

**CITY OF BALTIMORE
COUNCIL BILL 06-0438
(First Reader)**

Introduced by: Councilmembers Kraft, D’Adamo, Curran, Welch, Holton, Conaway, Young,
Spector, Branch

Introduced and read first time: May 15, 2006

Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Police Department, Department of
Transportation, Department of Finance

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Mopeds and Motor Scooters — Registration and Operation**

3 FOR the purpose of reauthorizing the use of certain mopeds and motor scooters, subject to certain
4 conditions; reinstating registration requirements for these vehicles; prohibiting certain uses
5 of these and other vehicles; defining certain terms; imposing certain penalties; clarifying
6 certain language; authorizing enforcement and administration by the Department of
7 Transportation; and generally relating to mopeds, motor scooters, dirt bikes, and unregistered
8 motorcycles and similar vehicles.

9 BY repealing and reordaining, with amendments

10 Article 19 - Police Ordinances

11 Section(s) 40-1 through 40-21, inclusive, to be under the renamed

12 “Subtitle 40. Unregistered Motorcycles and Similar Vehicles”

13 Baltimore City Code

14 (Edition 2000)

15 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
16 Laws of Baltimore City read as follows:

17 **Baltimore City Code**

18 **Article 19. Police Ordinances**

19 **Subtitle 40. [Dirt Bikes,] Unregistered Motorcycles[,] and Similar Vehicles**

20 ***PART I. DEFINITIONS; GENERAL PROVISIONS***

21 **§ 40-1. Definitions.**

22 (a) *In general.*

23 In this subtitle, the following words have the meaning indicated.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 (B) *DEPARTMENT*.

2 “DEPARTMENT” MEANS THE MAYOR’S DEPARTMENT OF TRANSPORTATION.

3 (C) [(b)] *Dirt bike*.

4 (1) “Dirt bike” means any motorcycle or similar vehicle that is not registered under the
5 Maryland Vehicle Law OR THIS SUBTITLE.

6 (2) “Dirt bike” includes:

7 (i) a minibike;

8 (ii) an all-terrain vehicle of either the 3- or 4-wheel variety; and

9 (iii) any other motorcycle or similar vehicle that is not eligible for registration
10 under the Maryland Vehicle Law OR THIS SUBTITLE.

11 (D) [(c)] *Minibike*.

12 “Minibike” means a motor vehicle that:

13 (1) has a saddle for the use of the rider;

14 (2) is designed to travel on not more than 3 wheels in contact with the ground;

15 (3) is not eligible for registration under the Maryland Vehicle Law OR THIS SUBTITLE;
16 and

17 (4) has:

18 (i) a 10-inch (254 mm) or less nominal wheel-rim diameter;

19 (ii) 40 inches or less wheel base;

20 (iii) 25 inches or less seat height, measured at the lowest point on the top of
21 the seat cushion without rider; or

22 (iv) a propelling engine with piston displacement of 50 cc or less.

23 (E) *MOPED*.

24 “MOPED” HAS THE MEANING STATED IN STATE TRANSPORTATION ARTICLE § 11-134.1.

25 (F) [(d)] *Motorcycle or similar vehicle*.

26 (1) “Motorcycle or similar vehicle” means [a] ANY motor vehicle that is designed to
27 travel on not more than 3 wheels in contact with ground.

28 (2) “Motorcycle or similar vehicle” includes:

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- 1 (i) a minibike;
- 2 (II) A MOPED; AND
- 3 (III) [(ii)] a motor scooter[; and
- 4 (iii) a bicycle with motor attached].

5 (G) *MOTOR SCOOTER*.

6 “MOTOR SCOOTER” HAS THE MEANING STATED IN STATE TRANSPORTATION ARTICLE
7 § 11-134.4.

8 (H) [(e)] Unregistered motorcycle or similar vehicle.

9 “Unregistered motorcycle or similar vehicle” means a motorcycle or similar vehicle that:

- 10 (1) is eligible for registration under the Maryland Vehicle Law OR THIS SUBTITLE; but
- 11 (2) is not in fact registered.

12 **§ 40-2. Exclusions from subtitle.**

13 (a) *In general*.

14 This subtitle does not apply to any of the following while being used for their designed
15 purposes:

- 16 (1) tractors;
- 17 (2) snowblowers;
- 18 (3) lawn mowers;
- 19 (4) wheel chairs; or
- 20 (5) golf carts.

21 (b) *Government vehicles*.

22 This subtitle does not apply to any vehicle owned and operated by an agency or
23 instrumentality of Federal, State, City, or other local government.

24 **§ 40-3. Rules and regulations.**

25 (a) [*Commissioner*] *DEPARTMENT may adopt*.

26 The [Police Commissioner] DEPARTMENT OF TRANSPORTATION may adopt rules and
27 regulations to carry out this subtitle.

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1 (b) *Filing with Legislative Reference.*

2 A copy of all rules and regulations must be filed with the Department of Legislative
3 Reference before they take effect.

4 **§§ 40-4 to 40-5. {Reserved}**

5 ***PART 2. PROHIBITED OPERATIONS***

6 **§ 40-6. [Prohibited conduct – riding or driving] UNREGISTERED VEHICLES.**

7 (A) *DRIVING OR RIDING.*

8 No person may drive or ride any dirt bike or any unregistered motorcycle or similar
9 vehicle on any public or private property that is located in Baltimore City or, wherever
10 located, that is owned or regulated by the City.

11 **[§ 40-7. Prohibited conduct – permitting another to ride or drive.]**

12 (B) *PERMITTING ANOTHER TO DRIVE OR RIDE.*

13 No owner or other person in control or custody of a dirt bike or an unregistered
14 motorcycle or similar vehicle may permit it to be driven or ridden by any other person on
15 any public or private property that is located in Baltimore City or, wherever located, that
16 is owned or regulated by the City.

17 **§ 40-7. REGISTERED MOPEDS AND SCOOTERS – REGISTRATION PLATE OR STICKER.**

18 (A) *DRIVING OR RIDING WITHOUT PLATE OR TAG.*

19 NO PERSON MAY DRIVE OR RIDE ANY MOPED OR MOTOR SCOOTER ON ANY PUBLIC OR
20 PRIVATE PROPERTY UNLESS THE VEHICLE DISPLAYS A REGISTRATION PLATE WITH
21 VALIDATION STICKER, AS REQUIRED BY THIS SUBTITLE.

22 (B) *PERMITTING ANOTHER TO DRIVE OR RIDE.*

23 NO OWNER OR OTHER PERSON IN CONTROL OR CUSTODY OF A MOPED OR MOTOR SCOOTER
24 MAY PERMIT IT TO BE DRIVEN OR RIDDEN BY ANY OTHER PERSON ON ANY PUBLIC OR
25 PRIVATE PROPERTY UNLESS THE VEHICLE DISPLAYS A REGISTRATION PLATE WITH
26 VALIDATION STICKER, AS REQUIRED BY THIS SUBTITLE.

27 **§ 40-8. REGISTERED MOPEDS AND SCOOTERS – PRIVATE PROPERTY.**

28 NO PERSON MAY DRIVE OR RIDE ANY MOPED OR MOTOR SCOOTER ON ANY PRIVATE PROPERTY
29 WITHOUT THE EXPRESS PERMISSION OF A PERSON WITH AN INTEREST IN THAT PROPERTY.

30 **§ 40-9. [40-8.] [Prohibited conduct – parents] PARENTS and guardians.**

31 No parent or guardian of a minor may knowingly permit the minor to violate any provision
32 of § 40-6, [or] § 40-7, OR § 4-8 of this subtitle.

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§ 40-10. [40-9.] Prohibited conduct – motor fuel sales.

(a) *In general.*

No service station nor any other person may sell, transfer, or dispense motor fuel for delivery into any dirt bike or into any unregistered motorcycle or similar vehicle.

(b) *Enforcement by citation.*

(1) In addition to any other civil or criminal remedy or enforcement procedure, this section may be enforced by issuance of a civil citation under City Code Article 1, Subtitle 41 {“Civil Citations”}.

(2) The issuance of a civil citation to enforce this section does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

§ 40-11. [40-10.] {Reserved}

PART 3. REGISTRATION OF MOPED AND SCOOTERS

§ 40-12. ANNUAL REGISTRATION REQUIRED.

(A) *IN GENERAL.*

A MOPED OR MOTOR SCOOTER MUST BE REGISTERED ANNUALLY AS PROVIDED IN THIS SUBTITLE.

(B) *EXCEPTION FOR CERTAIN NONRESIDENTS.*

REGISTRATION OF A MOPED OR MOTOR SCOOTER OWNED BY A NONRESIDENT OF THE CITY IS NOT REQUIRED WHEN THE VEHICLE IS DRIVEN IN A COMPETITION OR EVENT SANCTIONED BY THE AMERICAN MOTORCYCLE ASSOCIATION OR SIMILAR ORGANIZATION.

§ 40-13. APPLICATION FOR REGISTRATION.

(A) *WHO MUST REGISTER.*

THE ADULT OWNER OF A MOPED OR MOTOR SCOOTER, OR A PARENT OR LEGAL GUARDIAN OF A MINOR OWNER, MUST APPLY TO THE DEPARTMENT OF TRANSPORTATION FOR REGISTRATION OF THE VEHICLE.

(B) *REQUIRED INFORMATION.*

(1) THE APPLICATION MUST CONTAIN THE INFORMATION THAT THE DEPARTMENT REASONABLY REQUIRES TO DETERMINE IF THE VEHICLE IS ENTITLED TO REGISTRATION.

(2) THE APPLICATION MUST BE ACCOMPANIED BY:

(i) THE CURRENT CERTIFICATE OF TITLE FOR THE VEHICLE;

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1 (II) A CERTIFICATE OF ORIGIN; OR

2 (III) A GENUINE BILL OF SALE.

3 **§ 40-14. DENIAL OF REGISTRATION.**

4 THE DEPARTMENT OF TRANSPORTATION MAY REFUSE REGISTRATION OF ANY VEHICLE IF:

5 (1) THE APPLICATION CONTAINS ANY FALSE OR FRAUDULENT STATEMENT;

6 (2) THE APPLICANT HAS FAILED TO FURNISH INFORMATION OR DOCUMENTS REQUIRED BY
7 THE DEPARTMENT;

8 (3) ANY REQUIRED FEE HAS NOT BEEN PAID;

9 (4) THE APPLICANT IS BY LAW NOT ENTITLED TO REGISTER A MOPED OR MOTOR SCOOTER;

10 (5) THE REGISTRATION OF THE MOPED OR MOTOR SCOOTER HAS BEEN SUSPENDED OR
11 REVOKED;

12 (6) DURING THE PRECEDING 3-YEAR PERIOD, ANY MOPED OR MOTOR SCOOTER REGISTERED
13 TO THE APPLICANT (OR, ON THE APPLICANT'S BEHALF, TO THE APPLICANT'S PARENT OR
14 LEGAL GUARDIAN) HAS BEEN FORFEITED; OR

15 (7) THE DEPARTMENT HAS REASONABLE GROUNDS TO BELIEVE THAT:

16 (I) THE VEHICLE IS STOLEN;

17 (II) THE OPERATOR HAS VIOLATED THE PROVISIONS OF THIS SUBTITLE; OR

18 (III) THE GRANT OF REGISTRATION WOULD BE FRAUD AGAINST ANOTHER PERSON.

19 **§ 40-15. APPROVAL OF REGISTRATION; FEE.**

20 (A) *APPROVAL.*

21 THE DEPARTMENT OF TRANSPORTATION MUST:

22 (1) REGISTER THE MOPED OR MOTOR SCOOTER IF IT FINDS THAT THE APPLICANT IS
23 ENTITLED TO THE REGISTRATION; AND

24 (2) KEEP A RECORD OF THE REGISTRATION IN A MANNER THAT PERMITS
25 IDENTIFICATION OF THE VEHICLE AND ITS OWNER.

26 (B) *FEE.*

27 THE FEES FOR REGISTRATION, RENEWALS, AND REPLACEMENTS ARE AS SET BY THE BOARD
28 OF ESTIMATES FROM TIME TO TIME.

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1 **§ 40-16. REGISTRATION CERTIFICATE.**

2 (A) *ISSUANCE.*

3 WHEN IT REGISTERS A MOPED OR MOTOR SCOOTER, THE DEPARTMENT OF
4 TRANSPORTATION MUST ISSUE TO THE REGISTRANT A CERTIFICATE THAT STATES:

- 5 (1) THE DATE ISSUED AND DATE OF EXPIRATION;
- 6 (2) THE NAME AND ADDRESS OF THE OWNER AND, IF THE OWNER IS A MINOR, OF THE
7 PARENT OR GUARDIAN;
- 8 (3) THE REGISTRATION NUMBER ASSIGNED BY THE DEPARTMENT TO THE VEHICLE;
- 9 (4) THE SERIAL NUMBER (OR NUMBERS IF MORE THAN 1) ASSIGNED TO THE ENGINE
10 AND FRAME BY THE MANUFACTURER; AND
- 11 (5) A DESCRIPTION OF THE VEHICLE AS REQUIRED BY THE DEPARTMENT.

12 (B) *FORM OF REGISTRATION NUMBER.*

13 THE REGISTRATION MAY CONSIST OF LETTERS, NUMERALS, OR BOTH.

14 (C) *POSSESSION AND DISPLAY.*

15 THE REGISTRATION CERTIFICATE MUST BE CARRIED AT ALL TIMES BY THE PERSON
16 OPERATING THE VEHICLE, WHO MUST DISPLAY IT, ON DEMAND, TO ANY POLICE OFFICER
17 WHO IS IDENTIFIED AS A POLICE OFFICER.

18 **§ 40-17. REGISTRATION PLATE.**

19 (A) *ISSUANCE.*

20 WHEN IT REGISTERS A MOPED OR MOTOR SCOOTER, THE DEPARTMENT OF
21 TRANSPORTATION MUST ISSUE TO THE OWNER 1 REGISTRATION PLATE.

22 (B) *FORM AND CONTENT.*

23 (1) REGISTRATION PLATES MUST BE MANUFACTURED OF A MATERIAL WARRANTED TO
24 HAVE DURABILITY OF AT LEAST 5 YEARS. THE PHYSICAL CHARACTERISTICS OF THE
25 REGISTRATION PLATE MUST MEET THE STANDARDS ESTABLISHED BY THE STATE
26 MOTOR VEHICLE ADMINISTRATION.

27 (2) THE REGISTRATION PLATE MUST DISPLAY:

- 28 (I) THE REGISTRATION NUMBER ASSIGNED TO THE VEHICLE FOR WHICH IT IS
29 ISSUED; AND
- 30 (II) THE NAME OF THE CITY, WHICH MAY BE ABBREVIATED.

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1 (C) *DISPLAY ON VEHICLE.*

2 (1) THE REGISTRATION PLATE MUST BE ATTACHED TO THE REAR OF THE VEHICLE.

3 (2) AT ALL TIMES, THE REGISTRATION PLATE MUST BE SECURELY FASTENED TO THE
4 VEHICLE FOR WHICH IT IS ISSUED:

5 (I) IN A HORIZONTAL POSITION;

6 (II) IN A MANNER THAT PREVENTS THE PLATE FROM SWINGING;

7 (III) IN A PLACE AND POSITION TO BE CLEARLY VISIBLE; AND

8 (IV) WITH ADEQUATE LIGHTING TO ALLOW IT TO BE CLEARLY VISIBLE DURING NON-
9 DAYLIGHT HOURS.

10 (3) AT ALL TIMES, THE REGISTRATION PLATE MUST BE:

11 (I) MAINTAINED FREE FROM FOREIGN MATERIALS; AND

12 (II) CLEARLY LEGIBLE.

13 **§ 40-18. RENEWAL OF REGISTRATION.**

14 (A) *DEPARTMENT PREROGATIVES.*

15 FOR SUBSEQUENT REGISTRATION YEARS, THE DEPARTMENT OF TRANSPORTATION MAY:

16 (1) ISSUE A VALIDATION STICKER TO EVIDENCE PAYMENT OF THE ANNUAL
17 REGISTRATION FEE, OR

18 (2) ISSUE A NEW REGISTRATION PLATE.

19 (B) *DISPLAY OF STICKER.*

20 A VALIDATION STICKER MUST BE DISPLAYED ON THE REGISTRATION PLATE IN THE
21 MANNER THAT THE DEPARTMENT REQUIRES.

22 (C) *EXPIRATION OF REGISTRATION.*

23 UNLESS ANNUAL VALIDATION STICKERS HAVE BEEN ISSUED BY THE DEPARTMENT AND
24 ARE DISPLAYED ON THE PLATE AS PROVIDED IN THIS SUBTITLE, THE REGISTRATION OF THE
25 MOPED OR MOTOR SCOOTER EXPIRES ON A DATE DETERMINED BY THE DEPARTMENT.

26 **§ 40-19. CHANGE OF ADDRESS OR NAME.**

27 (A) *CHANGE OF ADDRESS.*

28 IF THE PERSON WHO HAS APPLIED FOR OR OBTAINED THE REGISTRATION OF A MOPED OR
29 MOTOR SCOOTER MOVES FROM THE ADDRESS GIVEN IN THE APPLICATION OR SHOWN ON
30 THE REGISTRATION CERTIFICATE, THE PERSON MUST, WITHIN 30 DAYS OF THE CHANGE,

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1 NOTIFY THE DEPARTMENT IN WRITING OF THE PERSON'S FORMER AND NEW ADDRESSES
2 AND APPLY FOR A CORRECTED REGISTRATION CERTIFICATE.

3 (B) *CHANGE OF NAME.*

4 IF THE NAME OF ANY PERSON WHO HAS APPLIED FOR OR OBTAINED THE REGISTRATION OF
5 A MOPED OR MOTOR SCOOTER IS LATER CHANGED, THE PERSON MUST, WITHIN 30 DAYS OF
6 THE CHANGE, NOTIFY THE DEPARTMENT OF THE FORMER AND NEW NAMES AND APPLY FOR
7 A CORRECTED REGISTRATION CERTIFICATE.

8 **§ 40-20. LOST, MUTILATED, ETC., CERTIFICATES, PLATES, ETC.**

9 (A) *OPERATION PROHIBITED PENDING REPLACEMENT.*

10 IF A REGISTRATION CERTIFICATE, REGISTRATION PLATE, OR VALIDATION STICKER IS LOST,
11 STOLEN, MUTILATED, DESTROYED, OR BECOMES ILLEGIBLE, THE VEHICLE FOR WHICH IT
12 WAS ISSUED MAY NOT BE OPERATED UNTIL A REPLACEMENT IS OBTAINED.

13 (B) *NOTICE AND APPLICATION.*

14 WITHIN 48 HOURS AFTER THE LOSS, THEFT, MUTILATION, DESTRUCTION, OR ILLEGIBILITY
15 IS DISCOVERED, THE ADULT OWNER OR A PARENT OR LEGAL GUARDIAN OF A MINOR
16 OWNER OF THE VEHICLE MUST NOTIFY THE DEPARTMENT AND APPLY FOR A
17 REPLACEMENT.

18 (C) *REPLACEMENTS.*

19 THE DEPARTMENT MUST ISSUE A REPLACEMENT ON RECEIVING:

- 20 (1) EVIDENCE SATISFACTORY TO THE DEPARTMENT OF THE LOSS, THEFT, MUTILATION,
21 DESTRUCTION, OR ILLEGIBILITY;
- 22 (2) PAYMENT OF THE APPLICABLE FEE; AND
- 23 (3) WHEN APPROPRIATE, RETURN OF THE ORIGINAL CERTIFICATE, PLATE , OR STICKER.

24 **§ 40-21. SALE OR OTHER TRANSFER OF VEHICLE.**

25 (A) *REGISTRATION EXPIRES AUTOMATICALLY.*

26 (1) IF THE OWNER OF A REGISTERED MOPED OR MOTOR SCOOTER ASSIGNS OR OTHERWISE
27 TRANSFERS TITLE OR INTEREST IN THE VEHICLE, THE REGISTRATION OF THE VEHICLE
28 EXPIRES.

29 (2) THE FORMER OWNER MUST REMOVE THE REGISTRATION PLATE FROM THE VEHICLE
30 AND SURRENDER IT, TOGETHER WITH ALL OTHER EVIDENCE OF REGISTRATION,
31 INCLUDING THE REGISTRATION CERTIFICATE, TO THE DEPARTMENT OF
32 TRANSPORTATION FOR CANCELLATION.

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1 (B) *NEW OWNER TO REGISTER VEHICLE.*

2 BEFORE THE TRANSFEREE MAY OPERATE THE VEHICLE OR PERMIT IT TO BE OPERATED, THE
3 TRANSFEREE MUST APPLY FOR AND OBTAIN A NEW REGISTRATION OF THE VEHICLE.

4 (C) *SELLER TO INFORM BUYER OF REGISTRATION REQUIREMENTS.*

5 ANY PERSON WHO SELLS A MOPED OR MOTOR SCOOTER MUST INFORM THE BUYER THAT
6 REGISTRATION IS REQUIRED BEFORE THE VEHICLE MAY BE OPERATED.

7 **§§ 40-22 TO 40-25. {RESERVED}**

8 ***PART 4. SUSPENSION OR REVOCATION OF REGISTRATION***

9 **§ 40-26. GROUNDS FOR SANCTIONS.**

10 (A) *IN GENERAL.*

11 THE DEPARTMENT OF TRANSPORTATION MAY SUSPEND OR REVOKE THE REGISTRATION OF
12 ANY MOPED OR MOTOR SCOOTER IF THE DEPARTMENT DETERMINES THAT:

- 13 (1) THE REGISTRATION WAS FRAUDULENTLY OBTAINED OR ERRONEOUSLY ISSUED;
14 (2) THE REQUIRED FEE HAS NOT BEEN PAID AFTER REASONABLE NOTICE AND DEMAND;
15 (3) THE VEHICLE HAS BEEN DISMANTLED OR WRECKED;
16 (4) A REGISTRATION CERTIFICATE, REGISTRATION PLATE, OR VALIDATION STICKER
17 NOT ISSUED FOR THAT VEHICLE IS DISPLAYED ON OR FOR THAT VEHICLE; OR
18 (5) THE VEHICLE HAS BEEN OPERATED BY ANY PERSON IN VIOLATION OF ANY OF THE
19 PROVISIONS OF THIS SUBTITLE.

20 (B) *DEFENSE.*

21 THE DEPARTMENT MAY NOT SUSPEND OR REVOKE THE REGISTRATION OF A VEHICLE
22 SOLELY BECAUSE OF AN ACT OR OMISSION BY A PERSON OTHER THAN THE VEHICLE'S
23 OWNER COMMITTED OR OMITTED WHILE THE VEHICLE WAS UNLAWFULLY IN THAT OTHER
24 PERSON'S POSSESSION.

25 **§ 40-27. AVAILABLE SANCTIONS.**

26 (A) *OPERATION IN VIOLATION OF SUBTITLE.*

27 FOR VIOLATIONS DESCRIBED IN § 40-26(A)(5) OF THIS SUBTITLE, THE DEPARTMENT OF
28 TRANSPORTATION MAY TAKE THE FOLLOWING ACTION:

- 29 (1) FOR THE 1ST VIOLATION, SUSPEND THE REGISTRATION FOR 30 DAYS;
30 (2) FOR THE 2ND VIOLATION, SUSPEND THE REGISTRATION FOR 90 DAYS; AND

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1 (3) FOR THE 3RD VIOLATION, REVOKE THE REGISTRATION.

2 (B) *OTHER VIOLATIONS.*

3 FOR VIOLATIONS DESCRIBED IN § 40-26(A)(1) THROUGH (4) OF THIS SUBTITLE, THE
4 DEPARTMENT OF TRANSPORTATION MAY SUSPEND OR REVOKE THE REGISTRATION OF THE
5 VEHICLE AS IT CONSIDERS APPROPRIATE.

6 (C) *MINIMUM REVOCATION PERIOD.*

7 ONCE REVOKED, THE REGISTRATION OF A VEHICLE MAY NOT BE REINSTATED FOR 3 YEARS.

8 **§ 40-28. PROCEDURES.**

9 (A) *NOTICE AND HEARING.*

10 (1) BEFORE THE REGISTRATION OF ANY MOPED OR MOTOR SCOOTER IS SUSPENDED OR
11 REVOKED, THE DEPARTMENT OF TRANSPORTATION MUST NOTIFY THE REGISTERED
12 OWNER OF THE ALLEGED VIOLATION AND PROVIDE THE OWNER AN OPPORTUNITY TO
13 BE HEARD.

14 (2) EXCEPT AS OTHERWISE PROVIDED BY LAW OR BY RULE OR REGULATION OF THE
15 DEPARTMENT, ALL HEARINGS MUST BE:

16 (I) OPEN TO THE PUBLIC; AND

17 (II) CONDUCTED IN AN ORDERLY BUT INFORMAL MANNER.

18 (B) *JUDICIAL REVIEW.*

19 A PARTY AGGRIEVED BY A FINAL DECISION UNDER THIS SUBTITLE MAY APPEAL THAT
20 DECISION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN ACCORDANCE WITH THE
21 MARYLAND RULES OF CIVIL PROCEDURE.

22 **§§ 40-29 TO 40-30. {RESERVED}**

23 ***PART 5. SEIZURE AND FORFEITURE***

24 **§ 40-31. [40-11. Seizure and forfeiture] WHEN authorized.**

25 (a) *Grounds for seizure.*

26 Except as provided in subsection (b) of this section, a MOPED, MOTOR SCOOTER, dirt bike,
27 or [an] unregistered motorcycle or similar vehicle is subject to seizure and forfeiture if it
28 is used in violation of this subtitle.

29 (b) *Defense.*

30 A [dirt bike or an unregistered motorcycle or similar] vehicle may not be forfeited under
31 this subtitle solely because of an act or omission [committed or omitted] by a person

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1 other than the vehicle's owner COMMITTED OR OMITTED while [that] THE vehicle was
2 unlawfully in that other person's possession[, in violation of the criminal laws of the
3 United States, this State, or this City].

4 **§ 40-32. [40-12.] Seizure by police.**

5 (a) *When warrant not needed.*

6 A police officer need not have a warrant to seize a [dirt bike or an unregistered
7 motorcycle or similar] vehicle if:

8 (1) the police officer has probable cause to believe the vehicle has been used in
9 violation of this subtitle; and

10 (2) a warrant is not constitutionally required under the circumstances.

11 (b) *Removal of vehicle.*

12 Whenever a police officer seizes a vehicle under this subtitle, the police officer may
13 cause it to be moved to a place designated by the Police Commissioner.

14 (c) *Vehicle not repleviable.*

15 A vehicle seized under this subtitle is not repleviable and remains in the custody of the
16 Police Department, subject only to the orders and decrees of the court or official with
17 jurisdiction over it.

18 **§ 40-33. [40-13.] Referral to Solicitor.**

19 (a) *Police to refer case.*

20 Promptly after seizure, the Police Department shall notify the City Solicitor in writing of
21 the facts and circumstances supporting the seizure.

22 (b) *Solicitor's review.*

23 (1) On receiving the report, the Solicitor shall conduct an independent review of the facts
24 and circumstances surrounding the seizure.

25 (2) If the Solicitor finds sufficient evidence that the vehicle was used in violation of this
26 subtitle, the Solicitor shall notify the vehicle's owner, by registered or certified mail,
27 of the seizure and of the City's intent to institute forfeiture proceedings.

28 (3) If, on the other hand, the Solicitor finds that there is insufficient evidence to prove
29 violation, the Solicitor shall surrender the vehicle to the owner on the owner's
30 request.

31 **§ 40-34. [40-14.] Forfeiture petition; notice.**

32 (a) *Filing; copies to parties in interest.*

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1 If the Solicitor determines that the vehicle should be forfeited, the Solicitor shall, within
2 90 days after the seizure of the vehicle:

3 (1) petition the Circuit Court for Baltimore City in the name of the City against the
4 vehicle, as designated by make, model, year, and motor or serial number; and

5 (2) at the same time, send copies of the petition by registered or certified mail to the
6 owner and any known secured party.

7 (b) *Contents.*

8 The petition for forfeiture shall contain:

9 (1) the name of the registered owners of the vehicle;

10 (2) the name of any secured party whose interest appears among the records
11 maintained by the Clerk of the Circuit Court for Baltimore City;

12 (3) a statement of the facts and circumstances surrounding the seizure of the vehicle;

13 (4) a statement of the specific grounds for forfeiture; and

14 (5) a request that the vehicle be forfeited to the City.

15 (c) *Publication of notice.*

16 (1) Within 7 days of the petition's filing, the Solicitor shall publish notice of the seizure
17 and forfeiture proceeding in 1 or more newspapers published in the City.

18 (2) The notice shall:

19 (i) state the substance and object of the forfeiture petition; and

20 (ii) state that any person claiming an interest in the seized vehicle must file a
21 defense to the petition within 15 days of the date of the notice.

22 **§ 40-35. [40-15.] Answer to petition.**

23 (a) *When to be made.*

24 Any defense to the petition must be filed within 15 days after publication of the notice.

25 (b) *How to be made.*

26 (1) All defenses to a petition for forfeiture must be made by answer.

27 (2) The answer must:

28 (i) comply with the Maryland Rules of Procedure as to form and contents;

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1 (ii) be divided into numbered paragraphs, each containing a separate and
2 distinctive averment; and

3 (iii) respond to each material allegation contained in the petition, specifically
4 admitting, denying, or explaining the facts alleged, unless the respondent is
5 without knowledge or an admission or explanation would tend to incriminate
6 the respondent, in either of which events the respondent must so state and that
7 statement will operate as a denial.

8 (c) *Effect.*

9 (1) Every allegation in the petition that is not denied in the answer is considered
10 admitted, except as to persons unknown.

11 (2) New or affirmative matter alleged in the answer is considered denied or avoided by
12 the petitioner without the need of any replication, unless the court orders otherwise.

13 **§ 40-36. [40-16.] Early retrieval by owner.**

14 (a) *Appraisal of vehicle.*

15 (1) If the owner of the seized vehicle wants to repossess it before the petition is decided,
16 the Clerk of the Circuit Court shall have an appraisal made.

17 (2) The appraisal shall be in writing, under oath, to the Clerk of the Circuit Court.

18 (b) *Owner to submit bond.*

19 (1) When the appraisal is filed, the owner may post a bond, payable to the City,
20 in an amount equal to:

21 (i) all court costs that may accrue; plus

22 (ii) the greater of:

23 (A) the appraised value of the vehicle; or

24 (B) \$500.

25 (2) The bond shall have security approved by the Clerk and be conditioned for
26 performance on the final judgment of the Circuit Court.

27 (c) *Judgment on bond.*

28 If the court directs that the vehicle be forfeited, judgment may be entered against the
29 obligors on the bond, without further or other proceeding, to be discharged by the
30 payment of the appraised value of the vehicle and court costs, on which judgment
31 execution may be issued.

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1 **§ 40-37. [40-17.] Order of forfeiture.**

2 (a) *In general.*

3 (1) If the court determines that the vehicle should be forfeited, the court shall order the
4 vehicle forfeited to the City.

5 (2) If, however, the court determines that the vehicle is subject to a bona fide recorded
6 security interest created without the knowledge that the vehicle was being or was to
7 be used in violation of this subtitle, the court shall order that the vehicle be released
8 within 5 days to the secured party of record.

9 (b) *Disposition of vehicle subject to security interest.*

10 (1) The secured party shall sell the vehicle in a commercially reasonable manner.

11 (2) Any sale ordered under this section must be made for cash and must vest in the
12 purchaser a clear and absolute title to the vehicle.

13 (3) The proceeds of the sale shall be applied as follows:

14 (i) to the court costs of the forfeiture proceedings;

15 (ii) to the balance due to the secured party, including all reasonable costs incident
16 to the sale;

17 (iii) to payment of all other expenses of the proceedings for forfeiture, including
18 expenses of seizure, maintenance, or custody; and

19 (iv) to the general funds of the City.

20 (c) *Disposition of forfeited vehicle.*

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

22 (1) sold as provided in City Code Article 31, Subtitle 31, Part 5;

23 (2) transferred to a charitable organization for export abroad, as provided in City
24 Code Article 31, § 31-58(c); or

25 (3) destroyed.

26 (d) *Proceeds of bond.*

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

29 **§ 40-38. [40-18.] Order of release.**

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

