "Schools and centers will have mandatory recycling programs for paper products, cans, and bottles. Construction waste materials will be separated and recycled."

Paper and cardboard and cans and bottles are required to be recycled from the Fairfax County Public Schools. Classroom and interior containers were made available from the Division of Facilities and Transportation during the 07/08 school year. Additional or replacement containers are available for purchase from the FCPS-approved vendor or can be ordered using local school funds.

School custodial staff are required to empty interior recycling containers into the proper recycling collection container for ultimate delivery to a recycling processing facility. The school principal is responsible for appointing a liaison to make sure that the recycling program is implemented to achieve the goal of recycling paper and cardboard and cans and bottles.

This year (2011), additional changes have been implemented to improve the program. The trash hauler has agreed to have a full-time recycling coordinator work with individual schools to improve the recycling program, and has added scales on the trucks to weigh trash and recyclables to monitor its effectiveness. In addition, schools are placing exterior recycling containers on ballfields and school grounds.

We commend these positive efforts, and urge the county and FCPS to continue to make improvements. For students who do not learn to recycle at home, the schools have an important role to play in creating a culture of environmental stewardship. According to a survey sponsored by Alice Ferguson Foundation, self-admitted litterers tend to be young men. Presumably, they did not learn appropriate behavior at home. For them and others it is essential that schools provide a model and educate young people in this elementary aspect of environmental stewardship and civic duty.

2. Revise the recycling ordinance to require all businesses to recycle cans and bottles, in addition to paper and cardboard.

Although Fairfax County requires residential properties to recycle bottles, cans, plastic, paper, and cardboard, non-residential properties are only required to recycle paper and cardboard.⁴

3. Adopt a litter control ordinance.

Fairfax County has never enacted a litter control ordinance, as permitted by state law. Instead, ordinances pertaining to litter are scattered throughout the county code. (See Appendix.)

Arlington County's litter control ordinance, adopted in 1987 (pp. 10-16 through 10-18 of <http://www.arlingtonva.us/departments/CountyBoard/CountyCode/file74506.pdf>), provides a starting point for developing a Fairfax County ordinance to provide for more effective enforcement and higher fines. The Arlington County ordinance requires litter receptacles be placed in public places and parking lots, and imposes a \$300 fine for littering.

Enacting a litter control ordinance would allow Fairfax County to retain any fines and penalties assessed for litter violations, instead of turning them over to the state.

4. Conduct anti-litter public information campaigns and increase enforcement of existing laws.

⁴ Although not directly related to litter prevention, we also advocate revising the recycling ordinance for both businesses and residences to increase recycling of a broader range of materials, including food waste and electronics. Material that is not recycled is generally burned and the ash must be managed forever in a landfill. Diverting waste to recycling streams both conserves our raw materials and reduces the flow of ash to landfills. Private building operators in neighboring localities have acquired the services of companies that expand the materials recycled to include batteries, plastic bags and food waste.

To our knowledge, there has been no national anti-litter advertising since the “crying Indian” anti-litter ads of the 1970s. Materials for anti-litter public service announcements in Fairfax County were developed some years ago, but not picked up by the media.

Bi-lingual anti-littering signs should be installed to inform the public of fines.

Pros:

- A paid ad campaign conducted by Fairfax County could raise awareness, increase recycling rates, and reduce littering.
- Media that are focused and have the right message can reach confirmed litterers and may have an impact on them, according to focus group research sponsored by the Alice Ferguson Foundation (AFF).
 - A recent experiment showed that an ad campaign to raise awareness of the hazards of driving while texting or talking on cell phones combined with tough enforcement (ticketing) showed very large reductions in cell phone use behind the wheel⁵.
- AFF has already developed publicity materials for use in anti-litter ad campaigns. (Recently, these appeared in local newspapers.)
- An ad campaign could enlist citizens in enforcement.

Cons:

- Ad campaigns alone are generally ineffective in changing behavior (e.g., getting people to wear seat belts or not drive while drunk) unless accompanied by increased enforcement.
- Enforcement of anti-litter laws is difficult if not impossible. Litterers must be caught in the act to be prosecuted.
- In focus groups, chronic litterers said they look for police before tossing something, waiting to toss their litter until the coast is clear. They believe they will not be caught. This belief needs to be altered or their behavior will not change.



5. Request that the Virginia Litter Control and Recycling Fund Advisory Board promulgate regulations requiring that litter receptacles be placed in public places, as provided by existing state law⁶.

Separate receptacles for trash and recyclables should be installed in parks, at bus stops, public highways, service stations, shopping centers, retail stores, and in public areas where littering is worst.

6. Fairfax County should require recycling at county events, and should require users of outdoor park and school properties to remove all trash.

⁵ *The Washington Post*, p. A6, 11 July 2011.

⁶ Section 10.1-1419.

We believe the following four actions would require legislative approval, and hence we ask the Board of Supervisors to put them on the County's legislative agenda.

1. Request state legislators to pass and the Governor to sign a bill that bans polystyrene and requires biodegradable packaging for take-out food.

Ask the state legislature to ban Styrofoam (polystyrene) or to permit Fairfax County to enact an ordinance that forbids retail food vendors, restaurants, and county facilities from providing prepared or take-out food in, on, or with disposable food packaging that contains polystyrene. Require biodegradable food packaging when disposable food packaging is used. Polystyrene takeout packaging is banned in 36 cities and three counties in California, Portland OR, and Seattle WA.

Pros:

- Styrene, a compound in Styrofoam, is a known hazardous substance and suspected carcinogen. Banning it would reduce the presence of this toxic substance in the environment.
- Polystyrene does not biodegrade and there is no meaningful recycling; banning it would reduce its contribution to litter waste.
- Information provided by the County of Marin CA says that environmentally preferable packaging is often cheaper. Marin County banned polystyrene in Jan. 2010.
- Polystyrene containers often find their way to the water and are moved by rivers out to the ocean. The ocean has very large islands of flotsam that kill sea life because small bits of trash (including plastics and polystyrene) are confused for food and ingested. Organisms that ingest this material are essentially starved or poisoned.

Cons:

- Biodegradable packaging might raise costs of take-out food.

2. Request state legislators to pass and the Governor to sign a bill that implements a beverage container deposit law.

Pros:

- Beverage containers comprise 40-60% of all litter.
- A beverage container deposit law would complement Fairfax County's curbside recycling program and increase recycling rates, according to results of a National Bureau of Economic Research study of recycling rates in states with and without deposit laws⁷:
 - In states with neither stringent recycling laws nor bottle deposit laws, respondents recycled 4.4 bottles out of 10.
 - In states with stringent recycling, respondents recycled 6.1 out of 10 bottles.
 - In states with deposit laws and stringent recycling requirements, respondents recycled 8.3 out of 10 bottles.
- Deposit laws significantly reduce container litter and other types of litter. Container litter was reduced by 69-84%⁸ and total litter by 34-64%⁹ in states that implemented bottle bills.

⁷ Linda Gorman, "Responses to Recycling Laws and Bottle Deposits," NBER Digest, May 2010; based upon: W. Kip Viscusi, Joel Huber, Jason Bell and Caroline Cecot, "Discontinuous Behavioral Responses to Recycling Laws and Plastic Water Bottle Deposits," National Bureau of Economic Research, Working Paper No. 15585, December 2009.

- Bottle deposit laws reduce injuries to children from broken glass.¹⁰
- States with deposit laws realize net economic benefits from sale of beverage containers to recycling markets, from lower litter and waste management costs, and reduced greenhouse gas emissions.
- Beverage container deposits can generate significant revenue for the state from unclaimed deposits.
- A portion of revenues from unclaimed deposits could be retained by industry to defray operational costs.

Cons:

- It would require that companies or government establish facilities for beverage container redemption.
3. **Request state legislators to pass and the Governor to sign a bill that imposes a fee on single-use plastic or paper shopping bags, or that authorizes localities to do so.**

One possibility is to reintroduce *The Virginia Waterways Clean Up and Consumer Choice Act (HB 1115)*, which would have imposed a fee on single use disposable bags. It failed to pass in a recent legislative session. If it fails again, ask the state legislature to pass enabling legislation allowing Fairfax County to impose a fee on single-use bags.

Pros:

- A fee on plastic bags would reduce this source of litter and encourage people to use and stores to sell reusable bags.
- Fairfax County should support and coordinate with the efforts of Maryland and the District of Columbia to eliminate plastic bag litter, most of which ends up in the Potomac River, no matter where it starts.

Cons

- Pet owners like to use them to collect pet waste.
4. **Request the Litter Control and Recycling Fund Advisory Board and state legislature to raise the annual litter tax (which has been \$25 since 1987) and use the proceeds to fund litter prevention, cleanups, and outreach.**

⁸ Beverage container litter reduction: 69-77% in Maine (p. 9, "State's Experience With Beverage Container Deposit Laws Shows Positive Benefits." U.S. General Accounting Office/Comptroller General of the United States, December 11, 1980); 84% in Michigan ("Michigan Roadside Litter Composition Survey: Final Report." Michigan Department of Transportation, Maintenance Division. December 1979); 70-80% in New York ("Final Report of the Temporary State Commission on Returnable Beverage Containers," March 27, 1985). Source: Container Recycling Institute.

⁹ Total litter reduction: 30% in Massachusetts ("Bottle Bills in the 1980's: A Handbook for Effective Citizen Action," Environmental Action Foundation, August 1987), 34-64% in Maine (U.S. General Accounting Office/Comptroller General of the United States, December 11, 1980), 47% in Oregon (p. 26, "Oregon's Bottle Bill: The 1982 Report," Oregon Department of Environmental Quality).

¹⁰ M. Douglas Baker, MD, Sally E. Moore, and Paul H. Wise, MD, PhD, MPH, "The Impact of 'Bottle Bill' Legislation on the Incidence of Lacerations in Childhood", *American Journal of Public Health*, October 1986

Litter fees have not been increased since implementation in 1987. They are \$25 per year for a 7-11 and other establishments that sell groceries, soft drinks, or beer. Fees should be updated to provide more support for outreach and clean-up activities. The going valuation of an hour of a non-professional volunteer's time is \$20.85. So, over the period of a year, the fee corresponds to an hour or so of a volunteer's time. This grossly understates the amount of volunteer time it takes to clean up litter generated by a 7-11. The fee should more closely correspond to the actual amount of volunteer labor required to remove litter. If we were to assume only an hour a week per 7-11, a fee of \$1084 per year, not \$25, would be needed.

Pros:

- This would generate more funds for cleanup activities and outreach.
- A higher fee would be more commensurate with the level of volunteer effort required.
- Higher fees (or the threat of them) might provide an incentive for producers to reduce the amount of litter they generate, perhaps by selling products in returnable or recyclable or biodegradable containers.

Cons:

- Increased fees paid by commercial establishments do not address the behavior of littering.
- Retailers are not responsible for the behavior of their customers.

APPENDIX: Virginia and Fairfax County laws pertaining to litter**State legislation**

§ 10.1-1418.1. Improper disposal of solid waste; civil penalties.

- A. It shall be the duty of all persons to dispose of their solid waste in a legal manner.
- B. Any owner of real estate in this Commonwealth, including the Commonwealth or any political subdivision thereof, upon whose property a person improperly disposes of solid waste without the landowner's permission, shall be entitled to bring a civil action for such improper disposal of solid waste. When litter is improperly disposed upon land owned by the Commonwealth, any resident of the Commonwealth shall have standing to bring a civil action for such improper disposal of solid waste. When litter is improperly disposed of upon land owned by any political subdivision of this Commonwealth, any resident of that political subdivision shall have standing to bring a civil action for such improper disposal of solid waste. When any person improperly disposes of solid waste upon land within the jurisdiction of any political subdivision, that political subdivision shall have standing to bring a civil action for such improper disposal of solid waste.
- C. In any civil action brought pursuant to the provisions of this section, when the plaintiff establishes by a preponderance of the evidence that (i) the solid waste or any portion thereof had been in possession of the defendant prior to being improperly disposed of on any of the properties referred to in subsection A of this section and (ii) no permission had been given to the defendant to place the solid waste on such property, there shall be a rebuttable presumption that the defendant improperly disposed of the solid waste. When the solid waste has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall in any civil action be presumed to be the person ejecting such matter. However, such presumption shall be rebuttable by competent evidence. This presumption shall not be applicable to a motor vehicle rental or leasing company that owns the vehicle.
- D. Whenever a court finds that a person has improperly disposed of solid waste pursuant to the provisions of this section, the court shall assess a civil penalty of up to \$5,000 against such defendant. All civil penalties assessed pursuant to this section shall be paid into the state treasury and deposited by the State Treasurer into the Virginia Environmental Emergency Response Fund pursuant to Chapter 25 (§ 10.1-2500 et seq.) of this title, except as provided in subsection E.
- E. Any civil penalty assessed pursuant to this section in a civil action brought by a political subdivision shall be paid into the treasury of the political subdivision, except where the violator of this section is the political subdivision or its agent.
- F. A court may award any person or political subdivision bringing suit pursuant to this section the cost of suit and reasonable attorney's fees.

(1990, c. 430; 1991, c. 718; 1992, c. 27; 1997, c. 353.)

§ 33.1-346.1. Penalties for violation of § 33.1-346.

Upon conviction of any person for a violation of § 33.1-346, the court may suspend the imposition of any sentence on condition that the defendant volunteer his services for such period of time as the court may designate to remove litter from the highway. Any such sums collected shall be paid into the court and forwarded to the State Treasurer for the construction and maintenance of state highways.

(1973, c. 434; 1976, c. 773; 1978, c. 226.)

Fairfax County:

Chapter 82 – Motor Vehicles and Traffic

Section 82-1-29.1. - Dumping trash, companion animal, etc., on highway, public or private property.

(a) No person shall dump or otherwise dispose of trash, garbage, refuse, litter, a companion animal for the purpose of disposal, or other unsightly matter, on public property, including a public highway, right-of-way, property adjacent to such highway or right-of-way, or on private property without the written consent of the owner thereof or his agent.

(b) When any person is arrested for a violation of this section, and the matter alleged to have been illegally dumped or disposed of has been ejected from a motor vehicle or transported to the disposal site in a motor vehicle, the arresting officer may comply with the provisions of this chapter in making such an arrest.

(c) When a violation of the provisions of this section has been observed by any person, and the matter illegally dumped or disposed of has been ejected or removed from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting or disposing of such matter. However, such presumption shall be rebuttable by competent evidence.

(d) Any violation of this subsection shall constitute a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than \$250 or more than \$2,500, either or both.

In lieu of the imposition of confinement in jail, the court may order the defendant to perform community service in litter abatement activities.

(e) The provisions of this section shall not apply to the lawful disposal of such matter in landfills. (48-03-82.)

In Chapter 67.1 – Sanitary Sewers and Sewage Disposal

Section 67.1-1-9. - Damaging or Defacing Property; Cutting Trees; Dumping Refuse or Rubbish.

No person shall damage or deface the Facilities of the County and no person shall cut any trees or dump any refuse or rubbish upon any part of the property used in connection with the Facilities of the County. (44-09-67.1.)

In Chapter 105 – Pollution of State Waters

Section 105-1-1. - Pollution of state waters.

(a) It shall be unlawful for any person to discharge, deposit or cause or allow to be discharged or deposited in any state waters of this County any wastes, rubbish, trash, garbage, dirt, soil, sand, silt, clay, oil or any matter causing or aiding pollution or to discharge, deposit or cause or allow to be discharged or deposited any wastes, rubbish, trash, garbage, dirt, soil, sand, silt, clay, oil or any matter causing or aiding pollution on any property in this County in any manner so as to allow such to be washed into any State waters by storm or flood water.

(b) "Pollution" and "state waters," as used in this Section shall be as defined by § 62.1-44.3, Va. Code Ann.

(c) Nothing contained in this Section shall prohibit the discharge of deposit of waste into state waters when such discharging has been approved by the State Water Control Board.

In Chapter 106 – Storm Drainage

Section 106-1-1. - Storm drainage facilities; maintenance and cleanliness.

(a) It shall be unlawful for any person to deposit or cause to be deposited, in any public storm drainage facility, including gutters and ditches, any substance, included but not limited to, trash, grass clippings, petroleum products, or other noxious or flammable substance; provided, however, that leaves may be piled at curbs during such seasons and in such areas as may now or in the future be furnished mechanical leaf collection service.

(b) It is intent of this Section to prohibit the entry into public storm drainage facilities of any substance, whether solid or liquid, other than surface or subsurface waters.

In Chapter 109.1 – Solid Waste Management

Section 109.1-1-2. – Definitions

Refuse means all solid waste having the character of solids rather than liquids and which are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.

In Chapter 103 – Air Pollution Control

Section 103-1-5. - Definitions.

(52) Refuse shall mean and include garbage, rubbish and trade wastes.

(A) Garbage shall mean animal and vegetable matter such as that originating in houses, kitchens, restaurants and hotels, produce markets, food service or processing establishments, greenhouses, and hospitals, clinics or veterinary facilities.

(B) Rubbish shall mean solids not considered to be highly flammable or explosive such as, but not limited to, rags, old clothes, leather, rubber, carpets, wood, excelsior, paper, ashes, tree branches, yard trimmings, furniture, metal food containers, glass, crockery, masonry, and other similar materials.

(C) Trade waste shall mean all solid or liquid material resulting from construction, building operations, or the prosecution of any business, trade or industry such as, but not limited to, plastic products, cinders and other forms of solid or liquid waste materials.

In Chapter 46 – Health and Safety Menaces

Section 46-1-1. - Definitions.

(a) A public health or safety menace means any condition which might endanger the health or safety of the public, including but not limited to:

- (1) Unsanitary or improper storage or disposal of trash, garbage, refuse, debris, other solid waste or hazardous waste;
- (2) Unburied dead animals;
- (3) Accumulation of water causing mosquito or other vector breeding or proliferation;
- (4) Rodent or insect infestation;
- (5) Accumulation of bees, fowl or animals in such a manner to create a condition that may be injurious to the public health or safety;
- (6) Hazards such as open excavations, open wells, pits, trees or parts thereof in danger of falling, discarded refrigerators and freezers with doors attached, unsecured vacant structures, or habitation for bats, wasps or other venomous pests;
- (7) Garbage which is not contained in a water-tight, rodent-proof container which is equipped with a tight-fitting lid;
- (8) Improper disposal of medical, dental, veterinary or pharmaceutical equipment or supplies, including but not limited to syringes, needles, scalpels, and blades or other medicinal items in solid or liquid form, in such a manner as to make it possible for any other person to retrieve and utilize said equipment or supplies;
- (9) Any other condition that may be injurious to the public health or safety.