

**IN THE CIRCUIT COURT FOR  
BALTIMORE CITY**

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**MAYOR AND CITY COUNCIL OF BALTIMORE,**  
City Hall  
100 N. Holliday Street  
Baltimore, Maryland 21202

**Plaintiff,**

Case No. \_\_\_\_\_

-against-

**COMPLAINT  
WITH JURY TRIAL  
DEMAND**

**PHILIP MORRIS USA, INC.,**  
119 5<sup>th</sup> Avenue  
New York, New York 10003  
Serve On:  
The Corporation Trust, Inc.  
2405 York Road  
Suite 201  
Lutherville Timonium, MD 21093

**ALTRIA GROUP**  
6601 West Broad Street  
Richmond, Virginia 23230  
Serve On:  
The Corporation Trust, Inc.  
2405 York Road  
Suite 201  
Lutherville Timonium MD 21093

**R.J. REYNOLDS TOBACCO COMPANY**  
401 North Main Street  
Winston-Salem, North Carolina 27101  
Serve On:  
CSC-Lawyers Incorporating Service Company  
7 St. Paul Street  
Suite 820  
Baltimore, MD 21202

**BRITISH AMERICAN TOBACCO P.L.C.**  
Globe House  
4 Temple Place  
London WC2R 2PG, England

**LIGGETT GROUP LLC**

1209 Orange Street  
Wilmington, Delaware 19801

Serve On:  
The Corporation Trust, Inc.  
2405 York Road  
Suite 201  
Lutherville, Timonium, MD 21092

**THE GEORGE J. FALTER COMPANY**

3501 Benson Avenue  
Baltimore, MD 21227

Serve On:  
Francis H. Falter, Jr  
3501 Benson Avenue  
Baltimore, MD 21227

**Defendants.**

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Plaintiff Mayor and the City Council of Baltimore, Maryland, by and through its attorneys, the Baltimore City Department of Law, the Milberg Firm and Smouse & Mason, LLC, respectfully allege as follows:

### **NATURE OF THE CASE**

1. Cigarette filters are the most common form of litter in the world, as an estimated 4.5 trillion cigarette filters are thrown away every year worldwide.<sup>1</sup> Cigarette filters litter streets, sidewalks, beaches, parks, and lawns. Not only is litter an unsightly nuisance, it is also dangerous to flora, fauna, land, and waterways as cigarettes contain approximately 600 chemical additives.<sup>2</sup>
2. Contrary to popular belief that cigarette filters are made of cotton and biodegradable,<sup>3</sup> most cigarette filters are made of a nonbiodegradable material called cellulose acetate.<sup>4</sup> While cellulose acetate is photodegradable, it is not biodegradable.<sup>5</sup> Ultraviolet rays from the sun will eventually break the filter into smaller pieces, but the source material never disappears; it essentially becomes diluted in water and soil.<sup>6</sup> Even in its broken down form, it remains toxic to plants and animals.

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<sup>1</sup> Slaughter E, Gersberg RM, Watanabe K, *et al*, Toxicity of cigarette butts, and their chemical components, to marine and freshwater fish. *Tobacco Control* 2011;20:i25-i29.

<sup>2</sup> 599 Ingredients Added to Cigarettes, TOBACCO.ORG (1994), <http://archive.tobacco.org/Resources/599ingredients.html>.

<sup>3</sup> The most popular answer to the question “Are cigarettes biodegradable?” on Yahoo! Answers states, “Yes, cigarettes are biodegradable. Cigarettes are made of paper, cotton and of course, tobacco...” (last visited January 29, 2019).

<sup>4</sup> Elizabeth A. Smith & Thomas E. Novotny, Whose Butt Is It? Tobacco Industry Research About Smokers and Cigarette Butt Waste, 20 *Tobacco Control* (Supp. 1) i2, i2 (2011) (citing Nyok-Sai Hon, Photodegradation of Cellulose Acetate Fibers, 15 *J. Polymer Sci. (Polymer Chemistry Edition)* 725, 725 (1977)).

<sup>5</sup> Thomas E. Novotny *et al.*, Cigarette Butts and the Case for an Environmental Policy on Hazardous Cigarette Waste, 6 *Int'l J. Env'tl. Res. & Pub. Health* 1691, 1693 (2009) (citing Hon, *supra* note 12, at 725; Clean Va. Waterways, Are Cigarette Butts Biodegradable?, Longwood U., <http://www.longwood.edu/CLEANVA/cigbuttbiodegradable.htm> (last visited January 29, 2019)).

<sup>6</sup> *Id.*

3. When cigarette filters are littered on the Plaintiff's streets, sidewalks, beaches, parks, and lawns, those filters leach harmful pollutants into the soil and water. These pollutants, including toxic heavy metals and nicotine, along with other compounds such as hydrogen cyanide, ammonia, formaldehyde, and benzene,<sup>7</sup> contaminate the soil and groundwater, hamper plant growth, pollute waterways, deteriorate critical aquatic habitats, and are acutely toxic to fish and other sea creatures.
4. Cigarette filter litter is extraordinarily expensive, with the cost externalized to cities and towns, including Plaintiff Baltimore City. Public litter clean-up costs in major cities across the United States and Canada range from \$3 million to \$16 million per year for each city.<sup>8</sup> Specifically, an analysis prepared for the city of San Francisco estimated that the cost of tobacco litter alone ranges from \$500,000 per year to upwards of \$6 million for a city the size of San Francisco.<sup>9</sup>
5. This toxic litter and nuisance epidemic is no different in Baltimore. Since the inception of the trash wheel program in May 2014, the trash wheel family has collected 12,478,576 cigarette filters from Baltimore's waterways.<sup>10</sup> Of the litter collected and accounted for by the trash wheel family, cigarette filters are by far the largest number of individual items collected which include plastic bottles, polystyrene pieces, glass bottles, grocery bags, chip bags, and sports balls.<sup>11</sup> In addition, an initiative by the nonprofit Waterfront Partnership

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<sup>7</sup> Bonanomi, G.; Incerti, G.; Cesarano, G.; Gaglione, S. A.; Lanzotti, V., Cigarette butt decomposition and associated chemical changes assessed by 13C CPMAS NMR. *PLoS One* 2015, 10 (1), 1-16.

<sup>8</sup> John E. Schneider et al., Tobacco Litter Costs and Public Policy: A Framework and Methodology for Considering the Use of Fees To Offset Abatement Costs, 20 *Tobacco Control (Supp. 1)* i36, i38 (2011) (citing Mid. Atl. Solid Waste Consultants, Keep Am. Beautiful, Inc., 2008 National Visible Litter Survey and Litter Cost Research Study, *Envtl. Res. Planning, LLC* (Sept. 18, 2009), [http://www.erplanning.com/uploads/KAB\\_2009\\_National\\_Litter\\_Study.pdf](http://www.erplanning.com/uploads/KAB_2009_National_Litter_Study.pdf)).

<sup>9</sup> *Id.* at i40.

<sup>10</sup> Mr. Trash Wheel: A Proven Solution to Ocean Plastics. <https://www.mrtrashwheel.com/>.

<sup>11</sup> *Id.*

of Baltimore collected 55,000 cigarette filters from the streets and sidewalks of Baltimore's Harbor East neighborhood within six months.<sup>12</sup> Baltimore City and its stakeholders spend over \$32 million to collect upwards of 2,600 tons of litter annually, at an estimated cost of \$10,571 per ton of litter generated<sup>13</sup>, a significant portion of which is cigarette filter litter.

6. Cigarette filter litter in Baltimore is a public nuisance that threatens the environment and costs Baltimore City millions of dollars in cleanup. The Defendant cigarette manufacturers, who designed the cigarette, the filter, and control the cigarettes and filters' ingredients, manufactured, sold, and profited from the cigarettes, knew of the near universal incidence of their customers' cigarette filter disposal conduct, and did nothing to mitigate the impact of the residue of their product. They contract with cigarette distributors in every city, including Baltimore City, and distribute cigarettes to the city's population of smokers. As such, they must bear the responsibility for cleaning up the products they created that both befoul and contaminate Baltimore City's property.

## **PARTIES**

### **A. PLAINTIFF**

7. Plaintiff, the Mayor and City Council of Baltimore, brings this action as an exercise of its police power, which includes, but is not limited to, its power to prevent pollution of Baltimore's property and waters, to prevent and abate nuisances, and to prevent and abate hazards to the environment. It brings this claim under the Illegal Dumping and Litter Control Law, which allows the legislative body of a municipal corporation to prohibit

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<sup>12</sup> Andrew Dunn, Recycling program collects 55,000 cigarette butts from Baltimore's Inner Harbor in six months, *The Baltimore Sun*, July 13, 2016, at <https://www.baltimoresun.com/maryland/baltimore-city/bs-md-ci-recycling-cigarettes-20160713-story.html>.

<sup>13</sup> Christopher Kelley and Ramya Ambikapathi, Litter-Free Baltimore: A Trash Collection Policy Framework Based on Spatial Analysis and Social Media, Abell Foundation, August 2016, at [https://www.abell.org/sites/default/files/files/Litter%20report%20FINAL\(1\).pdf](https://www.abell.org/sites/default/files/files/Litter%20report%20FINAL(1).pdf).

littering and classify littering as a municipal infraction such as the public nuisance and litter control law violations described herein.<sup>14</sup>

8. Baltimore City has a public governmental interest in its natural resources, lands, and harbor. Its obligation to ensure the health and well-being of Baltimore City's environment and its economy are essential public functions and rights to be addressed in this litigation. Moreover, Baltimore City has, and will continue to, incur massive costs for the abatement and removal of Defendants' cigarette filter litter.

**B. DEFENDANTS**

9. Defendants, collectively, manufacture, distribute, and sell virtually all the cigarettes purchased in the United States, including Baltimore City.
10. Each of the Defendants has a significant share of the cigarette market and knew that the residue of its product would be littered in Baltimore City. Defendants could have continued manufacturing unfiltered cigarettes, but chose not to, to save on the cost of tobacco and sell more cigarettes. Defendants also knew that the filter they selected would not break down after they were inevitably discarded by Defendants' customers and would thus create a nuisance. Defendants, however, chose not to manufacture and sell a biodegradable filter, without any other mitigation of the waste, because their customers preferred "the drag" of the nonbiodegradable filter. In addition, the plastic filters manufactured by the Defendants do not significantly reduce the toxic chemicals inhaled by the Defendants' smoking consumers. Thus, Defendants created a public nuisance solely to sell more cigarettes and knew that this decision would result in millions of cigarette filters being dropped on Baltimore City property, and on the property of Baltimore City's residents and businesses.

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<sup>14</sup> MD. CODE ANN., CRIM. LAW § 10-110.



11. Defendant Philip Morris USA, Inc. (hereafter “Phillip Morris”) is a Virginia corporation with its principal place of business at 119 5<sup>th</sup> Avenue, New York, New York. Philip Morris is a subsidiary of Defendant Altria Group. At relevant times, Philip Morris has manufactured, advertised, and sold cigarettes, including Alpine, Basic, Dunhill, Benson & Hedges, Cambridge, English Ovals, Galaxy, Marlboro, Merit, Parliament, Philip Morris, Players, Saratoga, and Virginia Slims brand cigarettes throughout the United States, including in Maryland. In addition, on or about January 12, 1999, Philip Morris entered into an agreement with Defendant Liggett Group, Inc. to purchase certain brands of cigarettes previously manufactured by Liggett, including Lark, Chesterfield, and L&M, which Philip Morris also has sold throughout the United States and in Baltimore City, Maryland.
12. Defendant Altria Group, Inc. (hereafter “Altria Group”) is a Virginia corporation with its principal place of business at 6601 West Broad Street, Richmond, Virginia, 23230. Altria Group is the parent company of Defendant Philip Morris USA, Inc. At relevant times, Philip Morris has manufactured, advertised, and sold cigarettes, including Alpine, Basic, Dunhill, Benson & Hedges, Cambridge, English Ovals, Galaxy, Marlboro, Merit, Parliament, Philip Morris, Players, Saratoga, and Virginia Slims brand cigarettes throughout the United States, including in Baltimore City, Maryland. In addition, on or about January 12, 1999, Philip Morris entered into an agreement with Defendant Liggett Group, Inc. (hereafter “Liggett”) to purchase certain brands of cigarettes previously manufactured by Liggett, including Lark, Chesterfield, and L&M, which Philip Morris also has sold throughout the United States and in Baltimore City, Maryland. Through Philip Morris, Altria has placed cigarettes into the stream of commerce with the expectation that



substantial sales of its cigarettes would be made in the United States, including in Baltimore City, Maryland.

13. Defendant R.J. Reynolds Tobacco Company (hereafter “R.J. Reynolds”) is a North Carolina corporation with its principal place of business at 401 North Main Street, Winston-Salem, North Carolina. R.J. Reynolds is a wholly owned subsidiary of Reynolds American, Inc., which, in turn, is owned by British American Tobacco of the United Kingdom. At relevant times, R.J. Reynolds has manufactured, advertised, and sold cigarettes, including Best Value, Bright Rite, Camel, Century, Doral, Magna, Monarch, More, Now, Salem, Sterling, Vantage, and Winston brand cigarettes throughout the United States, including in Baltimore City, Maryland.
14. Defendant British American Tobacco, P.L.C. (hereafter “British American”) is a British corporation with its principal place of business at Globe House, 4 Temple Place, London WC2R 2PG, England. British American is the parent company of Reynolds American, Inc., which, in turn, is the parent company of Defendant R.J. Reynolds Tobacco Company. At relevant times, R.J. Reynolds has manufactured, advertised, and sold cigarettes, including Best Value, Bright Rite, Camel, Century, Doral, Magna, Monarch, More, Now, Salem, Sterling, Vantage, and Winston brand cigarettes throughout the United States, including in Baltimore City, Maryland. In addition, British American is the parent company of Reynolds American, Inc., which acquired Lorillard Tobacco Company (hereafter “Lorillard”). At relevant times, Lorillard has manufactured, advertised, and sold cigarettes, including Golden Lights, Harley-Davidson, Heritage, Kent, Maverick, Max, Newport, Newport Red, Old Gold, Satin, Spring, Spring Lemon Lights, Style, Triumph, and True brand cigarettes throughout the United States, including in Baltimore City,

Maryland. Further, British American is the parent company of Brown & Williamson Tobacco Corporation (hereafter "Brown & Williamson"). At relevant times, Brown & Williamson has manufactured, advertised, and sold cigarettes, including Barclay, Bel Air, Capri, Eli, Cutter, GPC, Kool, Laredo, Prime, Private Stock, Raleigh, Richland, Summit, Tall, Tareyton, and Viceroy brand cigarettes throughout the United States, including in Baltimore City, Maryland. As a result of its acquisition of American Tobacco Company (hereafter "American Tobacco") in 1994, Brown & Williamson succeeded to the liabilities of American Tobacco either by operation of law, or as matter of fact. At relevant times, American Tobacco manufactured, marketed, and sold American, Bull Durham, Carlton, Iceberg, Lucky Strike, Malibu, Misty, Montclair, Newport, Pall Mall, Silk, Cut, Silva Thins, Sobrania, and Tareyton cigarettes throughout the United States, including in Baltimore City, Maryland. Through its subsidiaries and acquisitions, British American has placed cigarettes into the stream of commerce with the expectation that substantial sales of cigarettes would be made in the United States, including in Baltimore City, Maryland.

15. Defendant Liggett Group, LLC is a Delaware corporation with its principal place of business at 1209 Orange Street, Wilmington, Delaware, 19801. Liggett is the successor to the tobacco interests of Liggett & Myers, Inc., and Liggett & Myers Tobacco Co. Liggett is a subsidiary of Liggett Vector Brands, LLC, a Delaware corporation. At relevant times, Liggett has manufactured, advertised, and sold cigarettes, including Chesterfield, Decade, Dorado, Eve, Generic, Lark, L&M, Pyramid, and Stride brand cigarettes throughout the United States, including in Baltimore City, Maryland.
16. The George J. Falter Company (hereafter "Falter") is a Maryland corporation with its principal place of business at 3501 Benson Avenue, Baltimore, MD 21227. At all relevant

times, Falter advertised, distributed, and sold cigarettes including the brands of the Defendants cigarettes in Baltimore City, Maryland.

**AGENCY/JOINT VENTURE**

17. At all times herein mentioned, each of the Defendants was the agent, servant, partner, aider and abettor, co-conspirator, and/or joint venturer of each of the remaining Defendants herein and was at all times operating and acting within the purpose and scope of said agency, service, employment, partnership, conspiracy, and joint venture, and rendered substantial assistance and encouragement to the other Defendants, knowing that their conduct was wrongful and/or constituted the creation of a nuisance.

**STATUTE OF LIMITATIONS**

18. No statute of limitation can be plead against the Plaintiff as all of the Defendants' wrongful conduct and the consequent violations of Baltimore City's ordinances are continuous, wrongful, and ongoing.

**JURISDICTION AND VENUE**

19. This Court has subject matter jurisdiction over this matter under § 1-501 of the Courts and Judicial Proceedings Article of the Maryland Code. There is no federal jurisdiction in this matter because the claims involve violations of Maryland criminal law, to wit: Maryland Illegal Dumping and Litter Control Law and municipal criminal violations of the Baltimore City Code.
20. This Court has personal jurisdiction over the Defendants pursuant to Md. Code Ann., Cts. Jud. Proc. §§ 6-102 and 6-103. and because they either are domiciled in Baltimore City, Maryland; were served with process in Baltimore City, Maryland; are organized under the laws of Maryland; maintain their principal place of business in Baltimore City, Maryland;

transact business in Baltimore City, Maryland; perform work in Baltimore City, Maryland; contract to supply goods, manufactured products, or services in Baltimore City, Maryland; caused tortious injury in Baltimore City, Maryland; engage in persistent courses of conduct in Baltimore City, Maryland; derive substantial revenue from manufactured goods, products, or services used or consumed in Baltimore City within the State of Maryland; and/or have interests in, use, or possess real property in Baltimore City, Maryland.

21. Philip Morris USA, Inc., Altria Distribution Company, R.J. Reynolds Tobacco Company, Liggett Group, LLC, and British American Tobacco, LLC are all Participating Manufacturers and/or; transact business in Baltimore City; contract to supply goods, manufactured products, or services in Baltimore City, Maryland, therefore personal jurisdiction is satisfied.
22. The venue for this Complaint is proper in the Circuit Court for Baltimore City, Maryland pursuant to Md. Code Ann., Cts. & Jud. Proc. §§ 6-201 and 6-202 and because Baltimore City's causes of action arose in Baltimore and because the Defendants conduct business in the City.

## **FACTS**

### **A. PLAINTIFF'S COMMUNITIES, PUBLIC HEALTH, AND NATURAL RESOURCES**

23. Cigarette filter litter wreaks havoc on the Plaintiff's natural resources. An estimated 65% of cigarette smokers litter their filters.<sup>15</sup> It is further estimated that the annual total weight of cigarette waste in the United States is more than 175 million pounds.<sup>16</sup> These filters are

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<sup>15</sup> John E. Schneider, et al., *Online Simulation Model to Estimate the Total Costs of Tobacco Product Waste in Large U.S. Cities*, Int'l J. of Envi. Research and Public Health 1, 1-2 (June 30, 2020).

<sup>16</sup> John E. Schneider, et al., *Online Simulation Model to Estimate the Total Costs of Tobacco Product Waste in Large U.S. Cities*, Int'l J. of Envi. Research and Public Health 1, 2 (June 30, 2020).

discarded into public rights of way, public parks, public beaches, and public waterways. Once discarded, the filter's chemical contents seep into the surrounding environment and poison the plants and animals that they contact, including filters discarded in Baltimore City.

24. Cigarette filter litter interferes with the Plaintiff's use of its property. An exorbitant amount of cigarette filters are littered along sidewalks, streets, waterways, and other public areas. This litter impacts the aesthetic of communities and neighborhoods. Citizens are continually forced to observe these filters throughout their daily activities. The cigarette filters are an unsightly nuisance, and due to their sheer quantity, impossible to fully clear from the public areas in Baltimore City. Their visible presence increases crime and reduces commerce in the City.
25. The presence of cigarette filters throughout Baltimore City presents an "unclean" appearance. This consequently impacts tourism and the City's tax revenue by tarnishing the aesthetic appeal of Baltimore City. Littered filters in front of businesses negatively impact their appearance. In a recent study, 98% of businesses surveyed claimed that "the presence of litter lowered property values and had a negative impact on business sales."<sup>17</sup> Indeed, this impact has resulted in less income to the City from property and sales taxes.
26. Cigarettes filters contain hundreds of chemicals, including many that are toxic to the flora and fauna of the land and waterways.<sup>18</sup> Cigarette manufacturers have acknowledged that they have added 599 different chemicals to cigarettes.<sup>19</sup> Pets are consistently exposed to

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<sup>17</sup> John E. Schneider, et al., *Online Simulation Model to Estimate the Total Costs of Tobacco Product Waste in Large U.S. Cities*, Int'l J. of Envi. Research and Public Health 1, 3 (June 30, 2020).

<sup>18</sup> John E. Schneider, et al., *Online Simulation Model to Estimate the Total Costs of Tobacco Product Waste in Large U.S. Cities*, Int'l J. of Envi. Research and Public Health 1, 4 (June 30, 2020).

<sup>19</sup> Jill Witkowski, *Holding Cigarette Manufacturers and Smokers Liable for Toxic Butts: Potential Litigation- Related Causes of Action for Environmental Injuries/Harm and Waste Cleanup*, 28 Tulane Envi. L. J. 1, 5 (2014).

these discarded filters and, as a result, become ill.<sup>20</sup> The presence of filters in public areas, like beaches and waterways, exponentially increases the potential for toxic exposure to flora and fauna.

27. Once cigarette filters are discarded into public waterways, which includes collection in surface water, runoff, and contamination of the soil, the chemicals are either directly eaten or absorbed by fish and further infiltrate other aquatic species' habitats, poisoning, killing, or otherwise harming those animals.
28. Cigarette filters continually pollute the Plaintiff's natural resources. The toxic filters wash into rivers, creeks, the Baltimore Harbor, and other water supplies. They further migrate into storm and sewer systems. The toxic chemicals within the filters seep into, pollute, and destroy Plaintiff's natural resources.
29. Smokers litter millions of cigarette filters in Baltimore City each year and these filters take decades to degrade.<sup>21</sup> Baltimore City is, therefore, negatively impacted by the Defendants' litter in multiple ways.

**B. DEFENDANTS' ACTIVITIES IN DESIGNING, MANUFACTURING, AND SELLING FILTERED CIGARETTES**

30. In manufacturing cigarettes, Defendants actively chose and continue to choose to make cigarette filters non-biodegradable. They were, and are aware, of both the long-lasting negative impact the components of these filters have on the environment<sup>22</sup> and the rate at

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<sup>20</sup> Thomas E. Novotny et al., *Cigarette Butts and the Case for an Environmental Policy on Hazardous Cigarette Waste*, 6 Int'l J. Envtl. Res. & Pub. Health 1691, 1693 (2009) (citing Hon, supra note 12, at 725; Clean Va. Waterways, *Are Cigarette Butts Biodegradable?*, Longwood U., <http://www.longwood.edu/CLEANVA/cigbuttbiodegradable.htm> (last visited January 29, 2019)).

<sup>21</sup> Clean Va. Waterways, *Are Cigarette Butts Biodegradable?*, Longwood U., <http://www.longwood.edu/CLEANVA/cigbuttbiodegradable.htm> (last visited January 29, 2019).

<sup>22</sup> J.L. Pauly et al., *Cigarettes with Defective Filters Marketed for 40 Years: What Philip Morris Never Told Smokers*, 11 TOBACCO CONTROL (SUPP. 1) i51, i54-i55 (2002) (citing Inter- Office Correspondence from Nancy R. Ryan,

which their consumers litter these filters.<sup>23</sup> While the manufacturers have considered methods of making biodegradable cigarette filters,<sup>24</sup> Defendants intentionally continue to manufacture environmentally damaging filters and have not established other mitigation of that nuisance.

31. Cigarette manufacturers originally produced two prototype filters – a biodegradable filter comprised of crushed tobacco leaves and a non-biodegradable filter made of plastic. Defendants opted to utilize the non-biodegradable plastic filter in their products because their customers preferred the “draw” of the plastic filter. When the Defendants made that decision, they knew that the discarded cigarette filters would permanently litter the ground and water by the billions.
32. Defendants currently use cellulose acetate-based filters which are not biodegradable. The filters not only contain toxic chemicals, but they stall a cigarette filter’s decomposition<sup>25</sup>, which lengthens the amount of time a cigarette filter will remain on a sidewalk, street, in a park, or on the beach. It further lengthens the number of pollutants that can seep into the environment over time.
33. Defendants further knew that the plastic filter gave the appearance of biodegradability and took advantage of that ruse. They knew that smokers litter cigarette filters on the ground because smokers are under the impression that the paper wrappers and filters will

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Philip Morris U.S.A., to J.A. Nash, Philip Morris U.S.A., LEGACY TOBACCO DOCUMENTS LIBR., U. CAL. S.F. (Oct. 15, 1982), <http://legacy.library.ucsf.edu/tid/qio05a00/pdf>.

<sup>23</sup> See Elizabeth A. Smith & Patricia A. McDaniel, *Covering Their Butts: Responses to the Cigarette Litter Problem*, 20 TOBACCO CONTROL 100, 101 (2011) (citing Responsible Smoking: Litter Recommendations, LEGACY TOBACCO DOCUMENTS LIBR., U. CAL. S.F. (Oct. 1997), <http://legacy.library.ucsf.edu/tid/oid40b00>).

<sup>24</sup> Novotny et al., at 1695 (citing Inter-Office Correspondence from Ted Sanders, Philip Morris U.S.A., to C.K. Ellis, Philip Morris U.S.A., LEGACY TOBACCO DOCUMENTS LIBR., U. CAL. S.F. 4-5 (Feb. 7, 1992), <http://legacy.library.ucsf.edu/documentStore/a/h/h/ahh48e00/Sahh48e00.pdf>).

<sup>25</sup> Clean Va. Waterways, *Are Cigarette Butts Biodegradable?*, Longwood U., <http://www.longwood.edu/CLEANVA/cigbuttbiodegradable.htm> (last visited January 29, 2019)



decompose in the environment because they appear as though they are made of a paper substance, instead of their true plastic nature. Consumers, therefore, continue to be deceived that cigarette filters will naturally decompose and that they are safe to throw onto the ground. Even with this knowledge, Defendants failed to educate the public about the danger discarded cigarette filters pose to the environment. They further misrepresented to the Baltimore City residents that the true compounds of the cigarette filters are toxic to the environment.

34. Defendants, of course, knew that their customers would regularly dispose of their filtered cigarettes on the sidewalks, streets, waterways, and in the toilets in Baltimore City. Instead of addressing the problem at the source, Defendants directed modest efforts to largely ineffective anti-littering campaigns.<sup>26</sup> This minimal remediation did nothing to address the damaging impact of the filters on Baltimore City and its natural resources. Defendants also chose not to include warnings on cigarette packages informing smokers that their cigarette filters are toxic to the environment and that customers must properly dispose of them.<sup>27</sup>
35. Defendants further had the ability to remove or redesign their cigarette filters which release toxic chemicals into the environment and to warn the public of the harm, but intentionally chose not to do so. If the Defendants had simply used a biodegradable filter, the filters would degrade naturally instead of poisoning the environment for decades.

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<sup>26</sup> Novotny et al., at 1695-96 (citing Walter Lamb, Keep America Beautiful: Grassroots Non-Profit Tobacco Trust Group?, PRWATCH, Third Quarter 2001, at 1, 4).

<sup>27</sup> See, e.g., S. Chapman & S.M. Carter, "Avoid Health Warnings on All Tobacco Products for Just as Long as We Can": A History of Australian Tobacco Industry Efforts To Avoid, Delay and Dilute Health Warnings on Cigarettes, 12 TOBACCO CONTROL (SUPP. 3) iii13, iii13 (2003).

**C. DEFENDANTS' ACTIVITIES IN DESIGNING, MANUFACTURING, AND SELLING FILTERED CIGARETTES HAVE ALTERED PLAINTIFF'S COMMUNITIES, PUBLIC HEALTH, AND NATURAL RESOURCES**

36. The Defendants are responsible for the litter that permeates Baltimore City. Under the Maryland Illegal Dumping and Litter Control Law that applies to Baltimore City, "litter" is defined as "all rubbish, waste matter, refuse, garbage, trash, debris, dead animals, or other discarded materials of every kind and description."<sup>28</sup> Furthermore, under this law, a person may not, "[d]ispose or **cause or allow** the disposal of litter on public or private property..." (Emphasis added).<sup>29</sup>
37. Defendants' actions directly caused and allowed cigarette filters to accumulate and litter Plaintiff's communities. Defendants did not utilize biodegradable filters or educate the public on the harm of littering those non-biodegradable filters. The Defendants knew for more than a century that cigarettes were disposed of by their users directly onto the ground, pavement, or into waterways. This knowledge of the obvious pollution caused by discarded cigarettes put Defendants on notice that non-biodegradable filters, which they began selling in the 1960's, would accumulate in the soil and waterways of Baltimore City and would have to be cleaned up and disposed of, at great cost, by the Plaintiff.

**D. PLAINTIFF'S CLAIM IS NOT EXCLUDED BY THE MASTER SETTLEMENT AGREEMENT**

38. A Master Settlement Agreement ("MSA") was executed in November 1998 between the state Attorneys General of forty-six states (including Maryland), five U.S. territories, the District of Columbia, and the four largest cigarette manufacturers in the United States,

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<sup>28</sup> Md. Code Ann., Crim. Law § 10-110(a)(4) (West).

<sup>29</sup> *Id.* at § 10-110(c)(2).

Philip Morris, Inc., R.J. Reynolds, Brown & Williamson, and Lorillard. These cigarette manufacturers are Defendants in this matter. As this Complaint does not seek damages for any injuries or losses for humans, the MSA is irrelevant to this litigation. The Plaintiff only seeks recovery of its past, present, and future expenditures and losses as a result of cigarette filter litter in Baltimore City.

39. The MSA does not address environmental effects, nor does it address what claims can be brought for environmental damage. There was no expressed or implied intention in the MSA that it would protect Defendants from future claims related to the effects of cigarette litter. But for the cigarette filters being discarded as litter into the City's environment, there would be no cost for clean-up or negative environmental impact. Thus, this litigation is not barred either by the purpose or terms of the MSA.

**E. LOSSES AND DAMAGES SUFFERED BY THE PLAINTIFF**

40. Cigarette filter litter costs the Plaintiff millions of dollars in clean-up each year.
41. A Mr. Trash Wheel™ located in Baltimore City has been in operation since 2014. Since its initiation, Mr. Trash Wheel™ has collected approximately 1,478 tons of litter and, specifically, 11,935,098 cigarette filters. Cigarette filters account for the largest number of individual items collected. Trash disposal is provided by Baltimore City Department of Public Works. In the time that Mr. Trash Wheel™ has been in operation, the Plaintiff has spent \$32 million on collecting and disposing litter into landfills.
42. Due to the sheer quantity of cigarette filters, the Plaintiff must expend resources on managing disposal receptacles, mechanical street sweeping, manual cleanup, storm drain and sewer clean out, and water treatment processes. This expenditure includes the cost of the administration and labor of these clean-up procedures. The Plaintiff has spent millions

of dollars clearing sewage and drainage pipes of the clogs created by this massive litter problem.

43. The Plaintiff further spends resources on litter deterrence and abatement that includes posting signs indicating fines for littering, increasing of public awareness through billboards and radio/television broadcasting, and law enforcement time, energy, and manpower to fine for littering.<sup>30</sup> Instead of spending this money on matters of public interest and safety, i.e., community law enforcement, fire departments, and libraries, the Plaintiff must spend its funds cleaning up toxic cigarette waste.
44. According to scientific estimates, the annual cost to the Plaintiff for the partial clean-up of the Defendants products ranges from \$5,299,099 to \$5,391,325, but the actual cost is now much larger.<sup>31</sup>
45. From 2018 to 2022 Plaintiff spent:
  - a. \$62,861,662 of General Funds, Stormwater Utility Funds, and Casino Funds to clean streets and alleys;
  - b. \$1,992,171 on Trash Wheels, including:
    - i. \$16,189 of General Funds on Trash Wheels;
    - ii. \$1,738,958 of Casino Funds on Trash Wheels;
    - iii. \$237,570 of General Funds on Waterfront Partnership Trash Wheel Support;
  - c. \$32,126,030 to clean sidewalks and walkways, including:
    - i. \$9,027,500 of General Funds on Business District cleaning;

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<sup>30</sup> John E. Schneider, et al., *Online Simulation Model to Estimate the Total Costs of Tobacco Product Waste in Large U.S. Cities*, Int'l J. of Envi. Research and Public Health 1, 4 (June 30, 2020).

<sup>31</sup> John E. Schneider, et al., *Online Simulation Model to Estimate the Total Costs of Tobacco Product Waste in Large U.S. Cities*, Int'l J. of Envi. Research and Public Health 1, 9 (June 30, 2020).

- ii. \$23,098,530 of General Funds and Stormwater Utility Funds on mechanical sweeping operations; and
  - d. \$1,881,572 of Stormwater Utility funds to clean drains.
46. Thus from 2018 to 2022, Plaintiff spent a total of \$98,861,981 on cleaning streets, waterways, alleys, walkways, sidewalks, and drains, a large percentage of which was spent cleaning up the Defendants' products.
47. Furthermore, according to the applicable Maryland Illegal Dumping and Litter Control Law "a person who disposes of litter 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 5 years or a fine not exceeding \$30,000 or both."<sup>32</sup> Each Defendant has far exceeded this amount and is subject to the cumulative maximum fines since their cigarette filter littering began and continuing until the ordinance violations cease.
48. As stated in the *Effects of Litter on the Environment and Communities*<sup>33</sup>, litter causes numerous environmental problems.<sup>34</sup> When trash and pollutants wash into storm drains, they flow into the waterways and are distributed into the streams and rivers of every city, including Baltimore, degrading wildlife habitats.<sup>35, 36</sup> Eighty percent of marine pollution can be traced back to sources on land.<sup>37</sup> Organisms are harmed when they ingest cigarette filters and when marine life is exposed to toxins, death may not be immediate, but the

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<sup>32</sup> Md. Code Ann., Crim. Law § 10-110(f)(2)(iii) (West).

<sup>33</sup> *The Effects of Litter on the Environment and Communities*, <https://globalconservationforce.org/news-updates/litter-environment-communities/> (Internal citations omitted).

<sup>34</sup> *Id.* (Internal citations omitted).

<sup>35</sup> *Id.* (Internal citations omitted).

<sup>36</sup> *Id.* (Internal citations omitted).

<sup>37</sup> *Id.* (Internal citations omitted).

toxins accumulate in the organism over its lifetime.<sup>38, 39</sup> Moreover, cigarette litter combines with other trash and debris leading to clogged and broken pipes, as well as floods in the City's neighborhoods.<sup>40</sup> This damaged City property must be replaced by the City at great cost.

49. The list of additional economic problems caused by litter and trash is extensive. Numerous studies have shown that when litter is present people are more likely to continue littering in that same area.<sup>41</sup> When litter exists, people often perceive there to be more crime in that area compared to a place that does not have litter.<sup>42</sup> Indeed, researchers have found that litter actually increases crime.<sup>43</sup> In residential areas, litter has been found to decrease property values and in commercial areas, it decreases customers and reduces sales.<sup>44</sup>

## **CLAIMS FOR RELIEF**

### **COUNT I**

#### **VIOLATION OF THE MARYLAND ILLEGAL DUMPING AND LITTER CONTROL LAW**

50. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.
51. The Maryland Illegal Dumping statute provides criminal penalties and fines against any person who disposes or causes or allows the **disposal of litter** on public or private property, unless the property is designed by the State, a unit of the State, or a political subdivision of the State for the disposal of litter and the person is authorized by the proper public authority

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<sup>38</sup> *Id.* (Internal citations omitted).

<sup>39</sup> *Id.* (Internal citations omitted).

<sup>40</sup> *Id.* (Internal citations omitted).

<sup>41</sup> *Id.* (Internal citations omitted).

<sup>42</sup> *Id.* (Internal citations omitted).

<sup>43</sup> *Id.* (Internal citations omitted).

<sup>44</sup> *Id.* (Internal citations omitted).

to use the property, or the litter is placed into a litter receptacle or container installed on the property. (Emphasis added). Exhibit A.

52. The Maryland statute further states that “[l]itter’ means all rubbish, waste matter, garbage, trash, debris, dead animals, or other discarded materials of every kind and description.” *Id.* at § 10-110 (a)(4).
53. The Defendants’ actions and omissions, including the release and migration of filtered cigarettes into and onto Baltimore City lands, violate that statute and constitute unlawful littering as defined, and in violation of, § 10-110.
54. Maryland has a criminal sanction clause for violations of the Illegal Dumping and Litter Control Law within § 10-110(e) that states “[a] person who disposes of litter in violation of this section . . . is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding” the following, under subsection (c) below:
  - a. “[f]or an amount not exceeding 100 pounds or 27 cubic feet and not for commercial gain . . . 30 days or a fine not exceeding \$1,500 or both.”
  - b. “[f]or an amount exceeding 100 pounds or 27 cubic feet, and not for commercial gain exceeding 500 pounds or 216 cubic feet, and not for commercial gain . . . 1 year or a fine not exceeding \$12,500 or both.”
  - c. “[f]or an amount exceeding 500 pounds or 216 cubic feet or in any amount for commercial gain . . . 5 years or a fine not exceeding \$30,000 or both.” (Emphasis added). *Id.*
55. In addition to the criminal penalties under the statute, the Maryland statute may authorize a court order requiring the violator to “remove or render harmless the litter disposed of, repair or restore any property damaged by, or pay damages for, the disposal of the litter,



perform public service relating to the removal of litter disposed of or to the restoration of an area polluted by litter disposed of, or reimburse the state, county, municipal corporation, or by county unit for its costs incurred and removing the litter disposed of in violation of the section.” (Emphasis added). *Id.*

56. Defendants’ unlawful acts and omissions resulting in the cigarette filters contaminating the Baltimore City lands and waters, has violated, is currently violating, and will continue into the indeterminable future to violate the Maryland statute and, thus, defendants are subject to fines for each past, present, and future statute violation until the violations cease.
57. Wherefore, Plaintiff prays for relief as set forth below.

**COUNT II**  
**VIOLATION OF THE BALTIMORE CITY CODE §§ 7-606 AND 7-607**

58. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.
59. The Baltimore City Code prohibits any person from disposing waste or other material except in a receptacle and at a location approved by law for waste disposal, at a licensed landfill, or at any other disposal site authorized by law to receive waste. Exhibit B at § 7-606.
60. The Baltimore City Code defines “person” as “an individual; a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; or a partnership, firm, association, corporation, or other entity of any kind.” *Id.* at 1.
61. The Baltimore City Code also prohibits disposal of and does not permit discharge or flow onto any public or private property, with or without the owner’s permission, any liquid or

solid matter that is or that, after exposure to the atmosphere or otherwise, it's likely to become offensive or otherwise a nuisance. (Emphasis added). *Id.* at § 7-607.

62. The Baltimore City Code defines disposing of offensive materials as applying to these, among others: “blood, refuse coal oil, dead animal or part of an animal, domestic or sanitary sewage, excrement, filth, foul or nauseous liquid, garbage, slaughterhouse or other trade cleanings, stagnant water, or offensive matter of any kind.” (Emphasis added). *Id.* at § 5-902(b).
63. Defendants’ actions and omissions, including the release and migration of filtered cigarettes into and onto Baltimore City lands, constitute unlawful disposal as defined, and in violation of, § 7-607.
64. Baltimore City has a criminal sanction clause for violations of the Baltimore City Code within § 7-632 which authorizes a basic penalty of a fine not more than \$1,000 and imprisonment for not more than ninety days for any person who violates any provision of this subtitle or who authorizes any employee or agent to violate any provision of the subtitle, and an enhance penalty of a fine not more than \$1,000, imprisonment for not more than twelve months, and revocation of the privilege of seeking a building permit in the City for any violation that entails the disposal, in any twenty-four-hour period, a material that weighs twenty-five or more pounds or material that comprises of ten or more cubic feet. *Id.* at § 5-910.
65. Defendants’ unlawful acts and omissions resulting in the filtered cigarettes contaminating the Baltimore City lands and waters, has violated, is currently violating, and will continue into the indeterminable future to violate the Baltimore City Code as aforementioned and,

thus, defendants are subject to fines for each past, present, and future statute violation until the violations cease.

66. Wherefore, Plaintiff prays for relief as set forth below.

**COUNT III**  
**VIOLATION OF THE BALTIMORE CITY CODE § 7-608**

67. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

68. The Baltimore City Code further prohibits dumping on public property. For public property, “[n]o person may dump or dispose of any garbage, waste, wire, glass, nails, or any other matter in or on any gutter, sidewalk, street, open space, wharf, or other public place or [] into any public trash receptacle located on or along the sidewalk, street, open space, wharf, or other public place.” *Id.* at § 7-608.

69. The Baltimore City Code defines “person” as “an individual; a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; or a partnership, firm, association, corporation, or other entity of any kind.” *Id.* at § 1-108(a).

70. The Baltimore City Code defines disposing of offensive materials as applying to these, among others: “blood, refuse coal oil, dead animal or part of an animal, domestic or sanitary sewage, excrement, filth, foul or nauseous liquid, garbage, slaughterhouse or other trade cleanings, stagnant water, or **offensive matter of any kind.**” (Emphasis added). *Id.* at § 5-902(b).

71. Defendants’ actions and omissions, including the release and migration of filtered cigarettes into and onto Baltimore City lands, constitute unlawful disposal as defined, and in violation of, § 7-608.

72. Baltimore City has a penalty clause for violations of the Baltimore City Code within § 7-628 which states “[a]ny person who, in violation of section 7–608 of this subtitle or in violation of any other provision of the law, dumps or otherwise disposes of matter in or on property owned, leased, or controlled by the City is liable to the City for the costs of removing the matter dumped or disposed of and repairing any damage caused by the dumping or disposal.” *Id.* at § 7-628.
73. Defendants’ unlawful acts and omissions resulting in the cigarette filters contaminating the Baltimore City lands and waters, has violated, is currently violating, and will continue into the indeterminable future to violate the Baltimore City Code as forementioned and, thus, defendants are subject to fines for each past, present, and future statute violation until the violations cease.
74. Wherefore, Plaintiff prays for relief as set forth below.

**COUNT IV**  
**VIOLATION OF THE BALTIMORE CITY CODE § 7-609**

75. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.
76. The Baltimore City Code further prohibits dumping on private property. For private property, “[n]o person may dump or dispose of any earth, dirt, sand, ashes, gravel, rocks, **garbage, waste**, or any other matter on any private property, including in or near any waste receptacle on the property, without the permission of **the property owner or the owner’s agent**.” (Emphasis added). *Id.* at § 7-609.

77. The Baltimore City Code defines “person” as “an individual; a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; or a partnership, firm, association, corporation, or other entity of any kind.” *Id.* at § 1-108(a).
78. The Baltimore City Code defines disposing of offensive materials as applying to these, among others: “blood, refuse coal oil, dead animal or part of an animal, domestic or sanitary sewage, excrement, filth, foul or nauseous liquid, garbage, slaughterhouse or other trade cleanings, stagnant water, or **offensive matter of any kind**.” (Emphasis added). *Id.* at § 5-902(b).
79. Defendants’ actions and omissions, including the release and migration of filtered cigarettes into and onto Baltimore City lands, constitute unlawful disposal as defined, and in violation of, § 7-609.
80. Baltimore City has a criminal penalty clause for violations of the Baltimore City Code within § 7-632 which provides for a basic penalty of a fine not more than \$1,000 and imprisonment for not more than ninety days for any person who violates any provision of this subtitle or who authorizes any employee or agent to violate any provision of the subtitle, and an enhance penalty of a fine not more than \$1,000, imprisonment for not more than twelve months, and revocation of the privilege of seeking a building permit in Baltimore City for any violation that entails the disposal, in any twenty-four-hour period, a material that weighs twenty-five or more pounds or material that comprises of ten or more cubic feet. *Id.* at § 7-632.
81. Defendants’ unlawful acts and omissions resulting in the cigarette filters cigarettes contaminating the Baltimore City lands and waters, has violated, is currently violating, and will continue into the indeterminable future to violate the Baltimore City Code as

forementioned and, thus, defendants are subject to fines for each past, present, and future statute violation until the violations cease.

82. Wherefore, Plaintiff prays for relief as set forth below.

**COUNT V**  
**VIOLATION OF THE BALTIMORE CITY CODE § 7-702**

83. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

84. The Baltimore City Code prohibits a person from littering on any public or private property and does not permit the accumulation of litter on any property under that person's control. *Id.* at § 7-702.

85. The Baltimore City Code define "person" as "an individual; a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; or a partnership, firm, association, corporation, or other entity of any kind." *Id.* at § 1-108(a).

86. The Baltimore City Code defines **litter** as "means to discard or otherwise dispose of, in any way other than as authorized by of this title, of **small amount of paper**, beverage containers, glass, garbage, or other waste that weigh[s] **less than 1 pound**, comprise[s] of] less than 1 cubic foot, and are **not toxic, noxious, or otherwise a threat** to the public health or safety." (Emphasis added) *Id.* at § 7-601.

87. Defendants' actions and omissions, including the release and migration of cigarette filters into and onto Baltimore City lands, constitute unlawful litter as defined, and in violation of, § 7-702.

88. The Baltimore City Code has a penalty section, § 7-706, which states "[a]ny person who violates this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of

\$500 for each offense. **Each day a violation continues is a separate offense.**” (Emphasis added). *Id.* at § 7-706.

89. Defendants’ unlawful acts and omissions resulting in the filtered cigarettes contaminating the Baltimore City lands and waters, has violated, is currently violating, and will continue into the indeterminable future to violate the Baltimore City Code as aforementioned and, thus, defendants are subject to fines for each past, present, and future statute violation.

90. Wherefore, Plaintiff prays for relief as set forth below.

**COUNT VI**  
**CONTINUING TRESPASS**

91. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

92. Defendants knew with substantial certainty at the time of their manufacture and sale of filtered cigarettes, and then with their disposal and littering of these products and wastes, that such activities were likely, if not certainly, to result in contamination of the Baltimore City lands and waters.

93. Defendants’ conduct as described constitutes a continuing trespass upon Baltimore City property, that is, a continuing invasion in and of the exclusive possession and control of its lands and waters.

94. Defendants’ conduct caused, and continues to cause, permanent harm to and seriously damage the property values and utility of Baltimore City property, thereby causing Baltimore City to, upon information and belief, lose millions of dollars in sales and property tax for decades.

95. Upon information and belief, Baltimore City has incurred massive costs to investigate, monitor, evaluate, abate, clean up, and remediate Defendants’ cigarette filter litter.



96. As a result of Defendants' conduct, Baltimore City has suffered, is suffering, and will continue to suffer damages to the public interest, economy, lands, and creditors.

97. Wherefore, Plaintiff prays for relief as set forth below.

**COUNT VII**  
**STRICT LIABILITY FOR DESIGN DEFECT**

98. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

99. Defendants' filtered cigarettes were unsafe for the environment as designed.

100. The risk of danger to the environment inherent in the design of Defendants' filtered cigarettes drastically outweighs any perceived benefits of the design of such products when such products were put to reasonably foreseeable uses. The plastic filters do not significantly reduce the toxic chemicals inhaled by the Defendant' customers.

101. Alternatively, Defendants knew their filtered cigarettes would litter Baltimore City's property to an extent beyond that which would be contemplated by an ordinary person.

102. The filtered cigarettes and their toxins reached Baltimore City lands and water without any substantial change in condition from when they left the control of the Defendants.

103. Defendants, and each of them, manufactured filtered cigarettes and/or placed those filtered cigarettes into the stream of commerce; and owed a duty to assure that Defendants' cigarette filters, might foreseeably harm, including Plaintiff, not to market and distributes any product which is unreasonably dangerous for its intended or reasonably foreseeable uses.

104. Defendants, and each of them, formulated, designed, manufactured, packaged, distributed, tested, constructed, fabricated, analyzed, recommended, merchandised, advertised,

promoted, and/or sold filtered cigarettes, which were intended by Defendants, and each of them, to be smoked in public and to become litter in the City of Baltimore.

105. Defendants, and each of them, heavily marketed, promoted, and advertised filtered cigarettes, which were sold and used by the general public. Defendants received direct financial benefit from the sales of filtered cigarettes. Defendants' roles as promoters, marketers, and distributors were integral to their respective businesses and a necessary factor in bringing filtered cigarettes to the consumer market, such that Defendants had control over, and a substantial ability to influence, the manufacturing and distribution processes that led to the littering of the streets of Baltimore City.
106. Defendants, and each of them, knew or should have known filtered cigarettes and their toxins lack the ability deteriorate and would persist in the environment perpetually, rendering them defective and unreasonably dangerous to the flora and fauna of Baltimore City.
107. Throughout the time at issue, filtered cigarettes have not performed as safely as an ordinary consumer would expect them to, and have been unreasonably dangerous for their intended, foreseeable, and ordinary use, because the consequences of their use damages the environment and costs Baltimore City millions of dollars in cleanup costs. In particular, ordinary consumers did not, and do not, expect that cigarette filters would:
  - a. permanently contaminate the soil and groundwater;
  - b. hamper plant growth;
  - c. pollute waterways;
  - d. deteriorate critical aquatic habitats;
  - e. kill fish;

- f. poison, cats, dogs and wildlife; and
  - g. cost Baltimore City millions of dollars in cleanup costs and reduce tax revenue.
108. The above-described defects were beyond the knowledge of an ordinary consumer, and neither Baltimore City nor any ordinary consumer could have avoided the harm caused by Defendants' filtered cigarettes by the exercise of reasonable care.
109. Defendants' individual and aggregate filtered cigarette products were defective at the time of manufacture and reached the consumer in a condition substantially unchanged from the time of manufacture; and were used in the manner in which they were intended to be used, or in a manner foreseeable to Defendants and each of them, by individual consumers; the result of which was the addition of millions of cigarette filters into the Plaintiff's environment with attendant local consequences.
110. Defendants' unreasonably dangerous filtered cigarettes and toxins caused the permanent and increasing presence of litter in Baltimore City and damage to the public interest, including a massive threat to the economic health of Baltimore City.
111. As a direct and proximate result of Defendants' and each of their acts and omissions, Plaintiff Mayor and City Council of Baltimore have sustained and will sustain substantial losses and damages as set forth in this Complaint, including damage to publicly owned infrastructure and real property, and injuries to public resources that interfere with the economic viability of the City.
112. Defendants' acts and omissions as alleged herein are indivisible causes of the Mayor and City Council of Baltimore's damages as alleged herein, because, *inter alia*, it is not possible to determine the source of any particular individual cigarette manufacturers' filter

attributable to the damages alleged herein because such filters do not bear markers that permit tracing them to their source.

113. As an alternative to the indivisible nature of the damages attributable to each Defendant herein, on information and belief, however, each Defendant has substantially contributed to the ongoing massive littering of public and private property in the City according to each Defendants' percentage of the total sales and distribution of filtered cigarettes in the City. Accordingly, each Defendant is responsible to reimburse the City for its percentage of the cleanup costs and other losses sustained, and projected to be sustained, by the City as a result of the cigarette filter litter for which each Defendant is responsible.

114. Defendants' wrongful conduct as set forth herein was committed with actual malice. Defendants had actual knowledge that their products were defective and dangerous when use as intended or in a foreseeable manner, in that they were not biodegradable, and acted with conscious disregard for the probable deleterious consequences of their conduct and products' foreseeable impact upon the property of others, including the City of Baltimore. Therefore, Baltimore City requests an award of punitive damages in an amount reasonable, appropriate, and sufficient, given each Defendants' net worth, to punish each Defendant in Baltimore City for the good of society and deter each Defendant from ever committing the same or similar acts.

115. Wherefore, Plaintiff prays for relief as set forth below.

**COUNT VIII**  
**NEGLIGENT DESIGN DEFECT**

116. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

117. Defendants' filtered cigarettes constituted an unreasonably dangerous design, including nonbiodegradable filters, at the time they left their control.
118. Defendants' filtered cigarettes were unsafe to the environment as designed.
119. The risk of danger to the environment inherent in the design of Defendants' filtered cigarettes drastically outweighed any perceived benefits of the design of such products when such products were put to reasonably foreseeable uses. The Defendants knew that the non-biodegradable cigarette filter does not significantly reduce the toxic chemicals inhaled by their customers.
120. Alternatively, Defendants knew their filtered cigarettes were unsafe to the environment to an extent beyond that which would be contemplated by an ordinary person.
121. Defendants knew or should have known of the environmental and public health effects inherently caused by the normal use and operation of their filtered cigarettes, because they knew the filters were nonbiodegradable, including the likelihood that discarded cigarette filters would contaminate the soil and groundwater, hamper plant growth, pollute waterways, deteriorate critical aquatic habitats such as seagrass and reef ecosystems, and poison, pets, wildlife, and fish if ingested, and the associated consequences of those physical and environmental changes, and including injuries to Plaintiff's natural resources, as described herein.
122. Defendants, collectively and individually, had a duty to use due care in developing, designing, testing, inspecting, manufacturing and distributing their filtered cigarette products. That duty obligated Defendants collectively and individually to, *inter alia*, prevent the defective products from entering the stream of commerce, and prevent

reasonably foreseeable harm that resulted from the ordinary and/or reasonably foreseeable use of Defendants' products.

123. Defendants, and each of them, breached their duty of due care by, *inter alia*:
  - a. Allowing filtered cigarettes to enter the stream of commerce, despite knowing them to be defective due to the fact that they are nonbiodegradable and their inevitable propensity to be discarded into the environment and contaminate the soil and groundwater, hamper plant growth, pollute waterways, deteriorate critical aquatic habitats and ecosystems, and poison pets, wildlife, and fish if ingested, and the associated consequences of those physical and environmental changes;
  - b. Failing to act on the information and warnings they received from their own internal research staff, as well as from the international scientific community, that the unabated manufacture, promotion, sale, and distribution of their filtered cigarettes would result in material dangers to the City of Baltimore and its citizens and natural resources; and
  - c. Failing to take actions including, but not limited to, designing, manufacturing and selling biodegradable cigarette filters.
124. Defendants' individual and collective acts and omissions were actual, substantial causes of contaminated soil and groundwater, hampered plant growth, polluted waterways, deteriorated critical aquatic habitats, and poisoned pets, wildlife, and fish when ingested, and the associated consequences of those physical and environmental changes, including harm and injuries set forth herein to Plaintiff and its natural resources, as these damages would not have occurred but for Defendants' introduction of their filtered cigarettes into the stream of commerce.

125. As a direct and proximate result of Defendants' and each of their acts and omissions, Plaintiff Mayor and City Council of Baltimore has sustained and will sustain substantial expenses and damages as set forth in this Complaint, including damage to publicly owned infrastructure and real property, and injuries to public resources that interfere with the rights of Baltimore City.
126. Defendants' acts and omissions as alleged herein are indivisible causes of Mayor and City Council of Baltimore's losses and damages as alleged herein, because, *inter alia*, it is not possible to determine the source of any particular individual cigarette manufacturers' cigarette filters attributable to the damages alleged herein because such filters do not bear markers that permit tracing them to their source.
127. As an alternative to the indivisible nature of the damages attributable to each Defendant herein, on information and belief, each Defendant has substantially contributed to ongoing massive littering of public and private property in the City according to each Defendants' percentage of the total sales and distribution of filtered cigarettes in the City. Accordingly, each Defendant is responsible to reimburse the City for its percentage of the cleanup costs and other losses sustained, and projected to be sustained, by the City as a result of the cigarette filter litter for which each Defendant is responsible.
128. Wherefore, Plaintiff requests an award of damages against each of the Defendants as they are jointly and separately liable for all of its losses sustained prays for relief as set forth below.
129. Wherefore, Plaintiff prays relief as set forth below.



**COUNT IX**  
**PUBLIC NUISANCE**

130. Defendants manufactured, distributed, marketed, promoted, and attempted the disposal of filtered cigarettes in a manner that created or contributed to the creation of public nuisances that unreasonably obstruct the free use and enjoyment of Baltimore City's property.
131. Defendants, individually and in concert with each other, by their affirmative acts and omissions, have created, contributed to, and/or assisted in creating, conditions that significantly interfere with rights general to the public, including the public safety, the public peace, the public comfort, and the public convenience.
132. An ordinary person would be reasonably annoyed or disturbed by the presence of cigarette filters accumulated on Baltimore City property.
133. The seriousness of the environmental risks and economic losses from filtered cigarettes far outweighs any social utility of Defendants' conduct in manufacturing filtered cigarettes. The Defendants knew when manufacturing plastic cigarette filters that the filters did not significantly reduce the toxic chemicals inhaled by their customers.
134. The nuisance created and contributed to by Defendants is substantial and unreasonable. It has caused, continues to cause, and will continue to cause far into the future, significant harm to the environment as alleged herein and that harm outweighs any offsetting benefit. The health and safety of Baltimore's environment is a matter of great public interest and of legitimate concern to Baltimore City.
135. Defendants' conduct caused and continues to cause permanent harm and serious damage to the property values and utility of the residential and commercial properties in Baltimore City by increasing crime and decreasing the real estate property value and commercial

- sales, thereby causing Baltimore City to, upon information and belief, lose, and spend, millions of dollars in tax revenue for decades.
136. Defendants specifically created, contributed to, and/or assisted, and/or were a substantial contributing factor in the creation of the public nuisance by, *inter alia*:
- a. Controlling every step of the filtered cigarette supply chain: the design, manufacture, marketing sale, and distribution of those filtered cigarettes and placement of those products into the stream of commerce in Baltimore City; and
  - b. Affirmatively and knowingly promoting the sale and use of products which Defendants knew to be hazardous to the City's environment and cost Baltimore City millions of dollars in cleanup costs and reduce the tax revenue.
137. Because of their superior knowledge of cigarettes and their position controlling the design, manufacture, marketing, sale, and distribution of those products, Defendants were in the best position to prevent or abate the nuisance, but failed to do so, by failing to warn customers, retailers, regulators, public officials, or Baltimore City of the permanent litter risk posed by their filtered cigarettes and failing to take any other precautionary measures to prevent or mitigate those known damages.
138. The public nuisance caused, contributed to, maintained, and/or participated in by Defendants has caused and imminently threatens to cause massive losses to Baltimore City. The public nuisance has also caused substantial economic losses to real property values owned by Baltimore City for the cultural, historic, and economic benefit of the Baltimore's residents.
139. The seriousness of contaminated soil and groundwater, hampered plant growth, polluted waterways, deteriorated critical aquatic habitats, and poisoned pets, wildlife, and fish and

the associated consequences of those environmental damages, is extremely grave and outweighs the social utility of Defendants' conduct because, *inter alia*:

- a. Interference with the City's rights due to contaminated soil and groundwater, hampered plant growth, polluted waterways, deteriorated critical aquatic habitats, and poisoned pets, wildlife, and fish and the associated consequences of those physical and environmental damages as described above, has caused material deprivation of and/or interference with the use, enjoyment, and value of public and private property in Baltimore City;
- b. The ultimate nature of the damages is the destruction of real and personal property, loss of public cultural, historic, and economic resources, rather than mere annoyance;
- c. The interference borne is the loss of property, infrastructure, and public resources within Baltimore City, which is borne by Baltimore City's loss of value of public and private property and infrastructure; loss of cultural, historic, and economic resources, and diversion of tax dollars away from other public services to provide mitigation of the Defendants' cigarette filter litter;
- d. Plaintiff's property, which serves myriad uses including residential, infrastructural, commercial, historic, cultural, and ecological, is not suitable for its intended use because it is littered with the Defendants' toxic cigarette filters and the associated environmental consequences;
- e. The social "benefit", if any, of manufacturing and placing filtered cigarettes into the stream of commerce, if any, is heavily outweighed by the availability of unfiltered cigarettes that could have been placed into the stream of commerce that

would not have caused the environmental consequences as described herein. Moreover, despite the claims of the Defendant manufacturers, the non-biodegradable filters do not decrease the toxins from the cigarette that are inhaled by the Defendants' customers;

- f. The social "benefit", if any, of manufacturing and placing filtered cigarettes into the stream of commerce is outweighed by the ability to manufacture and produce cigarettes with biodegradable filters that could have been placed into the stream of commerce that would not have caused the environmental consequences as described herein;
- g. The cost to the City of the millions of cigarette filters littered in its environment is more harmful and costly than the continued manufacturing and producing of unfiltered cigarettes or the manufacture and production of cigarettes with biodegradable filters, or no filters at all, that Defendants produced before filtered cigarettes came onto the market and still do; and
- h. It was practical for Defendants, and each of them, considering their extensive knowledge of the hazards of manufacturing and placing non-biodegradable filtered cigarettes into the stream of commerce and extensive scientific engineering expertise, to develop technologies and to pursue and adopt known, practical, and available technologies, such as biodegradable filters, that would have avoided the toxic cigarette filter epidemic and the associated environmental consequences on Baltimore City.

140. Defendants' actions are the overwhelming causative factor in the unreasonable violation of the public rights of Baltimore City and its residents as set forth above because

- Defendants knew that their conduct would create a continuing litter problem with long-lasting significant negative effects on the rights of the Plaintiff, and absent Defendants' conduct the violations of the Plaintiff's rights described herein would not have occurred.
141. Defendants are under a continuing duty to act to correct, abate, and remediate the public nuisances their filtered cigarettes have had, and continue to have, caused, and each day on which they fail to do so constitutes a new loss to Baltimore City and a violation of its litter laws as set forth above.
  142. Defendants' wrongful conduct as set forth herein was committed with actual malice. Defendants knew that their products were defective and dangerous when used as intended or in a foreseeable manner, in that they were not biodegradable, and still acted with conscious disregard for the obvious disastrous consequences of their conduct and their products' imminently foreseeable impact upon the rights of others, including the City of Baltimore. Therefore, Baltimore City requests an award of punitive damages in an amount reasonable, appropriate, and sufficient given each respective Defendants' net worth to punish these Defendants for the good of the City and to deter Defendants from ever committing the same or similar acts.
  143. Baltimore City seeks an order that provides for the immediate abatement of the public nuisance Defendants have created, enjoins Defendants from creating future nuisances, through their littering, and awards Baltimore City damages in an amount to be determined at trial. Baltimore pursues these remedies in its sovereign capacity for the benefit of the general public.
  144. Wherefore, Plaintiff prays for relief as set forth below.

**COUNT X**  
**STRICT LIABILITY FAILURE TO WARN**

145. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.
146. Defendants' filtered cigarette products were not reasonably safe at the time they left their control because they lacked adequate warnings and/or instructions concerning the dangers and hazards as a result of the non-biodegradable cigarette filters.
147. Defendants, and each of them, at all times were required to issue adequate warnings to Baltimore City, the public, consumers, and public officials of the reasonably foreseeable or knowable severe risks posed by the inevitable use and litter of their filtered cigarettes, defective and dangerous products when used as intended or in a foreseeable manner.
148. Defendants knew, based on information passed to them and/or from the scientific community, of the environmental consequences inherently caused by the normal use and operation of their filtered cigarettes, including the likelihood that discarded cigarette filters would contaminate the soil and groundwater, hamper plant growth, pollute waterways, deteriorate critical aquatic habitats and ecosystems, poison pets, wildlife, and fish, and the associated consequences of those physical and environmental changes, including Baltimore City's losses as described herein.
149. Defendants were required to warn of and instruct the Plaintiff about these dangers but failed to do so and intentionally concealed information in order to maximize profits for decades and externalize the cleanup costs, causing continuing losses to Baltimore City.
150. Throughout the times at issue, Defendants failed to adequately warn the Plaintiff or their consumers of the environmental consequences that would inevitably flow from the intended use of their filtered cigarettes.

151. Defendants continue to conceal the dangers to the environment of filtered cigarettes after they manufactured, distributed, marketed, promoted, sold, and distributed filtered cigarettes in Baltimore City.
152. Given the grave dangers presented by the environmental consequences that inevitably flow from the expected use of filtered cigarettes, a reasonable designer, manufacturer, marketer, seller, distributor, or other participant responsible for introducing filtered cigarettes into the stream of commerce including Baltimore City would have warned the City of those known, inevitable environmental consequences.
153. Defendants' conduct was and is a direct and proximate cause of Plaintiffs losses and the primary factor in the damages suffered by Plaintiff as alleged herein.
154. As a direct and proximate result of Defendants' and each of their acts and omissions, Plaintiff Mayor and City Council of Baltimore has sustained and will sustain substantial losses and damages as set forth in this Complaint, including damage to publicly owned infrastructure and real property, and damages to public resources that have, and will continue to, interfere with the rights of Baltimore City.
155. Defendants' individual acts and omissions as alleged herein are indivisible causes of the Mayor and City Council of Baltimore's damage as alleged herein, because, *inter alia*, it is not possible to determine the source of any particular individual cigarette manufacturers' filter litter attributable to the damages alleged herein because such filters do not bear markers that permit tracing them to their source.
156. As an alternative to the indivisible nature of the damages attributable to each Defendant herein, on information and belief, each Defendant has substantially contributed to ongoing massive littering of public and private property in the City according to each Defendants'



percentage of the total sales and distribution of filtered cigarettes in the City. Accordingly, each Defendant is responsible to reimburse the City for its percentage of the cleanup costs and other losses sustained, and projected to be sustained, by the City as a result of the cigarette filter litter for which each Defendant is responsible.

157. Defendants' wrongful conduct as set forth herein was committed with actual malice. Defendants knew that their products were defective and dangerous when used as intended or in a foreseeable manner, in that they were not biodegradable, and yet acted with conscious disregard for the probable disastrous consequences of their conduct and their products' foreseeable impact upon the rights of others, including the City of Baltimore. Therefore, Baltimore City requests an award of punitive damages in an amount reasonable, appropriate, and sufficient to punish these Defendants, based upon their respective net worth, for the good of society and to deter Defendants from ever committing the same or similar acts in Baltimore City.
158. Wherefore, Plaintiff prays for relief as set forth below.

**COUNT XI**  
**NEGLIGENT FAILURE TO WARN**

159. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.
160. Defendants, and each of them, at all times had a duty to issue adequate warnings to Baltimore City, the public, consumers, and public officials of the reasonably foreseeable or knowable severe risks posed to the environment by the daily use and litter of their filtered cigarettes.
161. Defendants were required to warn of and instruct Baltimore City about these dangers of their products but failed to do so and negligently failed to timely reveal the information in

order to avoid a reduction in profits for decades while causing losses of revenue and increasing cleanup costs to Baltimore City.

162. Defendants knew or should have known, based on information passed to them and/or from their scientific community, of the environmental consequences inherently caused by the normal use of their filtered cigarettes, including the likelihood that discarded cigarette filters would contaminate the City's soil and groundwater, hamper plant growth, pollute waterways, deteriorate critical aquatic habitats and environments and poison pets, wildlife, and fish, plus the associated economic consequences of those environmental impacts, including Baltimore City's damages as described herein.
163. Defendants should have known, based on information passed to them and/or from the scientific community, that the environmental consequences described herein rendered their plastic product disastrous, or likely to cause damage to the City of Baltimore, when used as intended or in a reasonably foreseeable manner.
164. Throughout the times at issue, Defendants breached their duty of care by failing to adequately warn Baltimore City of the environmental consequences that would inevitably flow from the intended use of their filtered cigarettes.
165. Given the probable losses presented by the environmental consequences that inevitably flow from the normal use of filtered cigarettes, a reasonable designer, manufacturer, marketer, seller, distributor or other participant responsible for introducing filtered cigarettes into the stream of commerce, would have warned the City of those known, inevitable environmental consequences and financial losses.
166. Defendants' conduct was a direct and proximate cause of Plaintiff's losses and the primary factor in the damages suffered by Plaintiff as alleged herein.

167. As a direct and proximate result of Defendants' and each of their acts and omissions, Plaintiff Mayor and City Council of Baltimore has sustained and will sustain substantial costs and losses as set forth in this Complaint, including damage to publicly owned infrastructure and real property, and damages to public resources that interfere with the property rights of Baltimore City.
168. Defendants' acts and omissions as alleged herein are indivisible causes of Mayor and City Council of Baltimore's damage as alleged herein, because, inter alia, it is not possible to determine the source of any particular individual cigarette manufacturers' filter attributable to the damages alleged herein because such filters do not bear markers that permit tracing them to their source. Each is responsible, jointly and severally, for the damages and losses claimed herein.
169. As an alternative to the indivisible nature of the damages attributable to each Defendant herein, on information and belief, each Defendant has substantially contributed to ongoing massive littering of public and private property in the City according to each Defendants' percentage of the total sales and distribution of filtered cigarettes in the City. Accordingly, each Defendant is responsible to reimburse the City for its percentage of the cleanup costs and other losses sustained, and projected to be sustained, by the City as a result of the cigarette filter litter for which each Defendant is responsible.
170. Wherefore, Plaintiff prays for relief as set forth below.

**PRAYER FOR RELIEF**

171. WHEREFORE, Plaintiff respectfully requests the Court to award:
- a. Compensatory damages in an amount sufficient to pay for the losses, past, present, and future, for damage to Baltimore City's infrastructure, land and natural

- resources, including the economic impact to Baltimore City from the loss of its environmental health, and other losses resulting from the conduct alleged herein, including, but not limited to, the loss of value in Baltimore City's properties, the loss of tax, sales, and licensing revenue to Baltimore City resulting from Defendants' actions and omissions, plus the costs to Baltimore City of cleaning up and disposing of the Defendants' litter, past, present, and future;
- b. Equitable relief, including investigation, abatement, remediation, and removal of the nuisances complained of herein;
  - c. Criminal penalties, including, but not limited to, fines consistent with Maryland law and the Baltimore City Code for each and every separate offense, past, present, and ongoing;
  - d. Punitive damages in an amount reasonable, appropriate and sufficient given each Defendants' respective net worth to punish each Defendants for the good of society and deter Defendants from ever committing the same or similar acts in Baltimore City;
  - e. Injunctive relief in the form of Court Orders mandating the immediate and complete abatement and remediation of all Baltimore City property befouled or damaged by cigarette filter litter;
  - f. Disgorgement of profits;
  - g. Plaintiff's attorneys' fees and costs of suit; and
  - h. For such and other relief as the court may deem proper.

Respectfully submitted,

James L. Shea  
City Solicitor



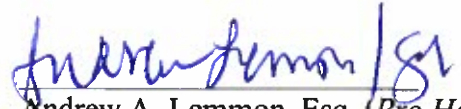
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**DEMAND FOR JURY TRIAL**

Plaintiff, the Mayor and City Council of Baltimore, demands a trial by jury on all claims so triable.

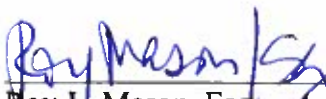
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A handwritten signature in blue ink, appearing to read "Andrew A. Lemmon / Esq.", with a stylized flourish at the end.

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Exhibit A

Maryland Criminal Code Annotated

§ 10-110

## **Md. Criminal Law Code Ann. § 10-110**

Current with all legislation from the 2022 Regular Session of the General Assembly.

**Michie's™ Annotated Code of Maryland > Criminal Law (Titles 1 — 14) > Title 10. Crimes Against Public Health, Conduct, and Sensibilities. (Subts. 1 — 7) > Subtitle 1. Crimes Against Public Health and Safety. (Pts. I — V) > Part I. General Provisions. (§§ 10-101 — 10-112)**

### **§ 10-110. Litter Control Law.**

---

(a)

(1) In this section the following words have the meanings indicated.

(2) "Bi-county unit" means:

- (i) the Maryland-National Capital Park and Planning Commission; or
- (ii) the Washington Suburban Sanitary Commission.

(3)

(i) "Bulky item" means any discarded furniture, home or industrial appliance, or abandoned vehicle or part of an abandoned vehicle not designated for disposal purposes under the laws of Prince George's County or Charles County.

(ii) "Bulky item" does not include discarding, dropping, or scattering of small quantities of waste matter ordinarily carried on or about the person, including:

- 1. beverage containers and closures;
- 2. packaging;
- 3. wrappers;
- 4. wastepaper;
- 5. newspapers;
- 6. magazines; and
- 7. waste matter that escapes or is allowed to escape from a container, receptacle, or package.

(4) "Litter" means all rubbish, waste matter, refuse, garbage, trash, debris, dead animals, or other discarded materials of every kind and description.

(5) "Public or private property" means:

- (i) the right-of-way of a road or highway;
- (ii) a body of water or watercourse or the shores or beaches of a body of water or watercourse;
- (iii) a park;
- (iv) a parking facility;
- (v) a playground;
- (vi) public service company property or transmission line right-of-way;
- (vii) a building;
- (viii) a refuge or conservation or recreation area;

## Md. Criminal Law Code Ann. § 10-110

- (ix) residential or farm property; or
  - (x) timberlands or a forest.
- (b) The General Assembly intends to:
- (1) prohibit uniformly throughout the State the improper disposal of litter on public or private property; and
  - (2) curb the desecration of the beauty of the State and harm to the health, welfare, and safety of its citizens caused by the improper disposal of litter.
- (c) A person may not:
- (1) dispose of litter on a highway or perform an act that violates the State Vehicle Laws regarding disposal of litter, glass, and other prohibited substances on highways; or
  - (2) dispose or cause or allow the disposal of litter 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 and the person is authorized by the proper public authority to use the property; or
    - (ii) the litter is placed into a litter receptacle or container installed on the property.
- (d) If two or more individuals are occupying a motor vehicle, boat, airplane, or other conveyance from which litter is disposed in violation of subsection (c) of this section, and it cannot be determined which occupant is the violator:
- (1) if present, the owner of the conveyance is presumed to be responsible for the violation; or
  - (2) if the owner of the conveyance is not present, the operator is presumed to be responsible for the violation.
- (e) 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.
- (f)
- (1) A person who violates this section is subject to the penalties provided in this subsection.
  - (2)
    - (i) A person who disposes of litter 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.
    - (ii) A person who disposes of litter 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 1 year or a fine not exceeding \$12,500 or both.
    - (iii) A person who disposes of litter 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 5 years or a fine not exceeding \$30,000 or both.
  - (3) In addition to the penalties provided under paragraph (2) of this subsection, a court may order the violator to:
    - (i) remove or render harmless the litter disposed of in violation of this section;
    - (ii) repair or restore any property damaged by, or pay damages for, the disposal of the litter in violation of this section;

## Md. Criminal Law Code Ann. § 10-110

(iii) perform public service relating to the removal of litter disposed of in violation of this section or to the restoration of an area polluted by litter disposed of in violation of this section; or

(iv) reimburse the State, county, municipal corporation, or bi-county unit for its costs incurred in removing the litter disposed of in violation of this section.

**(4)**

(i) If a person is convicted of a violation under this section and the person used a motor vehicle in the commission of the violation, the court shall notify the Motor Vehicle Administration of the violation.

(ii) The Chief Judge of the District Court and the Administrative Office of the Courts, in conjunction with the Motor Vehicle Administration, shall establish uniform procedures for reporting a violation under this paragraph.

(g) A law enforcement unit, officer, or official of the State or a political subdivision of the State, or an enforcement unit, officer, or official of a commission of the State, or a political subdivision of the State, shall enforce compliance with this section.

(h) A unit that supervises State property shall:

(1) establish and maintain receptacles for the disposal of litter at appropriate locations where the public frequents the property;

(2) post signs directing persons to the receptacles and serving notice of the provisions of this section; and

(3) otherwise publicize the availability of litter receptacles and the requirements of this section.

**(i)**

(1) Fines collected for violations of this section shall be disbursed:

(i) to the county or municipal corporation where the violation occurred; or

(ii) if the bi-county unit is the enforcement unit and the violations occurred on property over which the bi-county unit exercises jurisdiction, to the bi-county unit.

(2) Fines collected shall be used to pay for litter receptacles and posting signs as required by subsection (h) of this section and for other purposes relating to the removal or control of litter.

**(j)**

(1) The legislative body of a municipal corporation may:

(i) prohibit littering; and

(ii) classify littering as a municipal infraction under Title 6 of the Local Government Article.

(2) The governing bodies of Anne Arundel County, Prince George's County, Calvert County, and Montgomery County may each adopt an ordinance to prohibit littering under this section and, for violations of the ordinance, may impose criminal penalties and civil penalties that do not exceed the criminal penalties and civil penalties specified in subsection (f)(1) through (3) of this section.

**(3)**

(i) The governing bodies of Prince George's County and Charles County may each adopt an ordinance to prohibit the disposal of a bulky item:

1. on a highway; or

2. on public or private property unless the property is designated by the State, a unit of the State, or a political subdivision of the State for the disposal of bulky items and the person is authorized by the proper public authority to use the property.

## Md. Criminal Law Code Ann. § 10-110

(ii) For violations of an ordinance adopted under this paragraph, a county may impose criminal penalties and civil penalties that do not exceed the criminal penalties and civil penalties specified in subparagraph (iii) of this paragraph.

(iii) A person who disposes of a bulky item in violation of this paragraph is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 30 days or a fine not exceeding \$5,000 or both.

(k) This section may be cited as the "Illegal Dumping and Litter Control Law".

## History

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An. Code 1957, art. 27, § 468(a), (b), (c)(1), (2), (4), (5), (d)-(j); 2002, ch. 26, § 2; 2004, ch. 214; 2012, chs. 231, 409; 2013, ch. 136; 2014, ch. 493; 2015, ch. 67; 2019, ch. 160; 2020, ch. 42, § 1; ch. 43, § 1; ch. 189, § 1; ch. 190, § 1; ch. 627, § 1; 2021, ch. 110, § 1.

### Annotations

## Notes

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### Effect of amendments. —

Chapter 214, Acts 2004, effective Oct. 1, 2004, substituted "\$1,500" for "\$1,000" in (f)(2)(i); substituted "\$12,500" for "\$10,000" in (f)(2)(ii); and substituted "\$30,000" for "\$25,000" in (f)(2)(iii).

Chapter 231, Acts 2012, effective October 1, 2012, added "Illegal Dumping and" in (k).

Chapter 409, Acts 2012, effective October 1, 2012, substituted "and Calvert County may each adopt" for "may adopt" in (j)(2) and made a stylistic change.

Chapter 136, Acts 2013, effective October 1, 2013, substituted "Title 6 of the Local Government Article" for "Article 23A, § 3(b) of the Code" in (j)(1)(ii).

Chapter 493, Acts 2014, effective October 1, 2014, rewrote (f)(4).

Chapter 67, Acts 2015, effective October 1, 2015, reenacted (f)(1), (f)(2), and (f)(3) without change; in (j)(2) added "and Montgomery County"; and made a related change.

Chapter 160, Acts 2019, effective October 1, 2019, reenacted (a)(1), (a)(2), (c), and (f) without change; added (a)(3) and redesignated accordingly; and added (j)(3).

Acts 2020, chs. 42 and 43, effective October 1, 2020, made identical changes. Each reenacted (f)(1), (f)(2), (f)(3), and (j)(1) without change and in (j)(2) added "Anne Arundel County."

Acts 2020, chs. 189 and 190, effective October 1, 2020, made identical changes. Each in (a)(3)(i) added "or Charles County"; in (j)(3)(i) in the introductory language substituted "bodies" for "body" and added "and Charles County" and "each"; and in (j)(3)(ii) substituted "an" for "the" before "ordinance" and "a county" for "Prince George's County."

Acts 2020, ch. 627, effective May 8, 2020, reenacted (a) without change to correct an error in the function paragraph of ch. 160, Acts 2019.

Acts 2021, ch. 110, made a correction in the function paragraph in ch. 160 of Acts 2019.

**Editor's note. —**

Pursuant to Acts [2021, ch. 110](#), the Act was an emergency measure and became effective April 13, 2021.

**Research References & Practice Aids**

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**Cross references. —**

As to disposition of fines, penalties and forfeitures collected by clerks of District Court, see [§ 7-302 of the Courts Article](#).

**University of Baltimore Law Forum.**

For an article, "Stop Asking Which Came First, The Jail Or The Criminal — Start Reinvesting In Justice In Maryland," see [47 U. Balt. L.F. 99 \(2017\)](#).

**Hierarchy Notes:**

[Md. Criminal Law Code Ann](#)

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End of Document





Exhibit B

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Excerpts from Health Code of  
Baltimore City



**HEALTH CODE  
OF  
BALTIMORE CITY**

**(As Last Amended by Ords. 22-224 and 22-225)**

**Published by  
BALTIMORE CITY DEPARTMENT OF LEGISLATIVE REFERENCE  
Avery Aisenstark, Director  
2022**

04/05/22

**TITLE 1  
DEFINITIONS; GENERAL PROVISIONS**

***SUBTITLE 1  
DEFINITIONS***

**§ 1-101. In general.**

In this article, the following terms have the meanings indicated.  
(Ord. 99-548.)

**§ 1-102. Commissioner.**

“Commissioner” means the Commissioner of Health or the Commissioner’s designee.  
(Ord. 99-548; Ord. 22-125.)

**§ 1-103. Department.**

“Department” means the Baltimore City Department of Health.  
(Ord. 99-548; Ord. 22-125.)

**§ 1-104. Physician.**

“Physician” means an individual authorized by law to practice medicine in the State of Maryland.  
(Ord. 99-548; Ord. 22-125.)

**§ 1-105. Police officer.**

“Police officer” includes, to the extent of that individual’s authority, any individual authorized to act as a Special Enforcement Officer under City Code Article 19, § 71-1 {“Special Enforcement Officers — Appointment; duties”}.  
(Ord. 99-548; Ord. 22-125.)

**Editor’s Note to Subtitle:** Ord. 22-125 amended this subtitle to delete several definitions that were superseded by uniform Code-wide definitions codified in the newly enacted General Provisions Article. The sections remaining in this subtitle have been renumbered by authority of Section 2 of Ord. 22-125.

For the text of the new Code-wide definitions, see General Provisions Article, §§ 1-101 (*In general*), 1-102 (*Adult*), 1-103 (*City*), 1-104 (*City Code* or *Code*), 1-105 (*Includes* or *Including*), 1-106 (*Minor*), 1-107 (*Person*), 1-108 (*State*), and 1-109 (*Street*).

***SUBTITLE 9***  
***MISCELLANEOUS REQUIREMENTS***

**§ 5-901. Cleaning sidewalks and gutters.**

The person in charge of any premises or lot must keep the sidewalk and gutters bounding on the premises or lot open and free from waste or obstructions and clean at all times.  
(*City Code, 1976/83, art. 11, §118, art. 19, §175.*) (*Ord. 99-548.*)

**§ 5-902. Keeping offensive materials on property.**

(a) *In general.*

No person may use or keep on that person's property any liquid or solid matter that is or that, after exposure to the atmosphere or otherwise, is likely to become offensive or otherwise a nuisance.

(b) *Illustrations.*

This section applies to, among other things, any:

- (1) blood;
- (2) refuse coal oil;
- (3) dead animal or part of an animal;
- (4) domestic or sanitary sewage;
- (5) excrement;
- (6) filth;
- (7) foul or nauseous liquid;
- (8) garbage;
- (9) slaughter house or other trade cleanings;
- (10) stagnant water; or
- (11) other offensive matter of any kind.

(*City Code, 1976/83, art. 11, §§119, 120, 123, 125.*) (*Ord. 99-548.*)

<i>Combined length and width of bag</i>	<i>Minimum Size of Lettering</i>
Less than 30 inches	10 points
30 inches or more, but less than 40 inches	14 points
40 inches or more, but less than 60 inches	18 points
60 inches or more ( <i>City Code, 1976/83, art. 19, §118.</i> ) ( <i>Ord. 99-548.</i> )	24 points

**§ 5-906. Abandoned refrigerators, etc.**

No person may place or permit anyone else to place in any location that is outside of a dwelling or other building and accessible to children any abandoned, unattended, or uncrated ice box, refrigerator, or freezer cabinet equipped with a door or lock that cannot be opened from the inside. (*City Code, 1976/83, art. 19, §33(1<sup>st</sup> sen.)*) (*Ord. 99-548.*)

**§§ 5-907 to 5-909. {Reserved}**

**§ 5-910. Penalties.**

(a) *In general.*

Any person who violates any provision of this subtitle is guilty of a misdemeanor and, on conviction, is subject to the penalties specified in this section.

(b) *Basic penalty: \$500.*

Except as otherwise specified in this section, the penalty for a violation is a fine of not more than \$500 for each offense.

(c) *Violation after notice: \$1,000.*

For a person who receives a notice under Subtitle 2 of this title to correct a violation of any provision of this subtitle and fails to comply with that notice, the penalty is a fine of not more than \$1,000 for each offense.

(d) *Abandoned refrigerators: \$500 and 30 days.*

(1) For a person who violates any provision of § 5-906 {"Abandoned refrigerators, etc."} of this subtitle, the penalty is a fine of not more than \$500 or imprisonment for not more than 30 days or both fine and imprisonment for each offense.

(2) Each day that a violation of § 5-906 continues is a separate offense.  
(*City Code, 1976/83, art. 19, §33(2<sup>nd</sup>, 3<sup>rd</sup> sens.)*) (*Ord. 99-548.*)

**SUBTITLE 6**  
**PROHIBITED DISPOSAL**

**PART I. SCOPE OF SUBTITLE**

**§ 7-601. “Litter” excluded.**

This subtitle does not apply to the disposal of “litter”, as defined in Subtitle 7 of this title.  
(Ord. 08-044.)

**§§ 7-602 to 7-605. {Reserved}**

**PART II. PROHIBITED ACTIVITIES**

**§ 7-606. In general.**

No person may dispose of any waste or other material except:

- (1) in a receptacle and at a location approved by law for waste disposal;
- (2) at a licensed landfill; or

(3) at any other disposal site authorized by law to receive waste.  
(City Code, 1976/83, art. 11, §§135(c), 220, 222(a), 264(c), art. 23, §13.) (Ord. 99-548; Ord. 08-044.)

**§ 7-607. Disposing of offensive materials.**

(a) *In general.*

No person may dispose of or permit to discharge or flow onto any public or private property, with or without the owner’s permission, any liquid or solid matter that is or that, after exposure to the atmosphere or otherwise, is likely to become offensive or otherwise a nuisance.

(b) *Illustrations.*

This section applies to, among other things, any:

- (1) blood;
- (2) refuse coal oil;
- (3) dead animal or part of an animal;
- (4) domestic or sanitary sewage;
- (5) excrement;
- (6) filth;
- (7) foul or nauseous liquid;

- (8) garbage;
- (9) slaughter house or other trade cleanings;
- (10) stagnant water; or
- (11) offensive matter of any kind.

*(City Code, 1976/83, art. 11, §119, inter alia.) (Ord. 99-548; Ord. 08-044.)*

**§ 7-608. Dumping on public property.**

No person may dump or dispose of any garbage, waste, wire, glass, nails, or any other matter:

- (1) in or on any gutter, sidewalk, street, open space, wharf, or other public place; or
- (2) except for litter, as defined in Subtitle 7 of this title, into any public trash receptacle located on or along any sidewalk, street, open space, wharf, or other public place.

*(City Code, 1976/83, art. 19, §§167, 172.) (Ord. 99-548; Ord. 08-044; Ord. 12-065.)*

**§ 7-609. Dumping on private property.**

No person may dump or otherwise dispose of any earth, dirt, sand, ashes, gravel, rocks, garbage, waste, or any other matter on any private property, including in or near any waste receptacle on the property, without the permission of the property owner or the owner's agent.

*(City Code, 1976/83, art. 11, §§135, 160(1<sup>st</sup> cl.)) (Ord. 99-548; Ord. 08-044; Ord. 11-478.)*

**§ 7-610. Burning waste.**

No person may burn or cause to be burned any garbage or other waste except as specifically authorized by law.

*(City Code, 1976/83, art. 11, §§135, 160(1<sup>st</sup> cl.)) (Ord. 99-548; Ord. 08-044.)*

**§§ 7-611 to 7-615. {Reserved}**

*PART III. SEIZURE AND FORFEITURE OF VEHICLES*

**§ 7-616. Responsibility of vehicle owner.**

The registered owner of a vehicle or, for a leased or rented vehicle, the lessee or renter, as identified on the lease or rental agreement, is prima facie responsible for any waste or other material transported in or disposed of from that vehicle.

*(City Code, 1976/83, art. 11, §136(3<sup>rd</sup> sen.)) (Ord. 99-548; Ord. 08-044; Ord. 11-478.)*

**§ 7-617. Grounds for seizure.**

(a) *In general.*

Except as provided in subsection (b) of this section, any vehicle used for or in connection with disposing waste or other material in violation of this subtitle is subject to seizure and forfeiture.



(c) *Disposition of forfeited vehicle.*

Any vehicle that has been ordered forfeited to the City may be:

- (1) sold as provided in City Code Article 31, Subtitle 31, Part 5; or
- (2) destroyed.

(d) *Proceeds of bond.*

The proceeds of any bond posted to regain possession of the vehicle must be applied as provided for proceeds of sale under subsection (b)(3) of this section.

(Ord. 08-044.)

**§ 7-624. Order of release.**

If, after a full hearing, the court determines that the vehicle should not be forfeited, the court must order the vehicle released.

(Ord. 08-044.)

**§§ 7-625 to 7-626. {Reserved}**

*PART IV. ENFORCEMENT; PENALTIES*

**§ 7-627. Grants for reports of violations.**

(a) *In general.*

The City Housing Commissioner must establish a grants program for rewarding community and neighborhood associations that have registered for this purpose with the Housing Commissioner and have been designated by citizens reporting illegal disposal or other violations of this subtitle.

(b) *Grant awards.*

- (1) Funds for these grants are as provided in the Ordinance of Estimates.
- (2) The amount of the grants, the criteria for allocating and awarding them, and the purposes for which they may be used are as set forth in the rules and regulations adopted by the Commissioner under § 2-106 {"Rules and regulations"} of this article.

**Editor's Note:** Text conformed to include express cross-reference to § 2-106. Cf. Editor's Note to that section. (Ord. 09-202; Text Conformed 03/10/21.)

**§ 7-628. Liability for costs and expenses.**

Any person who, in violation of § 7-608 {"Dumping on public property"} of this subtitle or in violation of any other provision of law, dumps or otherwise disposes of matter in or on property owned, leased, or controlled by the City is liable to the City for the costs of:

- (1) removing the matter dumped or disposed of; and

(2) repairing any damage caused by the dumping or disposal.  
(Ord. 11-478; Ord. 12-065.)

§§ 7-629 to 7-630. *{Reserved}*

§ 7-631. **Enforcement by Environmental or Civil Citation.**

(a) *In general.*

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of:

(1) an environmental citation under City Code Article 1, Subtitle 40 {"Environmental Control Board"}; or

(2) a civil citation under City Code Article 1, Subtitle 41 {"Civil Citations"}.

(b) *Process not exclusive.*

The issuance of a citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.  
(Ord. 99-548; Ord. 03-595; Ord. 08-044; Ord. 09-202.)

§ 7-632. **Criminal penalties.**

(a) *Basic penalty: \$1,000 and 90 days.*

Except as specified in subsection (b) of this section, any person who violates any provision of this subtitle or who authorizes any employee or agent to violate any provision of this subtitle is guilty of a misdemeanor and, on conviction, is subject to any one or more of the following for each offense:

(1) a fine of not more than \$1,000; and

(2) imprisonment for not more than 90 days.

(b) *Enhanced penalty: \$1,000 and 12 months.*

If the violation entails the disposal, in any 24-hour period, of material that weighs 25 or more pounds or material that comprises 10 or more cubic feet, the penalty for a violation of this subtitle is any one or more of the following for each offense:

(1) a fine of not more than \$1,000;

(2) imprisonment for not more than 12 months; and

(3) revocation of the privilege of seeking a building permit in the City.

(City Code, 1976/83, art. 11, §136(1<sup>st</sup> sen.), art. 19, §176.) (Ord. 99-548; Ord. 08-044; Ord. 09-202; Ord. 11-478.)

***SUBTITLE 7***  
***LITTERING***

**§ 7-701. “Litter” defined.**

“Litter” means to discard or otherwise dispose of, in any way other than as authorized by § 7-601 of this title, of small amounts of paper, beverage containers, glass, garbage, or other waste that:

- (1) weigh less than 1 pound;
- (2) comprise less than 1 cubic foot; and
- (3) are not toxic, noxious, or otherwise a threat to the public health or safety.  
*(City Code, 1976/83, art. 11, §254(b), (c)(part).) (Ord. 99-548.)*

**§ 7-702. Littering prohibited.**

No person may:

- (1) litter on any public or private property; or
- (2) permit the accumulation of litter on any property under that person’s control.  
*(City Code, 1976/83, art. 11, §264(c).) (Ord. 99-548.)*

**§ 7-703. Material from vehicle.**

The registered owner of a vehicle is prima facie responsible for any litter disposed of from that vehicle.  
*(Ord. 08-044.)*

**§ 7-704. {Reserved}****§ 7-705. Enforcement by citation.****(a) In general.**

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of:

- (1) an environmental citation under City Code Article 1, Subtitle 40 {“Environmental Control Board”}; or
- (2) a civil citation under City Code Article 1, Subtitle 41 {“Civil Citations”}.

**(b) Process not exclusive.**

The issuance of a citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.  
*(Ord. 99-548; Ord. 03-595.)*

**§ 7-706. Penalties: \$500***(a) In general.*

Any person who violates this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of \$500 for each offense.

*(b) Each day a separate offense.*

Each day a violation continues is a separate offense.  
*(Ord. 99-548; Ord. 08-040.)*