

ARTICLE 2
CONSUMER PROTECTIONS

(As Last Amended by Ord. 19-332)

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**SUBTITLE 1
AUCTIONS****§ 1-1. Auction Advisory Board — created.**(a) *Created.*

There shall be an Auction Advisory Board comprised of 3 members appointed by the Mayor in accordance with Article IV, § 6 of the Charter.

(b) *Member qualifications.*

- (1) The members shall be citizens and residents of the State of Maryland for 5 years immediately preceding their appointment.
- (2) 2 of the members shall be auctioneers, licensed to practice as such, for at least 5 years immediately preceding their appointment.

(c) *Compensation.*

Board members shall serve without compensation.

(*City Code, 1976/83, art. 2, §2.*) (*Ord. 77-494.*)

§ 1-2. Auction Advisory Board — duties.

The Auction Advisory Board:

- (1) shall investigate and interview applicants regarding their qualifications for appointment and make recommendations to the Mayor;
- (2) shall, upon the verified complaint of a specific wrongful act, and may, on its own motion, investigate any act in violation of this subtitle and shall recommend to the Mayor, *{the}* suspension or revocation of *{a}* license; and
- (3) shall render advice to the Mayor on any question relating to the auction profession.

(*City Code, 1976/83, art. 2, §6.*) (*Ord. 77-494.*)

§ 1-3. Auctioneers to be appointed and licensed.

No person or business organization shall conduct any auction sales in the City of Baltimore before being appointed and licensed in accordance with the provisions of this subtitle.

(*City Code, 1976/83, art. 2, §1.*) (*Ord. 77-494.*)

§ 1-4. Maximum appointees; applications.(a) *In general.*

In accordance with the terms of this subtitle, the Mayor shall appoint as many auctioneers in the City of Baltimore as he may deem proper, not to exceed 50.

(b) Application.

Applications for appointment shall be under oath on a form approved by the Mayor and shall contain the applicant's qualifications for appointment.

(City Code, 1976/83, art. 2, §3.) (Ord. 77-494.)

§ 1-5. Qualifications for appointment.

Each applicant for appointment as an auctioneer shall:

- (1) state all criminal convictions, other than traffic violation, and all pending criminal charges;
- (2) certify that, for 5 years immediately preceding his application, he has not been convicted of forgery, embezzlement, larceny after trust, false pretenses, extortion, fraud, or like offenses;
- (3) state whether a license of this type has been refused, suspended, or revoked in this or any other jurisdiction;
- (4) verify graduation from high school or its equivalency;
- (5) verify:
 - (i) 2 years practical experience auctioning goods or real estate; or
 - (ii) 1 year apprenticeship under an auctioneer licensed hereunder; or
 - (iii) graduation from an auction school accredited and approved by the National Auctioneers Association;
- (6) submit with the application, at least 3 statements under oath from persons vouching for the applicant's reputation for honesty, fair dealing, competency, and financial responsibility; and
- (7) verify that he has been a resident of the State of Maryland for 2 years immediately preceding the application.

(City Code, 1976/83, art. 2, §4.) (Ord. 77-494.)

§ 1-6. Designation of associates.

Within 30 days of his appointment, and upon any change thereafter, every auctioneer shall deposit with the Director of Finance the names of all officers, associates, partners, or employees designated by him to conduct auction sales.

(City Code, 1976/83, art. 2, §7.) (Ord. 77-494.)

§ 1-7. License and surety bond required.

No auctioneer appointed under this subtitle shall conduct auction sales unless he first posts a surety bond and is issued a license therefor.

(City Code, 1976/83, art. 2, §8.) (Ord. 77-494.)

§ 1-8. Surety bond.*(a) Amount and tenor.*

A surety bond, in the amount of \$25,000, with a surety approved by the City Comptroller, conditioned on the auctioneer's performance in accordance with the provisions and intent of this subtitle, shall be posted prior to the issuance of any license and shall remain in effect during its term.

(b) Filing.

Said bond shall be filed in duplicate with the Director of Finance, and the duplicate shall be forwarded to the City Comptroller for his signatory approval and returned to the Director.

(c) Loss of surety.

(1) In the event the surety leaves the State or becomes insolvent, the Director of Finance shall demand a substitute surety.

(2) If the auctioneer fails to provide other security within 15 days after such demand, the license issued thereupon shall become null and void and the Director of Finance shall give notice thereof in 2 or more daily newspapers.

(City Code, 1976/83, art. 2, §9.) (Ord. 77-494.)

§ 1-9. License.*(a) Fee; term.*

(1) Upon the receipt of an approved surety bond and of a \$1,600-license fee, the Director of Finance shall issue a license to a duly appointed auctioneer for the term of 1 year.

(2) At the request of the applicant, the license may be dated back to the expiration date of his prior license, but such action shall not affect prosecutions commenced prior to such request.

(3) The failure of the auctioneer to pay the license fee and post bond within 30 days of his appointment shall render such appointment null and void.

(b) Death of licensee.

Upon the death of any auctioneer prior to the expiration of his license, his personal representative or a person named in § 1-6 of this subtitle may continue to act under the license for its unexpired term, or for a period of 30 days, whichever is greater.

(City Code, 1976/83, art. 2, §10.) (Ord. 77-494; Ord. 84-249; Ord. 90-504.)

§ 1-10. Commissions.

(a) *In general.*

In court-ordered sales, and in all other sales unless otherwise agreed in writing by the parties, licensed auctioneers shall be entitled to the following commissions on the final selling price of all sales conducted by them.

(b) *Real estate interest.*

Real estate or any interest therein:

- (1) 5% of the price to \$5,000;
- (2) 4% of the price from \$5,000 to \$20,000;
- (3) 3% of the price from \$20,000 to \$100,000; and
- (4) 2½% of the price over \$100,000.

(c) *Personalty.*

Goods or personal property:

- (1) 15% of the price to \$15,000, and
- (2) 10% of the price over \$15,000.

(d) *Minimum fees.*

- (1) The minimum fee in any sale or in any sale cancelled prior to its scheduled date is \$50.
- (2) The minimum fee for any sale cancelled on its scheduled date is \$100.

(e) *How computed.*

Commissions shall be computed on the basis of each property, lot, article, or item, and not on the aggregate items offered for sale.

(City Code, 1976/83, art. 2, §11.) (Ord. 77-494.)

§ 1-11. License suspension or revocation.

(a) *In general.*

On timely notice and hearing by the Auction Advisory Board, and receipt of the Board's recommendation, the Mayor may suspend or revoke the license of any auctioneer for any violation of this subtitle for which a civil liability or criminal penalty may be imposed.

(b) *Judicial and appellate review.*

(1) An auctioneer whose license is suspended or revoked under this subtitle may seek judicial review of that action by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(2) A party to the judicial review may appeal the court's final judgment to the Court of Special Appeals in accordance with the Maryland Rules of Procedure.

(City Code, 1976/83, art. 2, §5.) (Ord. 77-494; Ord. 04-672; Ord. 19-332.)

§ 1-12. Civil violations — City enforcement.(a) *Violations subject to penalties.*

The following acts are violations of this subtitle for which civil liability may be imposed:

- (1) the offering or performance of frequent or regular services as an auctioneer to any person or organization to evade the provisions of this subtitle;
- (2) permitting the use of the licensed auctioneer's name or his flag by any auctioneer not licensed herein. The infrequent or irregular use of the name or flag by an auctioneer licensed in another jurisdiction and employed by a person or organization located in or regularly doing business in said jurisdiction is not a violation of this subsection, provided further that the foregoing exception has reciprocal effect in said jurisdiction;
- (3) failing to designate persons as provided in § 1-6 of this subtitle; and
- (4) violations of any other provisions of this subtitle for which no criminal penalties or civil liabilities are specifically imposed.

(b) *Penalties; enforcement.*

(1) Liability for violations of this section shall not exceed \$250 for the 1st offense and \$500 for 2nd and subsequent offenses.

(2) Enforcement of said liability shall be made on behalf of the City in a court of competent jurisdiction.

(City Code, 1976/83, art. 2, §12.) (Ord. 77-494; Ord. 04-672.)

§ 1-13. Civil violations — private action.(a) *Violations subject to penalties.*

The following additional acts are violations of this subtitle for which civil liability may be imposed:

- (1) receipt of commissions in an amount greater than authorized under § 1-10 of this subtitle.
- (2) failure to account for the proceeds of sale within a reasonable time of the sale transaction.

(b) *Penalties; enforcement.*

Any person or organization aggrieved by a violation of this section may file civil suit for liability in an amount not exceeding \$500 for each offense, ½ to the City and ½ to the use of the aggrieved party, in addition to any other damages awarded to said party.
(*City Code, 1976/83, art. 2, §13.*) (*Ord. 77-494.*)

§ 1-14. Criminal violations.

(a) *Violations subject to penalties.*

The following acts are criminal violations of this subtitle:

- (1) the conduct of auction sales without first being appointed and licensed as provided in this subtitle; and
- (2) the use of fraud, deceit, or flagrant misrepresentation in the conduct of auction sales.

(b) *Criminal penalties.*

Upon conviction of the offenses in this section a person may be fined in an amount not exceeding \$500 for the 1st offense, and may be fined and imprisoned for a term not exceeding 3 months for any subsequent offense in the discretion of the Court.

(c) *Civil penalties.*

Any person convicted of an offense contained in this section shall, in addition to criminal penalties imposed, be liable to any party aggrieved as a result of such offense, in an amount double the amount unlawfully received, retained, or withheld in such criminal act.
(*City Code, 1976/83, art. 2, §14.*) (*Ord. 77-494; Ord. 04-672.*)

§§ 1-15 to 1-16. {Reserved}

§ 1-17. Auction sales of jewelry — restrictions.

(a) *General prohibition.*

It shall be unlawful for any person or persons or corporation to sell, dispose of, or offer for sale, in the City of Baltimore, at public auction, or to cause or permit to be sold, disposed of, or offered for sale, in the City of Baltimore, at public auction, any new articles of gold, silver, plated ware, precious stones, watches, clocks, or jewelry, whether the same shall be their own property or whether they sell the same as agents or employees of others.

(b) *When permitted.*

Provided, however, that this section shall not apply:

- (1) to judicial sale or sales by executors or administrators; nor

(2) to sales by or on behalf of licensed pawnbrokers of unredeemed pledges in manner provided by law; nor

(3) to the sale at public auction of the stock on hand of any person or persons or corporation that shall, for the period of 1 year next preceding such sale have been continuously in business in the City of Baltimore as a retail or wholesale merchant of gold, silver, plated ware, precious stones, watches, clocks, or jewelry, and that shall also have held trader's license for such business during said period; provided, further, that such sale at public auction of the stock on hand of such merchant or merchants shall be held only subject strictly to the conditions in § 1-18 of this subtitle.

(City Code, 1976/83, art. 2, §15(1st par.)) (Ord. 77-494.)

§ 1-18. Auction sales of jewelry — merchant's stock.

(a) *Days; frequency.*

(1) It must be held on successive days, Sundays and legal holidays excepted, and shall not continue for more than 30 days in all.

(2) A period of at least 365 days must have elapsed after the conclusion of any auction sale, conducted either before or after the enactment of this subtitle, before another auction sale shall be commenced by the same merchant.

(b) *Hours.*

It must be held only between the hours of 8 a.m. and 6 p.m., and at no time within the hours beginning at 6 p.m. and ending at 8 a.m.

(c) *Location.*

Such auction sale must be held:

(1) either:

(i) at a place at which the merchant so selling his or its goods at auction conducted the jewelry business in Baltimore, for the period of at least 90 days immediately prior to the commencement of said auction sale; or

(ii) at the regular and usual auction rooms of some duly licensed auctioneer; and

(2) at no other place or places.

(d) *Statement by merchant.*

(1) Not more than 15 nor less than 10 days before commencing any sale, the merchant must file with the Police Commissioner of Baltimore City a statement setting forth:

(i) the name and address of the merchant so intending to conduct said sale;

- (ii) the place or places at which for the year next preceding said date of sale such merchant has conducted his or its business;
 - (iii) the date or dates on which the merchant secured a trader's license for said business;
 - (iv) the locations of and purpose of the proposed sale;
 - (v) the probable duration thereof;
 - (vi) the name and address of the auctioneer who will conduct said sale;
 - (vii) an inventory showing in detail the quality, quantity, kind, or grade of the goods, wares, and other articles proposed to be sold; and
 - (viii) that no items or articles belonging to any other person or corporation than said merchant are included in said inventory.
- (2) Said statement must be subscribed by such merchant or an officer thereof (if a corporation), and verified by the oath before a notary public of the person so subscribing.
- (e) *Affidavit and report by auctioneer.*
- (1) At least 2 days before the commencement of such sale the auctioneer named in the foregoing statement shall file with said Police Commissioner an affidavit subscribed and sworn to by him:
- (i) referring to said statement; and
 - (ii) setting forth
 - (A) that he has been employed to conduct said sale at the time and place named therein; and
 - (B) that he will keep a true record of any and all lots or items sold at said sale, and the prices obtained therefor.
- (2) Within 10 days after the conclusion of said sale, said auctioneer shall file with said Police Commissioner a report subscribed by said auctioneer and sworn to by him before a notary public:
- (i) showing all the articles so sold at said auction sale, and the price at which sold; and
 - (ii) certifying that no articles were sold which were not included in the foregoing statement.

(f) *Sale limited as in statement; signs.*

- (1) No items or articles not set forth in the statement and inventory filed by such merchant in accordance with the provisions of subsection (d) preceding shall be sold or offered for sale at said auction sale.
- (2) All articles so sold must be sold at the property of and under the name of the merchant so conducting said sale.
- (3) During the conduct of said sale, a sign or signs must be maintained at the place of said sale plainly visible to persons attending the same, showing the name and address of the merchant whose goods are so being sold at auction.

(g) *Other business prohibited during sale.*

Except in the case of auction sales conducted at the rooms of some duly licensed auctioneer, as set forth in subsection (c) preceding, during the time when and while such auction sale is being conducted, no business other than the jewelry business which had been conducted for the period of 90 days immediately prior to the commencement of said auction sale, shall be conducted or engaged in at and in the place so designated in the statement filed with the Police Commissioner of Baltimore City.

(h) *Subdivided premises as "place".*

For the purpose of this section, should any person or persons or corporation erect, construct, or install, either temporarily or permanently, any mere partition, shade, blind, or any other similar device which may divide or separate that part of said building so used for the purpose of sale, repair, or dealing in gold, silver, plated ware, precious stones, watches, clocks, or jewelry, and so holding a trader's license for such business, from the remaining part of the same building, then said entire premises so divided or separated shall be construed and defined as "place".

(City Code, 1976/83, art. 2, §15(a) - (h).) (Ord. 77-494; Ord. 04-672.)

§ 1-19. Auction sales of jewelry — penalties.

(a) *In general.*

Any person or persons or corporation convicted of a violation of § 1-17 or § 1-18 shall be fined the sum of \$10 for the 1st offense and \$20 for every subsequent offense.

(b) *Each sale a separate offense.*

Each separate sale, at public auction, of an article or articles of gold, silver, plated ware, precious stones, watches, clocks, or jewelry in violation of the preceding section shall constitute a separate offense hereunder.

(City Code, 1976/83, art. 2, §16.) (Ord. 77-494.)

SUBTITLE 2
CABLE COMMUNICATIONS ADVISORY COMMISSION

§ 2-1. Commission established.

(a) *Created.*

There is a Cable Communications Advisory Commission.

(b) *Composition and appointment.*

- (1) The Commission comprises 14 members, 1 from each Council District, appointed by the Mayor in accordance with Article IV, § 6 of the City Charter.
- (2) Each member must be a resident of and registered voter in the Council District from which the member is appointed.
- (3) The members shall be appointed without regard to political party affiliation.
- (4) No member may be an employee, stockholder, officer, or director of a CATV franchisee. Nor may any member have any financial interest, direct or indirect, in the operation or ownership of a franchise. The fact that a member subscribes to cable television service is not a conflict of interest.
- (5) The members appointed may represent the following interests: law, cable technology, education, finance, and communications.

(c) *Term limits; vacancy.*

- (1) Members serve for a term of 4 years concurrent with the Mayor's term of office.
- (2) Members shall serve only 1 full term on the Commission, plus any partial term as herein provided or through the filling of a vacancy.
- (3) Any vacancy on the Commission shall be filled by the Mayor in the manner provided in Article IV, § 6 of the Baltimore City Charter.

(d) *Compensation.*

The members of the Commission shall serve without compensation, but may be reimbursed for actual expenses incurred in the performance of their duties.

(City Code, 1976/83, art. 1, §230(a) - (c).) (Ord. 90-614; Ord. 09-170.)

§ 2-2. Organization; operations.

(a) *Officers.*

- (1) The Mayor shall appoint the Chairperson of the Commission and the Commission members shall select other officers as they deem necessary and appropriate.

- (2) The Mayor shall have the power to appoint a member as acting Chairperson for a period not to exceed 6 months.

(b) *Committees.*

The Chairperson may appoint any committees he or she deems necessary to assist the Commission in carrying out its duties and responsibilities.

(c) *Meetings.*

- (1) The Commission shall meet at the call of the Chairperson but not less than 6 times a year.
- (2) 8 members of the Commission are a quorum for the transaction of business.
- (3) An affirmative vote of at least 8 members is needed for any action by the Commission.
- (4) All meetings of the Commission shall be open to the public.
- (5) The Commission may hold public meetings to solicit customer, business, industry, and other input relating to its duties and responsibilities.

(d) *Rules.*

The Commission may adopt rules to govern its meetings and operation.
(*City Code, 1976/83, art. 1, §230(d) - (f).*) (*Ord. 90-614; Ord. 09-170.*)

§ 2-3. Duties and responsibilities.

The duty and responsibility of the Commission is to advise, assist, investigate, report on, review, and recommend to the Board of Estimates in connection with the following matters:

- (1) the cable television franchisee's adherence to the franchise agreement;
- (2) the progress of the construction schedule for the cable television system;
- (3) subscriber rates and rates for leased access;
- (4) complaints raised by the public and the franchisee arising out of the service access, construction, and maintenance;
- (5) the franchisee's compliance with the minority participation guidelines;
- (6) recommendations for the improvement or expansion of the cable television system as may be reasonably undertaken without imposing an undue burden on the public or the system operator;

- (7) the renewal of the franchise;
- (8) matters which might constitute grounds for revocation of the franchise;
- (9) other matters related to cable television as may be directed by the Board or deemed appropriate by the Commission; and
- (10) new technology in the cable communications field.

(City Code, 1976/83, art. 1, §231(a).) (Ord. 90-614; Ord. 04-672.)

§ 2-4. Reports.

(a) *In general.*

All reports and recommendations of the Commission shall be in writing and a copy of each shall be sent to the President of the City Council and to the Department of Legislative Reference.

(b) *Annual report required.*

The Commission shall make an annual report to the Board of Estimates and to the City Council, which shall include:

- (1) a summary of the Commission's activities;
- (2) all actions taken concerning the duties and responsibilities listed in this subtitle; and
- (3) any recommendations of the Commission.

(City Code, 1976/83, art. 1, §231(b).) (Ord. 90-614.)

SUBTITLE 3
{REPEALED BY ORD. 09-217}

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**SUBTITLE 4
FALSE ADVERTISING**

§ 4-1. Prohibited conduct.

It is unlawful for any person, firm, or corporation that offers for sale merchandise, commodities, or service to make, publish, disseminate, circulate, or place before the general public within this City, in a newspaper or other publication, in a public notice or announcement broadcast on radio or television, or in the form of a book, notice, handbill poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement describing such merchandise, commodities, or service, as part of a plan or scheme:

(1) with the intent not to sell such merchandise, commodities, or service so advertised at the price stated therein; or

(2) with the intent not to sell such merchandise, commodities, or service so advertised.
(City Code, 1966, art. 19, §23(1st sen.); 1976/83, art. 19, §27(1st sen.). (Ord. 56-432; Ord. 77-573.)

§ 4-2. Penalties.

Any person who violates any provision of this subtitle shall be deemed guilty of a misdemeanor and, upon conviction thereof, may be imprisoned for not exceeding 12 months; and such person or the firm or corporation under whose direction he was acting may, in the discretion of the Court, be subject to a fine of not exceeding \$500.

(City Code, 1966, art. 19, §23(2nd sen.); 1976/83, art. 19, §27(2nd sen.). (Ord. 56-432; Ord. 77-573.).)

**SUBTITLE 5
FOOD DESTRUCTION**

§ 5-1. Destruction to create scarcity prohibited.

It shall be unlawful for any person, firm, or corporation to destroy or permit to deteriorate or waste any food products fit for human or animal consumption, of the value of \$5 or more, so that said food products become unfit for such use, with the intent to cause scarcity or to increase, control, maintain, or influence the market price of such food products.

(City Code, 1927, art. 32, §21(1st sen.); 1950, art. 24, §11(1st sen.); 1966, art. 19, §24(1st sen.); 1976/83, art. 19, §29(1st sen.) (Ord. 19-034.)

§ 5-2. Penalties.

Any person, firm, or corporation violating the provisions of this subtitle shall be fined not less than \$100 nor more than \$500 or imprisoned for not more than 6 months or shall be both fined and imprisoned, as aforesaid, in the discretion of the Court.

(City Code, 1927, art. 32, §21(2nd sen.); 1950, art. 24, §11(2nd sen.); 1966, art. 19, §24(2nd sen.); 1976/83, art. 19, §29(2nd sen.) (Ord. 19-034.)

SUBTITLE 6
“GOING OUT OF BUSINESS” SALES

§ 6-1. Definitions.

(a) *In general.*

(1) The following words and terms, when used in this subtitle, shall have the following meanings unless the context clearly requires a different meaning.

(2) The meaning ascribed to the singular is applied also to the plural.

(b) *Persons.*

“Persons” shall include individuals, copartnerships, associations, trusts, firms, corporations, or any agent or employee thereof.

(c) *License.*

“License” shall mean a license issued under the authority of this subtitle to conduct a sale in accordance with the provisions of this subtitle.

(d) *Licensee.*

“Licensee” shall mean a person to whom a license has been issued.

(e) *Licensor.*

“Licensor” shall mean the Director of Finance of Baltimore City.

(f) *Going Out of Business Sale.*

(1) “Going Out of Business Sale” shall mean and include any sale which is publicly advertised to be a termination of business by the owner or operator of said business, his agent or agents, or a cessation of the operation of said business, or a cessation of the operation of said business under its then known name, or a transfer to a new name.

(2) “Going Out of Business Sale” shall include specifically, although not exclusively:

- (i) “Quitting Business Sale”, “Benefit of Creditors Sale”, “Building Coming Down Sale”, “Benefit of Trustees Sale”, “Creditors Committee Sale”, “Creditors Sale”, “Forced Out Sale”, “Assignee Sale”, “Forced Out of Business Sale”, “Insolvent Sale”, “Liquidation Sale”, “Loss of Lease Sale”, “Mortgage Sale”, “Outselling Sale”, “Selling Out Sale”, “We Quit Sale”, “We Give Up Sale”, “Fixtures for Sale”, “Retiring Our Name Sale”, “Changing Our Name Sale”, and any other advertising or designation by any other expression or characterization closely similar to any of the foregoing and calculated to convey substantially the same meaning;

- (ii) all sales accompanied by notices or advertising indicating that the premises are available for purchase or lease, or are otherwise to be vacated;
- (iii) all sales advertised in any manner calculated to convey to the public the information or belief that, upon the disposal of the goods to be placed on sale, the business being conducted at any location will cease, or be discontinued, or otherwise to be vacated or transferred, surrendered or handed over to a successor in business or conducted under a new name; and
- (iv) any sale advertised or represented as anticipatory of, or to avoid the termination, liquidation, revision, wind-up, discontinuance, conclusion, dissolution, or abandonment of the business conducted at any location.

(g) *Advertise.*

(1) “Advertise” shall mean to publish, circulate, disseminate, or place before the public in any way or through any media whatever, for the purpose of the sale of goods, wares, and merchandise.

(2) “Advertise” shall specifically, although not exclusively, include advertising by outside or inside signs, including neon or other electrical signs, advertising by radio, telephone, television, newspaper, magazine, book, notice, circular, pamphlet, letter, handbill, poster, placard card, price tag or card, label, or any other way similar or dissimilar to the foregoing.

(*City Code, 1966, art. 2, §30; 1976/83, art. 2, §28.*) (*Ord. 51-058; Ord. 66-1326; Ord. 76-020.*)

§ 6-2. Prohibited activities.

(a) *Conducting sale without license.*

It shall be unlawful for any person to conduct a “Going Out of Business Sale” of the type defined herein without first having obtained a license for said sale from the licensor defined in this subtitle.

(b) *Advertising sale without license.*

It shall be unlawful for any person to advertise a “Going Out of Business Sale” before a license therefor has been applied for and granted by the licensor.

(c) *Sale for longer period than permitted.*

It shall be unlawful for any licensee to conduct, or permit, any “Going Out of Business Sale” as defined in this subtitle for a longer period or periods of time than provided for hereinafter in this subtitle.

(d) *Goods not previously in stock.*

It shall be unlawful for any licensee to sell or offer for sale any goods, wares or merchandise not in stock and in possession of the licensee on the date of the filing of the application for a license to conduct a "Going Out of Business Sale".

(*City Code, 1966, art. 2, §31; 1976/83, art. 2, §29.*) (*Ord. 51-058.*)

§ 6-3. Exemptions.

This subtitle does not apply to or affect:

- (1) persons acting pursuant to an order or process of a court of competent jurisdiction;
- (2) persons acting in accordance with their powers and duties as public officers such as sheriffs and marshals;
- (3) any publisher of a newspaper, magazine, or any operator of a radio or television broadcasting station who publishes or broadcasts an advertisement in good faith:
 - (i) without knowledge of its false, deceptive, or misleading character; and
 - (ii) without knowledge that the provisions of this subtitle are not being complied with; or

- (4) any sale by public auction in the City of any gold, silver, silverplated ware, precious stones, watches, clocks, or jewelry, for which a permit has been granted under the laws of the City.

(*City Code, 1966, art. 2, §41; 1976/83, art. 2, §39.*) (*Ord. 51-058; Ord. 04-672.*)

§ 6-4. Persons eligible for license.

(a) *Owner of on-going business.*

Any person who has owned a wholesale, jobbing, pawn shop, manufacturing, or retail business for 6 months prior to the date set for the proposed sale is eligible to make an application for a "Going Out of Business Sale" license.

(b) *Purchaser of goods or business.*

Any person who purchases goods, wares, or merchandise, or a business from another may apply for a license to conduct a "Going Out of Business Sale" at any time after the expiration of 6 months from the date of the aforesaid purchase.

(c) *Successors to deceased owner.*

Provided further, that if an owner of a business dies, his or her heirs, devisees, or legatees may apply at anytime for a "Going Out of Business Sale" license.

(*City Code 1966, art. 2, §38; 1976/83, art. 2, §36.*) (*Ord. 51-058.*)

§ 6-5. Persons not eligible for license.(a) *In general.*

Any person who has not been the owner of the business advertised or described in the application for a “Going Out of Business Sale” license for a period of at least 6 months prior to the date of the proposed “Going Out of Business Sale” or has held a “Going Out of Business Sale” within 1 year last past at the particular location, shall not be granted a “Going Out of Business Sale” license.

(b) *Successors to deceased owner.*

Except, however, the heirs, devisees, or legatees of a deceased owner of a business may obtain a license at any time.

(*City Code, 1966, art. 2, §39; 1976/83, art. 2, §37.*) (*Ord. 51-058.*)

§ 6-6. License for branch stores.(a) *Others may not participate.*

If the applicant for a “Gong Out of Business Sale” license owns, conducts, or operates more than 1 store or branch store and only 1 store or branch store is to go out of business and cease operations:

- (1) the license issued will apply only to the 1 store or branch for which it was applied for and issued;
- (2) no other store or branch may advertise or represent in any way that it is cooperating with or participating in any way in the licensed “Going Out of Business Sale”; and
- (3) neither the licensed store nor any person may advertise or represent that any other store or branch is cooperating with or participating in the licensed “Going Out of Business Sale”.

(b) *Location and inventory restrictions.*

The “Going Out of Business Sale” conducted by any store or branch of a chain or group of stores:

- (1) shall be conducted solely at the location of the branch or store for which the license was obtained, and
- (2) no goods, wares, or merchandise shall be brought from any other branch or store and placed on sale at the branch or store licensed to conduct a “Going Out of Business Sale”.

(*City Code, 1966, art. 2, §40; 1976/83, art. 2, §38.*) (*Ord. 51-058.*)

§ 6-7. Application for license.*(a) In general.*

Any person desiring to conduct a “Going Out of Business Sale”, as defined in this subtitle, shall make a written application to the licensor, signed and verified by the applicant before a person authorized to administer oaths.

(b) Required information.

Each application shall contain the following information:

- (1) the true name and address of the owner of the goods, wares, and merchandise to be the object of the sale;
- (2) a description by street location, address, and type of building of the location at which such sale is to be held;
- (3) the name of the occupant of the location in question and whether by ownership, lease, or sublease;
- (4) if by lease or sublease:
 - (i) the effective date of the termination of such tenancy; and
 - (ii) the name and business address of the lessor or sublessor;
- (5) a full and complete statement of the facts in regard to the “Going Out of Business Sale”, including:
 - (i) the reason why the sale is to be conducted;
 - (ii) the manner in which the sale will be conducted; and
 - (iii) the date or period of time in which the sale is to be conducted;
- (6) a complete and detailed inventory of the goods, wares, and merchandise to be sold at such sale as disclosed by applicant’s records.

(c) Nature of inventory.

- (1) All goods, wares, or merchandise included in such inventory:
 - (i) shall have been purchased by the applicant for resale on bona fide orders without cancellation privileges; and
 - (ii) shall not comprise goods, wares, or merchandise purchased on consignment.

(2) This inventory shall become a part of the application for a license to conduct a “Going Out of Business Sale”.

(*City Code, 1966, art. 2, §32; 1976/83, art. 2, §30.*) (*Ord. 51-058; Ord. 04-672.*)

§ 6-8. Investigation; denial of license.

(a) *Licensors may investigate.*

Upon receipt of the application, the licensor may, in his discretion make or cause to be made an examination, audit, or investigation of the applicant and all of the facts contained in said application in relation to the proposed sale.

(b) *Grounds for denial.*

(1) The application shall be denied or refused if the licensor finds any 1 or more of the following facts or circumstances to exist:

- (i) that the inventory contains goods, wares, or merchandise not purchased by the applicant for resale on bona fide orders without cancellation privileges;
- (ii) that the inventory contains goods, wares, or merchandise purchased by the applicant on consignment;
- (iii) that the applicant, either directly or indirectly, and within 1 year prior to the date of the filing of the application, has conducted a sale in connection with which he advertised or represented that the entire business conducted at the particular location was to be closed out or terminated;
- (iv) that the applicant was granted a prior license hereunder within 1 year preceding the date of the filing of the application, where such prior license was based upon an application setting forth that the entire business conducted at a particular location was to be closed out or terminated;
- (v) that the applicant has theretofore been convicted of a violation of this subtitle;
- (vi) that the goods, wares, or merchandise as described in the inventory were transferred or assigned to the applicant prior to the date of the filing of the application and that the transfer or assignment was not made for a valuable and adequate consideration; or
- (vii) that the inventory contains goods, wares, or merchandise purchased by the applicant or added to the applicant's stock in contemplation of the sale and for the purpose of selling them at the sale.

(2) For purposes of item (vii), any unusual purchase or additions to the stock of such goods, wares, and merchandise made within 60 days prior to the date of the filing of such application shall be presumptive evidence that such purchase or additions were made in contemplation of such sale and for the purpose of selling the same at such sale.

(*City Code, 1966, art. 2, §33; 1976/83, art. 2, §31.*) (*Ord. 51-068; Ord. 04-672.*)

§ 6-9. Grant of license; conditions.*(a) In general.*

The licensor shall issue a revocable numbered permit to the applicant, authorizing said applicant to advertise and conduct the sale as described in said application, when it appears to the licensor:

- (1) that all of the statements in the application are true and that the said proposed sale is of the character as represented therein;
- (2) that the conduct of such sale will not be injurious to the peace, health, safety, and welfare of the public of the City of Baltimore;
- (3) that the application is in full compliance with the terms and conditions of this subtitle; and
- (4) that the required license fee has been paid.

(b) Conditions of license.

The license shall be issued on the following terms:

- (1) such license shall authorize the 1 type of sale as named and described in the application therefor at the place named therein and by the particular licensee for a period of not more than 30 consecutive calendar days (Sundays and legal holidays excluded) following the issuance of said license;
- (2) the sale authorized by said license shall be limited to the sale of goods, wares, and merchandise described in the inventory attached to the application;
- (3) on commencement of the sale and for its duration the license shall be prominently displayed in the store premises by the licensee; and
- (4) suitable books and records of the sale shall be kept by the licensee on the store premises for the duration of the sale and shall be open for inspection by the licensor or the licensor's authorized representative.

(c) Violation of conditions prohibited.

- (1) The violation of any of the conditions of said license as above set forth shall be unlawful and shall render said license void.

- (2) Each sale of goods, wares, or merchandise not inventoried or described in said application shall constitute a separate offense under this subtitle.

(City Code, 1966 art. 2, §34; 1976/83, art. 2, §32.) (Ord. 51-058; Ord. 04-672.)

§ 6-10. License fee.

The fee for the license to conduct a “Going Out of Business Sale”, as provided in this subtitle, shall be \$100, payable to the Director of Finance.
(*City Code, 1966, art. 2, §43; 1976/83, art. 2, §41.*) (*Ord. 51-058; Ord. 77-390; Ord. 90-505.*)

§ 6-11. License renewal.

(a) *One-time renewal allowed.*

The licensor may, upon a verified application therefor, renew a license issued under the provisions of this subtitle for 1 period of time only in addition to the 30 days permitted in the 1st application for license.

(b) *Limitations; conditions.*

- (1) The renewal period which can be granted by the licensor shall not exceed 30 consecutive days (Sundays and legal holidays excluded).
- (2) Aforesaid renewal shall not be granted until the applicant has filed with the licensor a revised inventory showing the items listed on the original inventory remaining unsold.
- (3) And said inventory shall not include any goods, wares, or merchandise not included in the original license application and inventory.

(c) *Renewal fee.*

The fee for this renewal of license shall be \$50 payable to the licensor.
(*City Code, 1966, art. 2, §36; 1976/83, art. 2, §34.*) (*Ord. 51-058; Ord. 77-390.*)

§ 6-12. Location of sale.

A “Going Out of Business Sale”, as provided for in this subtitle, shall be held only upon the premises where the business to be licensed has been conducted for 1 year last past; except, however, those cases in which the landlord forces the owner or owners of the business to vacate the premises before the “Going Out of Business Sale” can be held, and except sales conducted by the heirs, devisees or legatees of the deceased owner of the business.
(*City Code, 1966, art. 2, §42; 1976/83, art. 2, §40.*) (*Ord. 51-058.*)

§ 6-13. Revocation of license.

Upon written complaint being filed with the licensor, or upon the initiative of said licensor, after making an investigation the licensor may revoke any license granted under the provisions of this subtitle

- (1) if the licensor shall determine that any sale by the licensee is conducted in violation of any of the provisions of this subtitle;
- (2) if the licensee has made any material misstatement in his application for said license;

(3) if the licensee has failed to include in the inventory required by the provisions of this subtitle the goods, wares, or merchandise required to be contained in such inventory; or

(4) if the licensee has added or permitted to be added to said sale, any goods, wares, or merchandise not described in the original application and inventory.

(City Code, 1966, art. 2, §36; 1976/83, art. 2, §33.) (Ord. 51-058.)

§ 6-14. Judicial and appellate review.

(a) *Judicial review.*

A person aggrieved by the denial or revocation of a license under this subtitle may seek judicial review of that action by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(b) *Appellate review.*

A party to the judicial review may appeal the court's final judgment to the Court of Special Appeals in accordance with the Maryland Rules of Procedure.

(City Code, 1966, art. 2, §37; 1976/83, art. 2, §35.) (Ord. 51-058; Ord. 04-672; Ord. 19-332.)

§ 6-15. Penalties.

(a) *In general.*

Any person who violates any provision of this subtitle, upon conviction thereof, shall be punished by a fine of not less than \$100 nor more than \$500.

(b) *Each violation a separate offense.*

Each violation shall be considered a separate offense.

(City Code, 1966, art. 2, §44; 1976/83, art. 2, §42.) (Ord. 51-058.)

SUBTITLE 7
SCRAP COLLECTORS AND SCAVENGERS

§ 7-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Person.*

(1) “Person” means, except as specified in paragraph (2) of this subsection, any individual, corporation, partnership, joint venture, firm, association, or other entity.

(2) “Person” does not include, unless otherwise expressly provided, a governmental entity or an instrumentality or unit of a governmental entity.

(c) *Scrap.*

“Scrap” means any scrap metal, refuse, junk, waste, garbage, rubbish, debris, or scrap of any kind.

(d) *Scrap collector or scavenger.*

“Scrap collector” or “scavenger” means any person who collects, transports, or sells any scrap in the City.

(City Code, 1966, art. 19, §33(a), (c); 1976/83, art. 19, §38(a), (c).) (Ord. 60-411; Ord. 70-960; Ord. 01-243.)

§ 7-2. Scope of subtitle.

This subtitle does not apply to:

- (1) an individual transporting or selling materials that were formerly incorporated into the structure or utility system of a dwelling owned by that individual;
- (2) an individual transporting or selling, for recycling purposes, newspapers or aluminum beverage containers; or
- (3) any of the following entities or their authorized officers or employees:
 - (i) a licensed scrap metal dealer;
 - (ii) a public utility corporation;
 - (iii) a governmental agency;
 - (iv) a licensed electrical or plumbing contractor;

- (v) a licensed automotive dismantler and recycler;
- (vi) a licensed demolition contractor;
- (vii) an industrial plant or other business that regularly generates scrap as a byproduct of its activities; or
- (viii) a charitable organization.

(City Code, 1966, art. 19, §33(b), (d), (e); 1976/83, art. 19, §38(b), (d), (e).) (Ord. 60-411; Ord. 70-960; Ord. 01-243; Ord. 10-398.)

§ 7-3. Rules and regulations.

- (a) *Commissioner may adopt.*

The Police Commissioner may adopt rules and regulations to carry out this subtitle.

- (b) *Filing with Legislative Reference.*

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

(Ord. 01-243.)

§ 7-4. Permit or photo ID required.

No individual may remove scrap from any premises in the City, transport scrap through any street or alley in the City, or sell or offer to sell any scrap in the City unless the individual has, on his or her person:

- (1) a permit to do so from the Police Commissioner; or
- (2) a valid driver's license or other valid photographic identification issued by the Maryland Motor Vehicle Administration.

(City Code, 1966, art. 19, §32(a); 1976/83, art. 19, §37(a).) (Ord. 60-411; Ord. 70-960; Ord. 01-243.)

§ 7-5. Permits — Application and issuance.

- (a) *Application.*

- (1) An application for a permit under this subtitle must:

- (i) be on the form that the Police Commissioner provides; and
- (ii) contain the information that the Police Commissioner requires.

- (2) The application for an initial license must be made in person, at the places the Police Commissioner designates.

- (3) Applications for a renewal license need not be made in person.

(b) *Issuance.*

The Police Commissioner must issue a permit to the applicant if:

(1) the applicant is 18 years old or older; and

(2) in the Commissioner's discretion and judgment, the public health, safety, or security will not suffer by the permit's issuance.

(City Code, 1966, art. 19, §32(part); 1976/83, art. 19, §37(part).) (Ord. 60-411; Ord. 70-960; Ord. 01-243.)

§ 7-6. Permits — Term and fee.(a) *Term.*

Unless sooner revoked, each permit expires on the third December 31 after it is issued.

(b) *Fee.*

The fee for each permit issued under this subtitle is \$10.

(c) *No transfer.*

A permit issued under this subtitle is not transferable.

(City Code, 1966, art. 19, §32(part); 1976/83, art. 19, §37(part).) (Ord. 60-411; Ord. 70-960; Ord. 01-243.)

§ 7-7. Permits — Contents and display.(a) *Numbering; identification.*

Each permit issued under this subtitle:

(i) must be numbered; and

(ii) must contain:

(i) a photograph of the scrap collector or scavenger; and

(ii) the name, address, and general physical description of the scrap collector or scavenger.

(b) *Display of permit or photo ID.*

Whenever a scrap collector or scavenger is engaged in any activity subject to this subtitle, the scrap collector or scavenger must have the required permit or photographic identification

available on his or her person for immediate inspection by any police officer or by any person with whom the scrap collector or scavenger is doing business.
(City Code, 1966, art. 19, §32(d)(2nd - 3rd sens.); 1976/83, art. 19, §37(f)(2nd - 3rd sens.)) (Ord. 60-411; Ord. 70-960; Ord. 01-243.)

§ 7-8. Permits — Refusal or revocation.

The Police Commissioner may refuse to issue a permit and may revoke any permit already issued if:

- (1) within the preceding 5 years, the scrap collector or scavenger was convicted of larceny, burglary, or receiving stolen goods; or
- (2) the Commissioner finds that:
 - (i) the scrap collector or scavenger has violated any provision of this subtitle; and
 - (ii) the public health, safety, or security would suffer by the issuance or continuance of the permit.

(City Code, 1966, art. 19, §32(e)(2nd - 3rd sens.); 1976/83, art. 19, §37(g)(2nd - 4th sens.)) (Ord. 60-411; Ord. 70-960; Ord. 01-243.)

§ 7-9. Operations.

(a) *Hours — In general.*

Except as specified in subsection (b) of this section, a scrap collector or scavenger may engage in an activity subject to this subtitle only during the following hours:

- (1) during the months of October through April, inclusive, from 7 a.m. to 6 p.m.; and
- (2) during the months of May through September, inclusive, from 7 a.m. to 8 p.m.

(b) *Hours — Special permissions.*

On application by a scrap collector or scavenger, the Police Commissioner may authorize additional or alternative hours if:

- (1) the scrap collector or scavenger has an established place of business in the City or an adjacent county; and
- (2) the Commissioner finds that the restrictions imposed by this section would be a health or safety hazard or create an unjust hardship.

(c) *Transport.*

A scrap collector or scavenger may not transport scrap by cart, carriage, dray, or wagon or by any other transport except a motor vehicle displaying current registration markers.
(City Code, 1966, art. 19, §34; 1976/83, art. 19, §39.) (Ord. 60-411; Ord. 70-960; Ord. 01-243.)

§ 7-10. Penalties.

(a) *In general.*

Any scrap collector, scavenger, or other person who violates any provision of this subtitle or of a rule or regulation adopted under this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 or imprisonment for not more than 12 months or to both fine and imprisonment for each offense.

(b) *Each day a separate offense.*

Each day that a violation continues is a separate offense.
(*City Code, 1966, art. 19, §36; 1976/83, art. 19, §41.*) (*Ord. 60-411; Ord. 70-960; Ord. 01-243; Ord. 08-076.*)

SUBTITLE 8
SCRAP METAL DEALERS

Editor’s Note: A State counterpart to this subtitle is codified in Business Regulation (“BR”) Article, Title 17, Subtitle 10. Chapters 198 and 199, Acts of 2010, effective May 4, 2010, rewrote significant portions of that law to, among other things, “alte[r] the requirements for records that certain junk dealers and scrap metal processors must keep ...; ...preemp[t] certain rights of certain counties and municipalities[; and] supersed[e] certain laws of certain counties and municipalities”.

Subsequently, Ordinance 10-389 renamed and rewrote this subtitle, effective November 22, 2010, to repeal various provisions that had been preempted (principally, former §§ 8-4 through 8-13) and otherwise to conform the local law to the State law. Pursuant to BR § 17-1003(a), Ord. 10-389 also formally designated, in an uncodified Section 1, the Baltimore Police Department as the City’s “primary law enforcement unit” to receive records under BR § 17-1011(b).

§ 8-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Person.*

- (1) “Person” means, except as specified in paragraph (2) of this subsection, any individual, corporation, partnership, joint venture, firm, association, or other entity.
- (2) “Person” does not include, unless otherwise expressly provided, a governmental entity or an instrumentality or unit of a governmental entity.

(c) *Scrap metal.*

“Scrap metal” means any object that consists in whole or substantial part of ferrous or non-ferrous metal.

(d) *Scrap metal dealer.*

- (1) “Scrap metal dealer” means any person who, whether as a dealer, a broker, or otherwise, buys, processes, or sells scrap metal.
- (2) “Scrap metal dealer” does not include:
 - (i) a person whose business is limited to the purchase of aluminum cans for recycling purposes;
 - (ii) an automotive dismantler and recycler:
 - (A) who is licensed under State Transportation Article, Title 15 {“Vehicle Laws – Licensing of Businesses and Occupations”}, Subtitle 5 {“Automotive Dismantlers and Recyclers and Scrap Processors”}; and

(B) whose business is limited to the acquisition of whole vehicles for the purpose of dismantling, destroying, or scrapping them for the benefit of their parts or the materials in them; or

(iii) a landfill or solid-waste facility that:

(A) is licensed by the Finance Director; or

(B) is operated by a governmental entity or an instrumentality or unit of a governmental entity.

(City Code, 1976/83, art. 19, §41A.) (Ord. 90-641; Ord. 01-243; Ord. 10-255; Ord. 10-389.)

§ 8-2. Rules and regulations.

(a) *Commissioner may adopt.*

The Police Commissioner may adopt rules and regulations to carry out this subtitle.

(b) *Filing with Legislative Reference.*

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

(Ord. 01-243.)

§§ 8-3 to 8-5. {Reserved}

§ 8-6. License required.

No person may do business as a scrap metal dealer unless that person:

(1) has first obtained all State licenses for the business; and

(2) has then obtained from the Police Commissioner a City license under this Subtitle 8 {"Scrap Metal Dealers"}.

(City Code, 1950, art. 24, §16(part); 1966, art. 19, §40(part); 1976/83, art. 19, §47(part).) (Ord. 41-408; Ord. 70-852; Ord. 77-389; Ord. 84-165; Ord. 90-508; Ord. 90-641; Ord. 01-243; Ord. 10-255; Ord. 10-389.)

§ 8-7. Applications.

The application for a license shall:

(1) be made in the form and contain the information that the Police Commissioner requires; and

(2) contain a notarized statement that attests, under penalties of perjury, to the truth of all information provided.

(City Code, 1950, art. 24, §16(part); 1966, art. 19, §40(part); 1976/83, art. 19, §47(part).) (Ord. 41-408; Ord. 70-852; Ord. 77-389; Ord. 84-165; Ord. 90-508; Ord. 90-641; Ord. 01-243; Ord. 10-255; Ord. 10-389.)

§ 8-8. Fees.(a) *Amount.*

The application fee and annual license fee for each place of business are as set by the Police Commissioner, with the approval of the Board of Estimates.

(b) *Collection.*

These fees are collectible in accordance with City Code Article 15 {"Licensing and Regulation"}, Subtitles 46 {"Administration and Enforcement"} and 47 {"Penalties"}.
(*City Code, 1950, art. 24, §16(part); 1966, art. 19, §40(part); 1976/83, art. 19, §47(part).*)
(*Ord. 41-408; Ord. 70-852; Ord. 77-389; Ord. 84-165; Ord. 90-508; Ord. 90-641; Ord. 01-243; Ord. 10-255; Ord. 10-389.*)

§§ 8-9 to 8-10. {Reserved}**§ 8-11. Denial, suspension, etc., of license.**

The Police Commissioner may deny, suspend, revoke, or refuse to renew a license if, after giving the applicant or licensee notice and an opportunity to be heard, the Police Commissioner finds that the applicant or licensee:

- (1) has made a material misstatement or omission in any application for an initial or renewal license;
- (2) has failed to maintain in good standing any State license required for the business;
- (3) has violated a provision of:
 - (i) this Subtitle 8 {"Scrap Metal Dealers"};
 - (ii) State Business Regulation Article Title 17, Subtitle 10 {"Junk Dealers and Scrap Metal Processors"}, as found by a court of competent jurisdiction; or
 - (iii) a rule or regulation adopted under either of these laws; or

(4) has engaged in a pattern and practice of receiving stolen goods.
(*Ord. 10-255; Ord. 10-389.*)

§ 8-12. Judicial and appellate review.(a) *Judicial review.*

A person aggrieved by a decision of the Police Commissioner under § 8-11 {"Denial, suspension, etc., of license"} of this subtitle may seek judicial review of that decision by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(b) *Appellate review.*

A party to the judicial review may appeal the court's final judgment to the Court of Special Appeals in accordance with the Maryland Rules of Procedure.
(*Ord. 10-255; Ord. 10-389.*)

§ 8-13. {Reserved}

§ 8-14. Penalties.

(a) *In general.*

Any scrap metal dealer or other person who violates any provision of this subtitle or of a rule or regulation adopted under this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 or imprisonment for not more than 12 months or to both fine and imprisonment for each offense.

(b) *Each day a separate offense.*

Each day that a violation continues is a separate offense.
(*City Code, 1927, art. 32, §25; 1950, art. 24, §17(2nd par.); 1966, art. 19, §41(2nd par.); 1976/83, art. 19, §48(2nd par.).*) (*Ord. 20-496; Ord. 32-168; Ord. 40-245; Ord. 01-243; Ord. 08-076; Ord. 10-389.*)

SUBTITLE 9
LAUNDRIES AND DRY CLEANERS

§ 9-1. Prohibited hours of laundry operation.

(a) *In general.*

It shall be unlawful for any person, firm, or corporation doing a public laundry business, or any employee thereof, between the hours of midnight and 6 a.m. of any day:

- (1) to operate a laundry;
- (2) to collect wearing apparel or articles of any kind whatsoever to be washed or laundered;
or
- (3) to deliver the same after having been washed or laundered.

(b) *Penalties.*

Any person, firm, or corporation violating the provision of this section shall, upon conviction thereof, be fined not less than \$50 nor more than \$100 for each offense.

(*City Code, 1927, art. 32, §26; 1950, art. 24, §22; 1966, art. 19, §46; 1976/83, art. 19, §53.*) (*Ord. 25-507; Ord. 27-960.*)

§ 9-2. {Reserved}

§ 9-3. Laundry identification marks.

(a) *Scope of section.*

This section applies to all establishments engaged in the business of cleaning and finishing any wearing apparel, such as:

- (1) hand and steam laundries;
- (2) retail and wholesale cleaners;
- (3) agents and agencies;
- (4) bobtailors; and
- (5) all so engaged in this type of business.

(b) *Marks to be reported to Police Department.*

- (1) Each person, firm, or corporation conducting a laundry or dry cleaning establishment, or offering as an independent contractor the services of such an establishment, shall report to the Police Commissioner, on forms supplied by the Commissioner, the type and style of

laundry or dry cleaning identification marks which are attached to or stamped or written upon garments processed by such establishment when returned to the customer.

- (2) Such report shall be accompanied by actual samples of the identification markings used.
- (3) The person, firm, or corporation shall make the report immediately on entering the business of laundry or dry cleaning.
- (4) Any change in identification marking systems, either by eliminating such marking or changing the system of identification marking used, shall be reported to the Commissioner immediately.

(c) *Records to be retained.*

Each such laundry, dry cleaning establishment, or independent contractor shall retain, for a period of 90 days from time garment is delivered to customers, such customers' records as relate to identification marks, and names and addresses of customers.

(d) *Penalties.*

Any person, firm, or corporation who violates any provision of this section shall, upon conviction, be subject to a fine of not more than \$100 or to imprisonment of not more than 3 months in the Baltimore City Jail, or, in the discretion of the Court, to both fine and imprisonment for each offense.

(City Code, 1966, art. 19, §47; 1976/83, art. 19, §54.) (Ord. 53-734; Ord. 04-672.)

SUBTITLE 10
MOTOR FUEL SALES

§ 10-1. Definitions.

(a) *Retail dealer.*

The term “retail dealer” shall mean any person, firm, or corporation operating a service station, filling station, store, garage, or other place of business for the retail sale of motor fuel or the sale or dispensing of motor fuel for delivery into the service tank or tanks of any motor vehicle which is propelled by an internal combustion motor, other than such a motor vehicle belonging to the person owning or operating said place of business.

(b) *Motor fuel.*

The term “motor fuel” shall mean:

(1) a light distillate of petroleum or allied substance with suitable volatility and other characteristics to be used as a fuel for operating internal combustion engines whether or not it is mixed with other materials; or

(2) any other product or liquid when sold for use as a fuel in any type of internal combustion engine furnishing power to operate a motor vehicle.

(City Code, 1976/83, art. 14, §7.) (Ord. 76-066.)

§ 10-2. License required for retail dealers.

(a) *In general.*

No retail dealer shall engage in the business of selling motor fuel at retail without first procuring from the Director of Finance a license for each station, store, garage or other establishment at which his said business is to be conducted.

(b) *Issuance; term.*

Licenses issued under this section:

(1) shall be issued upon written application to the Director of Finance;

(2) shall be issued only to persons, firms, or corporations who own the business to be licensed and who are the owners or lessees of the premises on which the business is to be conducted;

(3) shall be effective from the date of their issuance until January 1 of the ensuing year; and

(4) shall be renewed annually.

(c) *Fee.*

A license fee of \$150 shall be paid for the issuance of every such license and every renewal thereof.

(d) *Display of license.*

Each licensee shall conspicuously display his license at the station, store, garage, or other establishment to which it pertains.

(e) *Requirements supplemental to any other law.*

The requirements of this section with respect to licenses are hereby declared to be in addition to, and not in substitution for, license requirements contained in any other statute or ordinance. (*City Code, 1976/83, art. 14, §8.*) (*Ord. 76-066; Ord. 83-163; Ord. 90-511.*)

§ 10-3. Motor fuel service station facilities.(a) *In general.*

The Mayor and City Council of Baltimore finds and declares that the public health, safety, welfare, and convenience require motor fuel service stations offering motor fuel for sale at retail to the public, have and maintain toilet and hand washing facilities and water for motor vehicle purposes.

(b) *Definitions.*(1) *In general.*

In this section, unless the context clearly indicates otherwise, the following words have the meanings indicated.

(2) *Convert.*

“Convert” means to alter or change the method of distribution of motor fuel from full service method of distribution to a minimum service method of distribution by construction, renovation or otherwise altering the method of distribution of motor fuel into the tanks and vehicles of consumers.

(3) *Full service.*

“Full service” means that service provided by a retail dealer of a motor fuel service station for consumers, including dispensing of motor fuel by the retail dealer or the retail dealer’s employees along with auxiliary services for the repair and maintenance of motor vehicles on the premises inside a garage or other motor fuel service station structure or enclosure.

(4) *Minimum service.*

“Minimum service” means that service provided by a retail dealer of a motor fuel service station for consumers including the dispensing of motor fuel by a retail dealer or retail dealer’s employees or permitting the consumers to serve themselves by dispensing motor fuel into their own tanks or motor vehicles and does not have a garage or other motor fuel service station structure or enclosure for the repair and maintenance of motor vehicles.

(5) *Motor fuel service stations.*

“Motor fuel service stations” means any motor fuel service station, service station, filling station, store, garage, or other place of business for the retail sale of motor fuel or the sale or dispensing of motor fuel for delivery into the service tank or tanks of any motor vehicle which is propelled by an internal combustion motor.

(c) *Free services required.*

After January 1, 1980, every retail dealer licensed under this subtitle who opens a new motor fuel service station shall provide free of charge to patrons the following:

- (1) toilet facilities and hand washing facilities maintained in good working order and sanitary conditions;
- (2) hand towels at every self-service island for the use of patrons; and
- (3) at least 1 water outlet in good operating condition and accessible to patrons.

(d) *No diminution in service.*

Retail dealers currently operating motor fuel service stations shall provide any or all of the facilities required by subsection (c) to the same extent that they are provided by those facilities on January 1, 1980.

(e) *Converted stations.*

Retail dealers who convert their motor fuel service stations from a full service motor fuel service station to a minimum service motor fuel service station shall provide any or all of the facilities required by subsection (c) to the same extent that they provided those services on January 1, 1980, before the conversion.

(City Code, 1976/83, art. 14, §8A.) (Ord. 76-066; Ord. 15-346.)

§ 10-4. Signs.*(a) Legislative finding.*

The City Council finds that the preservation of the natural beauty of Baltimore City requires the limitation of signs advertising prices of motor vehicle fuels at places dispersing fuels in Baltimore City. Such limitation will equally serve to protect the safety and recreational value of public travel on streets in the City and will better protect the public investment in its streets and highways. In furtherance of these purposes, the following limitations are enacted.

(b) Price signs on pumps.

- (1) Every retail dealer in motor fuel shall publicly display and maintain on each pump or other dispensing device, from which motor fuel is sold by him, at least 1 sign and not more than 2 signs stating the price per gallon of the motor fuel, the State and Federal taxes, and the total price, sold by him from such pump or device.
- (2) Said sign or signs shall be of a size not larger than 8 inches by 10 inches.
- (3) The price shown on each of such signs shall include an itemization of the cost per gallon of said motor fuel, the amount of Federal taxes, and the amount of State taxes.
- (4) All figures, including fractions, upon said signs, other than figures and fractions used in any price-computing mechanism constituting a part of any such pump or dispensing device, shall be of the same size.

(c) Other price signs prohibited.

No signs stating or relating to the prices of motor fuel and no signs designed or calculated to cause the public to believe that they state or relate to the price of motor fuel, other than the signs referred to in subsection (b) of this section and required to be displayed upon pumps and other dispensing devices, shall be posted or displayed on or about the premises where motor fuel is sold at retail, and within the view of any public highway or reservation.

(City Code, 1976/83, art. 14, §9.) (Ord. 76-066.)

§ 10-5. Brand names.*(a) Display of brand name required.*

- (1) All above-ground equipment for storing or dispensing motor fuel operated by a retail dealer shall bear in a conspicuous place the brand name or trademark of the manufacturer or distributor of the product stored therein or sold or dispensed therefrom.
- (2) If the motor fuel stored in or sold or dispensed from above-ground equipment by a retail dealer has no brand name or trademark, each container or dispensing equipment shall have conspicuously displayed thereon the words "No Brand".

(b) *Adulteration or substitution prohibited.*

No person shall adulterate or permit the adulteration of any motor fuel or lubricating oil offered for sale or sold under a brand name or trademark or distinguishing mark of the manufacturer or distributor of said products, or substitute or permit the substitution of any other motor fuel or lubricating oil therefor.

(c) *Dispensed product to comport with displayed name.*

No person shall sell or dispense, or offer to sell or dispense, from any pump, tank, or other dispensing device or container any motor fuel or lubricating oil other than that indicated by the name, trade name, trademark, symbol, sign, or other distinguishing mark of the manufacturer or distributor of said product, if any, appearing on said pump, tank, or other dispensing device or container.

(City Code, 1976/83, art. 14, §10.) (Ord. 76-066.)

§ 10-6. Sales to senior citizen drivers.(a) *Senior citizens entitled to self-service price.*

Except as provided in subsections (b) and (c) of this section, any retail service station dealer who provides a price reduction on motor fuel for self-service shall provide, upon request, refueling services at self-service pumps at the self-service price to senior citizens upon proof that said driver is 70 years old or older.

(b) *Excepted facilities.*

The provisions of this section do not apply to retail service station dealers selling motor fuel from the following facilities:

- (1) exclusively self-service stations which have remotely controlled gas pumps, which are operated by a single cashier, and which do not provide motor fuel pump service; or
- (2) convenience stores that sell gasoline through remotely controlled pumps that do not provide motor fuel pump service.

(c) *Section not applicable to accompanied driver.*

This section does not apply to any senior citizen driver age 70 or older who is accompanied by another person who is capable of providing self-service.

(City Code, 1976/83, art. 14, §10A.) (Ord. 90-552.)

§ 10-7. Injunctions.

Any court of competent jurisdiction shall have jurisdiction in equity to enjoin the habitual, continued, or repeated violation of any provision of this subtitle by any retail dealer. Petitions for such relief may be filed by any person injured or damaged by such violation.

(City Code, 1976/83, art. 14, §12.) (Ord. 76-066.)

§ 10-8. Penalties.

(a) *In general.*

- (1) Except as provided under subsection (b) of this section, whoever, himself or by his agent or servant, violates any provision of this subtitle shall be punished by a fine of not less than \$10 nor more than \$100.
- (2) Upon the 2nd conviction of any licensee or any such violation, whether by himself or by his agent or servant, the Director of Finance may suspend the right of such licensee to engage in the business of selling motor fuel at retail for a period not exceeding 3 months.
- (3) Upon a 3rd or subsequent conviction of any license of any such violation, whether by himself or by his agent or servant, the Director of Finance may suspend such right for a period not exceeding 1 year.

(b) *Violations of §10-6.*

Any retail service station dealer who is convicted of a violation of any provision of § 10-6 of this subtitle is subject to a fine of not more than \$25.

(City Code, 1976/83, art. 14, §11.) (Ord. 76-066; Ord. 90-552.)

SUBTITLE 11
PAWNBROKERS

§ 11-1. Definitions.

(a) *Pawnbroker.*

“Pawnbroker” means a person, corporation, member, or members of a corporation or firm:

- (1) who loans money on deposits or pledge on personal property or other valuable thing, other than securities or printed evidences of indebtedness; or
- (2) who deals in the purchasing of personal property or other valuable things on condition of selling the same back at a stipulated price.

(b) *Transaction.*

“Transaction” means:

- (1) a loan of money by a dealer on deposit or pledge of personal property or other valuable thing, other than securities or printed evidences of indebtedness; or
- (2) a purchase by a dealer of personal property or other valuable thing with or without the condition of selling the same back at a stipulated price.

(*City Code, 1950, art. 19, §40; 1966, art. 15, §58; 1976/83, art. 15, §77.*) (*Ord. 41-409; Ord. 94-332.*)

§ 11-2. Licenses.

(a) *Maximum number.*

The 45 pawnbroker licenses issued as of May 18, 1994, shall be the maximum number of pawnbroker licenses that may be issued in the City of Baltimore.

(b) *Issuance.*

After May 18, 1994, the Director of Finance of Baltimore is hereby authorized to transfer licenses under the corporate seal, to such person, firm, or corporation as shall produce to him satisfactory evidence of his, her, their, or its good character, to exercise or carry on the house or business of pawnbrokers, which licenses shall designate the house in which such person, firm, or corporation shall respectively be licensed to carry on the said trade or business.

(c) *Fee.*

- (1) Each person, firm, or corporation receiving the said license shall pay therefor the sum of \$2,000 annually.
- (2) The annual license fee shall be collectible pursuant to Article 15, Subtitles 46 and 47 of the City Code.

(d) *Renewals.*

The license granted as aforesaid may be renewed on application to the Director of Finance each and every year on payment of the same sum.

(e) *Compliance with zoning and urban renewal laws.*

All transfers shall comply with the provisions of Zoning Code of the Baltimore City Code and with any applicable urban renewal ordinance.

(*City Code, 1879, art. 33, §29; 1893, art. 33, §36; 1927, art. 25, §30; 1950, art. 19, §39; 1966, art. 15, §57; 1976/83, art. 15, §76.*) (*Ord. 41-409; Ord. 70-857; Ord. 77-388; Ord. 90-513; Ord. 94-332.*)

§ 11-3. License required.(a) *In general.*

(1) No person shall use, exercise or carry on the trade or business of pawnbroker in this City, without having such license as aforesaid, nor in any other house than the one designated in said license, unless in case of removal.

(2) The Director of Finance shall endorse on said license the house to which the party shall have removed.

(b) *Advertising.*

It shall be unlawful for any person, firm, or corporation, who or which is not currently licensed under the provisions of this subtitle, to publish, advertise, exhibit, or display in any manner the word "pawnbroker" or to display or exhibit three gilt spheres or any other traditional emblem or insignia of a pawnbroker, on or adjacent to the building or buildings occupied by him or it.

(*City Code, 1893, art. 33, §37(1st, 2nd cls.); 1927, art. 25, §31(1st, 2nd cls.); 1950, art. 19, §41(1st, 2nd cls.); 1966, art. 15, §§59, 60(1st, 2nd cls.); 1976/83, art. 15, §§78, 79(1st, 2nd sens.).*) (*Ord. 1890-037; Ord. 20-526; Ord. 54-1145; Ord. 54-1273; Ord. 76-067; Ord. 94-332.*)

§ 11-4. Surety bonds.(a) *Bond required.*

Every person, firm, or corporation so licensed as aforesaid, shall, at the time of receiving such license, enter into an obligation to the Mayor and City Council of Baltimore with good and sufficient sureties to be approved by the Comptroller of the City of Baltimore in the penal sum of \$50,000, conditioned on the faithful observance of this subtitle, and such other ordinances as may be passed on this subject.

(b) *Penalty for noncompliance.*

Any pawnbroker who shall violate this section by failure to file such bond, or to obtain the license as aforesaid, though continuing to transact the business of a pawnbroker, shall be deemed guilty of a misdemeanor and shall be subject to the penalties imposed in § 11-19 of this article.

(*City Code, 1879, art. 33, §34; 1893, art. 33, §38; 1927, art. 25, §32; 1950, art. 19, §42; 1966, art. 15, §61; 1976/83, art. 15, §80.*) (*Ord. 41-409; Ord. 94-332.*)

§ 11-5. Transactions with minors prohibited.

A pawnbroker may not acquire any merchandise in a pawn transaction with a minor.
(*City Code, 1976/83, art. 15, §81(g).*) (*Ord. 94-332.*)

§ 11-6. Daily reports required.

(a) *In general.*

- (1) Each pawnbroker shall submit to the Police Commissioner a daily report of all articles taken on pledge.
- (2) The pawnbroker shall forward the daily report to the Police Department, as provided in § 11-7 of this subtitle.

(b) *Information required in report.*

The daily report shall include:

- (1) the date, place, and time of each transaction;
- (2) the name and address of principal, if the transaction is by an agent;
- (3) a description of the transacted item, including:
 - (i) the type of item;
 - (ii) its manufacturer, model number, year of manufacture if known, and/or soundex number or unique identifying number found on said property;
 - (iii) its color and size;
 - (iv) for jewelry, a description by weight if payment is based on weight, style, gender, number of stones, configuration of stones, any initials or distinguishing marks or inscriptions;
 - (v) a statement of whether it appears to have been altered by any means, including:
 - (A) obscuring a serial number or identifying feature;
 - (B) melting; or
 - (C) recutting a gem; and
 - (vi) the amount paid or other consideration;

(4) for each individual from whom a pawnbroker acquires a transacted item:

(i) the individual's name, date of birth, and license number from a clearly identifiable driver's license; or

(ii) identification information about the individual that:

(A) positively identifies the individual from at least 2 forms of identification, which may include an age of majority card, military identification, passport, or other similar photographic identification; and

(B) provides a physical description of the individual including sex, race, date of birth, any distinguishing features, and weight of individual;

(5) a statement indicating whether or not the person making the transaction is known to the dealer, i.e. has done business with the pawnshop on a previous occasion; and

(6) the signature of the person from whom the item is acquired and the signature of the pawnbroker or dealer who accepted the item.

(City Code, 1927, art. 25, §33(1st par.); 1950, art. 19, §43(1st par.); 1966, art. 15, §62(a); 1976/83, art. 15, §81(a), (b).) (Ord. 13-313; Ord. 20-495; Ord. 94-332; Ord. 08-073.)

§ 11-7. Filing with police.

(a) *How.*

A pawnbroker shall submit each daily report to the Police Department in the following formats:

(1) by electronic transmittal, in the format and manner required by the Police Commissioner; and

(2) if the electronic transmission is not submitted with an electronic signature acceptable to the Police Commissioner, in writing, on the forms supplied by the Police Commissioner.

(b) *When.*

(1) The electronic report shall be submitted before noon on the business day immediately following the day for which the report is made.

(2) The written report shall be submitted by:

(i) mailing the report at the end of the business day for which the report is made; or

(ii) hand delivery or facsimile transmission before noon on the business day immediately following the day for which the report is made.

(c) *Reports open to inspection.*

A daily report submitted under this subtitle shall be open to the inspection by those persons that, in the discretion of the Police Department, are regarded as having an interest in them. (*City Code, 1927, art. 25, §33(1st par.); 1950, art. 19, §43(1st par.); 1966, art. 15, §62(a); 1976/83, art. 15, §81(d).*) (*Ord. 13-313; Ord. 20-495; Ord. 94-332; Ord. 08-073.*)

§ 11-8. Holding requirements.

(a) *Required holding periods.*

Subject to Police Department procedures permitting or authorizing shorter holding periods, each pawnbroker shall hold:

- (1) reported transaction precious metal items on the premises for at least 18 days; and
- (2) all other reported transaction items on the premises for at least 10 days.

(b) *Additional holding period.*

(1) After the initial holding period required by subsection (a) of this section, a pawnbroker shall continue to hold a transaction item if:

- (i) a law enforcement officer requests that the pawnbroker hold the item;
- (ii) the law enforcement officer has reasonable cause to believe the item has been stolen; and
- (iii) the item has not been identified under § 11-9(a)(2) of this subtitle.

(2) If a transaction item is placed on additional police hold under this subsection, the pawnbroker shall:

- (i) continue to hold the item until:
 - (A) the police seize it;
 - (B) the Police Department releases the police hold or directs the item to be released to its owner; or
 - (C) 1 year after the additional police hold was imposed; and

(ii) if requested to do so, submit to the Police Department a photograph of the item, either by electronic transmittal or by mail or hand delivery, by the same deadline as required by § 11-7 of this subtitle for a daily report.

(*City Code, 1976/83, art. 15, §81(c)(1)(2nd sen.), (f)(2).*) (*Ord. 94-332; Ord. 08-073.*)

§ 11-9. Release of stolen property.*(a) In general.*

A pawnbroker shall release to the Police Department any item in the pawnbroker's possession if:

- (1) the item is established to be stolen;
- (2) the owner of the item or the victim of the theft has:
 - (i) positively identified the item; and
 - (ii) provided an affidavit of ownership or previously made a report of the theft to a law enforcement agency;
- (3) the stolen property report describes the item by:
 - (i) date;
 - (ii) initials;
 - (iii) an insurance record;
 - (iv) a photograph;
 - (v) a sales receipt;
 - (vi) a serial number;
 - (vii) specific damage;
 - (viii) a statement of facts that show the item is one of a kind; or
 - (ix) a unique engraving; and
- (4) the pawnbroker is given a receipt for the item released.

(b) Return to owner.

When the primary law enforcement agency no longer needs a transacted item for evidence it may be released to the owner after adjudication.

(c) Reimbursement not prerequisite to release.

A pawnbroker who is required to release an item under this section is not entitled to reimbursement for any pledge or purchase price from:

- (1) the primary law enforcement agency;

(2) the owner of the item; or

(3) the victim of the theft.

(City Code, 1976/83, art. 15, §81(f)(1), (3), (4).) (Ord. 94-332; Ord. 08-073.)

§ 11-10. Labels.

All items in a pawnshop shall be clearly marked or labeled to correlate with:

(1) the transaction sheet or receipt of purchase; or

(2) the invoice if the item is in for repair.

(City Code, 1976/83, art. 15, §81(c)(2).) (Ord. 94-332.)

§ 11-11. Retention of records.

All reported transaction sheets shall be kept on the premises for 3 years from the date of the transaction.

(City Code, 1976/83, art. 15, §81(c)(1)(1st sen.)) (Ord. 94-332.)

§ 11-12. Inspection of records and items.

(a) *Dealer to allow inspection.*

A pawnbroker shall allow an authorized law enforcement officer on request to enter the place of business or storage premises of the dealer during business hours to inspect a record of transactions and/or items as part of an investigation of stolen property.

(b) *Dealer's presence required.*

On request of the pawnbroker, the officer shall make the inspection in the presence of a dealer.

(c) *Search warrant.*

If the pawnbroker refuses to allow access or produce the record or item for inspection, the officer shall seek a search warrant.

(City Code, 1976/83, art. 15, §81(e).) (Ord. 94-332.)

§ 11-13. Authorized transactions.

Each and every pawnbroker licensed as aforesaid:

(1) shall be capable:

(i) of receiving from any person or persons (except a minor or apprentice, knowing or having reason to believe him to be such), bodies corporate, or politic, any deposit or merchandise of every description, as collateral security for such amounts thereon to be advanced by them, as they may deem proper and judicious;

(ii) to hold and retain the same during such time as may be agreed on between the party or parties depositing the same and the said pawnbrokers; and

(iii) to charge for such advances, interest at the established legal rate, and an additional charge as hereinafter specified, appropriate to the nature of the deposit, and the proper storage, removal and care of the same; and

(2) shall give to the party or parties so depositing, a certificate specifying:

(i) the sum advanced;

(ii) the date of deposit;

(iii) the article or articles deposited;

(iv) the amount of charge;

(v) the time for which such deposits shall be kept; and

(vi) the name of the depositor, and his, her, or their place of business, and if none, of abode.

(City Code, 1879, art. 33, §32; 1893, art. 33, §39; 1927, art. 25, §34; 1950, art. 19, §44; 1966, art. 15, §63; 1976/83, art. 15, §82.) (Ord. 1867-074.)

§ 11-14. Redemption; sale.

(a) *In general.*

The article so deposited

(1) may and, if so agreed, shall be held by said pawnbroker 6 months, to be computed from the date of certificate as aforesaid; and

(2) if not then redeemed, or by contract the certificate thereof be renewed, it shall and may be lawful for the said pawnbroker then to proceed to have such deposit sold, on first giving 10 days' notice in a newspaper published in said City, of the time, place, and mode of sale for cash and at public sale, which shall be effected by an agent by said pawnbroker to be designated.

(b) *Pawnbroker may bid.*

At the sale, it shall and may be lawful for the pawnbroker, when by him deemed essential for self-protection, to be a competitor.

(c) *Accounting.*

Upon such sale being made, an account thereof, sworn to by the agent effecting the same as in all respects fair and bona fide shall be rendered to and kept by said pawnbroker, and a copy thereof shall be delivered on reasonable demand to the depositor of the matter so sold.

(d) *Allocation of proceeds.*

The proceeds of the sale shall be applied:

- (1) first, to the payment of all expenses usual and incident to such sale, inclusive of any tax that thereon may be chargeable legally;
- (2) secondly, to the legal interest and charges hereby authorized on advance and deposit as aforesaid and as herein specified;
- (3) thirdly, to reimbursing to the pawnbroker the principal advanced, any deficiency wherein shall be a valid claim against such depositor; and
- (4) any surplus shall be payable and paid to said depositor, or the party thereto legally entitled, if demanded at any time within 12 months from the day of such sale.

(City Code, 1879, art. 33, §33; 1893, art. 33, §40; 1927, art. 25, §35; 1950, art. 19, §45; 1966, art. 15, §64; 1976/83, art. 15, §83.) (Ord. 1867-074.)

§ 11-15. Interest and charges; records.

(a) *Interest.*

It shall be lawful for the said pawnbroker, in view and by reason of the necessity of extensive storage, labor incident thereto, portorage, insurance, and other expenses inseparable from the nature of the business hereby authorized, as affording a desirable and advantageous facility to the commercial and other classes of society, to charge therefor in addition to interest, at a reasonable rate, in no case to exceed 2½% each month or fraction thereof, to be computed on the principal advanced as aforesaid.

(b) *Minimum charge.*

For any month or fraction thereof in which the total amount of legal interest and additional charges of any loan are less than the minimum rates as hereafter set forth, it shall be lawful to charge, in lieu of such interest and additional charges, a minimum rate of:

- (1) \$0.25 on loans less than \$4;
- (2) \$0.50 on loans of \$4 or more but less than \$8;
- (3) \$0.75 on loans of \$8 or more but less than \$12; and
- (4) \$1 on loans of \$12 or more.

(c) *Records.*

- (1) Every pawnbroker shall cause to be kept in suitable books therefor, to be provided by said pawnbroker an accurate account of each transaction authorized by this subtitle.

- (2) All the business and affairs of said pawnbroker shall be subject at all times to inspection of such agent or officer of Baltimore City or of such committee as for that purpose may be designated by the Mayor and City Council of Baltimore.

(City Code, 1879, art. 33, §34; 1893, art. 33, §41; 1927, art. 25, §36; 1950, art. 19, §46; 1966, art. 15, §65; 1976/83, art. 15, §84.) (Ord. 1867-074; Ord. 59-1909.)

§ 11-16. Operational restrictions.

- (a) *Sale of liquor prohibited.*

No license as a pawnbroker shall be granted to any person who has an ordinary license, or license for the retailing of spirituous liquors.

- (b) *Hours.*

- (1) No house wherein said trade or business is carried on shall be opened at an earlier hour than 8 a.m., nor shall it be kept open later 6:30 p.m., except between December 15 and December 31, inclusive, when it may be kept open until 11 p.m.

- (2) No business shall be conducted on a Sunday by a pawnbroker in Baltimore City.

(City Code, 1879, art. 33, §37(intro)); 1893, art. 33, §§37(4th cl.), 44(1st sen.); 1927, art. 25, §§31(4th sen.), 39(1st sen.); 1950, art. 19, §§41(4th sen.), 49(1st sen.); 1966, art. 15, §§60(3rd sen.), 67(1st sen.); 1976/83, art. 15, §§79(3rd, 4th sens.), 86(a).) (Ord. 1890-037; Ord. 20-526; Ord. 54-1273; Ord. 94-332.)

§ 11-17. Suspension or revocation of license.

- (a) *Grounds.*

The license of any pawnbroker who has violated 2 or more provisions of this subtitle within a 12-month period may be suspended or revoked by the Director of Finance if there appears to him sufficient cause for so doing.

- (b) *Review Board.*

- (1) The Mayor shall appoint a review board of 3 members to recommend an appropriate course of action.

- (2) The members of the review board shall be appointed and confirmed in accordance with the provisions of Article IV, § 6 of the Baltimore City Charter.

- (3) 1 member of the review board shall be chosen from the Baltimore City Police Department, another from the State's Attorney's Office, and the third shall be from among the officers of the Pawnbroker's Association of Baltimore City.

(City Code, 1976/83, art. 15, §86(b).) (Ord. 94-332.)

§ 11-18. Action for default.

If any person or persons shall sustain any injury or damage from any act or default of a pawnbroker, contrary to the tenor of his obligation as aforesaid, such person or persons may institute an action in

any court having jurisdiction, for his, her, or their use or benefit, in the name of the Mayor and City Council of Baltimore, upon the obligation given as aforesaid, in which action he, she, or they shall recover judgment for the amount of the damages sustained.

(City Code, 1879, art. 33, §35; 1893, art. 33, §42; 1927, art. 25, §37; 1950, art. 19, §47; 1966, art. 15, §66; 1976/83, art. 15, §85.) (Rev. Ords. 1858-038.)

§ 11-19. Penalties.

Any person, firm, corporation, or other legal entity violating any provision of this subtitle shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than \$500 and not more than \$1,000 or to imprisonment for not longer than 6 months, or to both fine and imprisonment, in the discretion of the court.

(City Code, 1879, art. 33, §38; 1893, art. 33, §45; 1927, art. 25, §40; 1950, art. 19, §50; 1966, art. 15, §68; 1976/83, art. 15, §87.) (Rev. Ords. 1858-038; Ord. 41-409; Ord. 94-332.)

SUBTITLE 12
SECOND-HAND PROPERTY, ANTIQUES,
AND CONSIGNMENT GOODS

§ 12-1. Definitions.

(a) *In general.*

In this subtitle, the following words have the meanings indicated.

(b) *Antique dealer.*

“Antique dealer” means any person engaged in the business of buying for resale, trade, or transfer personal property that has special value because of its age, including but not limited to paintings, clothing, furniture, glass, ceramics, rugs, silverware, carvings, sculpture, and other moveable personal property, excluding motor vehicles, records, tapes, compact discs, and books.

(c) *Consignment goods dealer.*

(1) “Consignment goods dealer” means any person receiving consignment goods for the purpose of selling them.

(2) “Consignment goods” includes all categories of moveable personal property enumerated in subsections (b) and (f) of this section.

(d) *Dealer.*

“Dealer” means any:

- (1) second-hand personal property dealer;
- (2) antique dealer; or
- (3) consignment goods dealer.

(e) *Person.*

“Person” means any individual, corporation, partnership, joint venture, sole proprietorship, or any other business entity.

(f) *Second-hand personal property dealer.*

“Second-hand personal property dealer” means any person engaged in the business of buying for resale, trade, or transfer used or previously owned property or merchandise, including, but not limited to, clothes, furniture, household items, and other moveable personal property, excluding motor vehicles, records, tapes, compact discs, and books.

(g) *Transfer.*

“Transfer” means to purchase, sell, trade, consign, or otherwise exchange personal property or merchandise for consideration.

(*City Code, 1976/83, art. 19, §48A.*) (*Ord. 90-641; Ord. 97-206.*)

§ 12-2. Exemptions from subtitle.

(a) *Pawnbrokers; scrap metal dealers.*

This subtitle does not apply to:

- (1) any person licensed as a pawnbroker under Subtitle 11 of this article; or
- (2) any person licensed as a scrap metal dealer under Subtitle 8 of this article.

(b) *Certain tax-exempt entities.*

This subtitle does not apply to any dealer that is exempt from taxation under § 501(c)(3) or § 501(c)(4) of the Internal Revenue Code.

(*City Code, 1976/83, art. 19, §48J(a), (b).*) (*Ord. 90-641; Ord. 97-206; Ord. 01-243; Ord. 10-389.*)

§ 12-3. License required.

(a) *In general.*

Except as provided in § 12-4 of this subtitle, each person conducting business as a second-hand personal property dealer, antique dealer, or consignment goods dealer within the City of Baltimore shall pay for the privilege of conducting that business by first taking out an annual license and paying an annual license fee in the amount of \$50 for each place of business.

(b) *Director of Finance to issue.*

The license shall be issued by the Director of Finance.

(c) *Fee collection.*

The annual license fee shall be collectible pursuant to Article 15, Subtitles 46 and 47 of this Code.

(*City Code, 1976/83, art. 19, §48I(a).*) (*Ord. 90-641; Ord. 97-206.*)

§ 12-4. Master license for cooperatives.

(a) *“Cooperative” defined.*

In this section, “cooperative” means:

- (1) a facility that is owned and operated for the benefit of, and that provides space, clerical services, or other support services at a single location for, 2 or more dealers; or

(2) any group of contiguous stores or outlets that are owned and operated as a single establishment.

(b) *Master license authorized.*

Subject to the rules and regulations of the Police Commissioner, including provision for identifying member dealers as they change from time to time, the owner or operator of a cooperative may obtain 1 master license to cover all member dealers in the cooperative.

(c) *Scope of master license.*

(1) This master license fulfills the license requirements for all dealers who have been identified to the Police Commissioner as members of the cooperative.

(2) Member dealers remain individually responsible, however, for all reporting, identification, record keeping, retention, and other requirements of this subtitle.

(3) The owner or operator who obtains the master license is not personally liable for any act or omission of a member dealer to which the owner or operator was not a party.

(City Code, 1976/83, art. 19, §48I(b).) (Ord. 97-206.)

§ 12-5. Transactions with minors prohibited.

A dealer may not acquire any item in a transaction with a minor.

(City Code, 1976/83, art. 19, §48G.) (Ord. 97-206.)

§ 12-6. Transferor to provide true name, etc.

An individual who transfers or otherwise disposes of an item to a dealer or to the agent or employee of a dealer may not fail or refuse to give:

(1) the individual's true name, age, and address; and

(2) if the individual is acting as an agent for a principal, the principal's true name, age, and address.

(City Code, 1976/83, art. 19, §48H.) (Ord. 97-206.)

§ 12-7. Daily reports required.

(a) *In general.*

(1) Each dealer shall submit to the Police Commissioner a daily report of each transaction in which a person transfers items to the dealer on that day.

(2) The dealer shall forward the daily report to the Police Department, as provided in § 12-8 of this subtitle.

(b) *Scope of reports.*

Except as provided in this subtitle, the daily report shall contain the information specified in subsection (c) of this section for:

- (1) each item transferred; or
- (2) each group of substantially similar items transferred as part of 1 transaction.

(c) *Information required.*

The daily report shall include:

- (1) the date, place, and time of each transaction, including the location where the dealer purchased or received the item or group of items;
- (2) a description of the item or group of items, including:
 - (i) the specific type and number of items;
 - (ii) the manufacturer, model number, and year of manufacture, if known, and any soundex number or unique identifying number found on the item;
 - (iii) the color, size, style, and approximate age;
 - (iv) for jewelry (other than costume jewelry meeting standards set by the Police Commissioner), a description by weight (if payment is based on weight), style, gender, number and configuration of stones, and any initials or distinguishing marks or inscriptions;
 - (v) a statement of whether or not the item appears to have been altered by any means, including:
 - (A) obscuring a serial number or identifying feature;
 - (B) melting; or
 - (C) recutting a gem; and
 - (vi) the amount paid or other consideration;
- (3) for each individual from whom the dealer acquires an item:
 - (i) the individual's name, date of birth, and license number from a clearly identifiable driver's license;
 - (ii) identification information about the individual that:

- (A) positively identifies the individual from at least 2 forms of identification, which may include an age of majority card, military identification, passport, or other similar photographic identification; and
 - (B) provides a physical description of the individual, including the sex, race, date of birth, any distinguishing features, and weight of the individual; or
- (iii) a statement by the dealer that:
- (A) the dealer has known the transferor of the item for 10 years or longer and knows that the transferor has lived at his/her current residence for not less than 3 years;
 - (B) that the specific information required by subitems (i) or (ii) of this item (3) is retained in the dealer's records; and
 - (C) that a record of the transaction signed by the individual from whom the item is acquired is retained in the dealer's records;
- (4) if the individual from whom the dealer acquires the item is acting as an agent for a principal, the same information for the principal as that which is required by item (3) of this subsection to be given for the agent;
- (5) a statement indicating whether or not the person making the transfer is personally known to the dealer; and
- (6) the signature of the dealer who accepted the item and, except for a transaction reported under item (3)(iii) of this subsection, the signature of the individual from whom the item is acquired.

(City Code, 1976/83, art. 19, §48B(a) - (c).) (Ord. 97-206; Ord. 08-073.)

§ 12-8. Filing with police.

(a) *How.*

A dealer shall submit each daily report to the Police Department in the following formats:

- (1) by electronic transmittal, in the format and manner required by the Police Commissioner; and
- (2) if the electronic transmission is not submitted with an electronic signature acceptable to the Police Commissioner, in writing, on the forms supplied by the Police Commissioner.

(b) *When.*

- (1) The electronic report shall be submitted before noon on the business day immediately following the day for which the report is made.

(2) The written report shall be submitted by:

- (i) mailing the report at the end of the business day for which the report is made; or
- (ii) hand delivery or facsimile transmission before noon on the business day immediately following the day for which the report is made.

(c) *Reports confidential.*

A daily report submitted under this subtitle is confidential, as provided in § 12-304(c) of the Business Regulation Article of the Maryland Code.

(*City Code, 1976/83, art. 19, §48C.*) (*Ord. 97-206; Ord. 08-073.*)

§ 12-9. Holding requirements.

(a) *Required holding periods.*

Except as authorized under subsection (b) of this section, each dealer shall hold at the dealer's place of business all acquired items, as follows:

- (1) a precious metal object, as defined in § 12-101 of the Business Regulation Article of the Maryland Code, shall be held for at least 18 days after the report of its acquisition is made in accordance with this subtitle; and
- (2) every other item shall be held for at least 10 days after the report of its acquisition is made in accordance with this subtitle.

(b) *Waivers.*

- (1) The Police Commissioner shall adopt reasonable procedures for granting waivers or permitting shorter holding periods, on an ad hoc or long-term basis, in cases of dealer hardship, subject to such record-keeping or other reasonable requirements as may be necessary to preserve the integrity of the reporting and holding requirements of this subtitle.
- (2) These procedures shall include:
 - (i) provisions for waiving the holding period for items purchased directly from, and previously held for the required period by, another dealer, pawnbroker, or scrap metal dealer; and
 - (ii) a mechanism for assuring prompt decisions on requests for waivers.

(c) *Additional holding period.*

- (1) After the initial holding period required by subsection (a) of this section, a dealer shall continue to hold an item if:
 - (i) a law enforcement officer requests that the dealer hold the item;

(ii) the law enforcement officer has reasonable cause to believe the item has been stolen;
and

(iii) the item has not been identified under § 12-10(a)(2) of this subtitle.

(2) If an item is placed on additional police hold under this subsection, the dealer shall:

(i) continue to hold the item until:

(A) the police seize it;

(B) the Police Department releases the police hold or directs the item to be released to its owner; or

(C) 1 year after the additional police hold was imposed; and

(ii) if requested to do so, submit to the Police Department a photograph of the item, either by electronic transmittal or by mail or hand delivery, by the same deadline as required by § 12-8 of this subtitle for a daily report.

(City Code, 1976/83, art. 19, §§48D(b), 48F(b).) (Ord. 97-206; Ord. 01-243; Ord. 08-073; Ord. 10-389.)

§ 12-10. Release of stolen property.

(a) *In general.*

A dealer shall release to the Police Department any item in the dealer's possession if:

(1) the item is established to be stolen;

(2) the owner of the item or the victim of the theft has:

(i) positively identified the item; and

(ii) provided an affidavit of ownership or previously made a report of the theft to a law enforcement agency;

(3) the stolen property report describes the item by:

(i) date;

(ii) initials;

(iii) an insurance record;

(iv) a photograph;

(v) a sales receipt;

(vi) a serial number;

- (vii) specific damage;
- (viii) a statement of facts that show the item is one of a kind; or
- (ix) a unique engraving; and

(4) the dealer is given a receipt for the item released.

(b) *Return to owner.*

When the police no longer need an item for evidence, it shall be returned to the owner.

(c) *Reimbursement not prerequisite to release.*

A dealer who is required to release an item under this section is not entitled to demand, or to condition the release on, any reimbursement from:

- (1) the Police Department;
- (2) the owner of the item; or
- (3) the victim of the theft.

(City Code, 1976/83, art. 19, §48F(a), (c), (d).) (Ord. 97-206; Ord. 09-217.)

§ 12-11. Labels.

All items in the dealer's place of business shall be clearly marked or labeled to correlate with:

- (1) the dealer's record of the transaction; and
- (2) the purchase receipt or, if the item is in for consignment or repair, the invoice.

(City Code, 1976/83, art. 19, §48D(c).)

§ 12-12. Retention of records.

For at least 3 years after the date of a transfer, the dealer shall hold all records of the transaction:

- (1) at the dealer's place of business; or
- (2) if otherwise specifically required by the dealer's property insurer, at some other suitable location designated by the dealer and from which the dealer can produce the records as and when needed by the Police Department.

(City Code, 1976/83, art. 19, §48D(a).) (Ord. 97-206.)

§ 12-13. Inspection of records and items.

(a) *Dealer to allow inspection.*

A dealer shall allow a law enforcement officer, acting in the line of duty, to:

(1) enter the dealer's place of business or storage premises during business hours; and

(2) inspect any record of transactions subject to this subtitle and any items on the premises.

(b) *Dealer's presence required.*

On request of the dealer, the officer shall make the inspection in the presence of the dealer.

(c) *Search warrant.*

If the dealer refuses to allow access or refuses to produce a record or item for inspection, the officer shall seek a search warrant.

(City Code, 1976/83, art. 19, §48E.) (Ord. 97-206.)

§ 12-14. Exemptions from reporting and holding requirements.

(a) *Consignment goods.*

Consignment goods are not subject to the daily reporting requirements of § 12-7 of this subtitle or to the item retention requirements of § 12-9 of this subtitle, as long as the dealer:

(1) keeps a record, subject to inspection under § 12-13 of this subtitle, of all the information required by § 12-7 of this subtitle; and

(2) complies with all other requirements of this subtitle.

(b) *Purchases from certain regulated sources.*

(1) This subsection applies to items acquired by a dealer:

(i) from another licensed dealer;

(ii) from a person licensed as a pawnbroker;

(iii) from a person licensed as a scrap metal dealer;

(iv) at a public auction conducted by a licensed auctioneer;

(v) from the personal representative of a decedent; or

(vi) at a public sale commonly known as a lawn sale, garage sale, or flea market.

(2) Items acquired under paragraph (1) of this subsection are not subject to the daily reporting requirements of § 12-7 of this subtitle or to the item retention requirements of § 12-9 of this subtitle, as long as the acquiring dealer:

(i) keeps a record, subject to inspection under § 12-13 of this subtitle, of the information required by § 12-7 of this subtitle; and

(ii) complies with all other requirements of this subtitle.

(c) *Flea market dealers.*

Second-hand personal property acquired by a dealer for resale, trade, or transfer exclusively at a flea market is not subject to the daily reporting requirements of § 12-7 of this subtitle or to the item retention requirements of § 12-9 of this subtitle, as long as:

- (1) all of the dealer's resale, trade, or transfer business is conducted exclusively at the flea market;
- (2) the flea market is open for business no more than 2 days a week;
- (3) either:
 - (i) the dealer is licensed under this subtitle; or
 - (ii) the flea market has obtained a master license as a cooperative and the dealer is identified as a member of that cooperative; and
- (4) the dealer keeps a record, subject to inspection under § 12-13 of this subtitle, of all the information required by § 12-7 of this subtitle.

(City Code, 1976/83, art. 19, §§48B(d), 48J(c), (d).) (Ord. 97-206; Ord. 01-243; Ord. 10-389.)

§ 12-15. Rules and regulations.

The Police Commissioner may adopt rules and regulations to implement this subtitle and shall make these rules and regulations available to dealers and the general public.

(City Code, 1976/83, art. 19, §48K.) (Ord. 90-641; Ord. 97-206.)

§ 12-16. Penalties.

(a) *In general.*

Any person who violates any provision of this subtitle or of a published rule or regulation adopted under this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not less than \$500 nor more than \$1,000 or to imprisonment for 6 months or to both fine and imprisonment in the discretion of the Court.

(b) *Forfeit of noncomplying item.*

In addition, a person convicted of violating this subtitle may be required to forfeit any item found not in compliance with this subtitle.

(City Code, 1976/83, art. 19, §48L.) (Ord. 90-641; Ord. 97-206.)

**SUBTITLE 12A
AUTOMATED PURCHASING MACHINES**

Part 1. Definitions

§ 12A-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Automated purchasing machine; APM.*

“Automated purchasing machine” or “APM” (also known as a “reverse vending machine”) means a self-service automated device that, without the physical presence of a human agent, is capable of taking possession of and dispensing payment for any 1 or more types of personal property.

(c) *Person.*

(1) “Person” means:

(i) an individual; or

(ii) a partnership, firm, association, corporation, or other entity of any kind.

(2) “Person” does not include a governmental entity or an instrumentality or unit of a governmental entity.

(Ord. 13-166.)

§§ 12A-2 to 12A-4 {Reserved}

Part 2. Prohibited Use; Exceptions

§ 12A-5. General prohibition.

Except as otherwise expressly provided in this subtitle, no person may purchase or offer to purchase any personal property by means of an automated purchasing machine.

(Ord. 13-166.)

§ 12A-6. Exception for recycling materials.

(a) *In general.*

This subtitle does not prohibit the use of an automated purchasing machine exclusively for collecting recyclable materials pursuant to a recycling program approved jointly by the Police Commissioner and the Commission on Sustainability.

(b) *Rules and Regulations.*

(1) The Police Commissioner and the Commission on Sustainability may jointly adopt rules, regulations, and standards governing the recyclable materials and recycling programs that may be approved for purposes of this exception.

(2) A copy of all rules, regulations, and standards adopted under this section must be filed with the Department of Legislative Reference before they take effect.

(Ord. 13-166.)

§§ 12A-7 to 12A-9. {Reserved}

Part 3. Seizure and Forfeiture

§ 12A-10. In general.

An automated purchasing machine (“APM”) is subject to seizure and forfeiture if it is used in violation of this subtitle.

(Ord. 13-166.)

§ 12A-11. Seizure by police.

(a) *When warrant not needed.*

A police officer need not have a warrant to seize an APM if:

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

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

(b) *Removal of APM.*

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

(c) *APM not repleviable.*

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

(Ord. 13-166.)

§ 12A-12. Referral to Solicitor.

(a) *Police to refer case.*

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

(b) *Solicitor's review.*

- (1) On receiving the report, the Solicitor shall conduct an independent review of the facts and circumstances surrounding the seizure.
- (2) If the Solicitor finds sufficient evidence that the APM was used in violation of this subtitle, the Solicitor shall notify the APM's owner, by registered or certified mail, of the seizure and of the City's intent to institute forfeiture proceedings.
- (3) If, on the other hand, the Solicitor finds that there is insufficient evidence to prove violation, the Solicitor shall surrender the APM to the owner on the owner's request.

*(Ord. 13-166.)***§ 12A-13. Forfeiture petition; notice.**(a) *Filing; copies to parties in interest.*

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

- (1) file a forfeiture petition in a court of competent jurisdiction, in the name of the City against the APM, as designated by the APM's type, manufacturer, model number or name, color, size, and serial number; and
- (2) at the same time, send copies of the petition by registered or certified mail to the APM's owner and any known secured party.

(b) *Contents.*

The petition for forfeiture shall contain:

- (1) the name of the APM's owner;
- (2) the name of any secured party whose interest appears among the records maintained by the Clerk of the Circuit Court for Baltimore City;
- (3) a statement of the facts and circumstances surrounding the seizure of the APM;
- (4) a statement of the specific grounds for forfeiture; and
- (5) a request that the APM be forfeited to the City.

(c) *Publication of notice.*

- (1) Within 7 days of the petition's filing, the Solicitor shall publish notice of the seizure and forfeiture proceeding in 1 or more newspapers of general circulation in the City.
- (2) The notice shall:

- (i) state the substance and object of the forfeiture petition; and
- (ii) state that any person claiming an interest in the seized APM must file a defense to the petition within 15 days of the date of the notice.

(Ord. 13-166.)

§ 12A-14. Answer to petition.

(a) *When to be made.*

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

(b) *How to be made.*

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

(2) The answer must:

- (i) comply with the Maryland Rules of Procedure as to form and contents;
- (ii) be divided into numbered paragraphs, each containing a separate and distinctive averment; and
- (iii) respond to each material allegation contained in the petition, specifically admitting, denying, or explaining the facts alleged, unless the respondent is without knowledge or an admission or explanation would tend to incriminate the respondent, in either of which events the respondent must so state and that statement will operate as a denial.

(c) *Effect.*

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

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

(Ord. 13-166.)

§ 12A-15. Order of forfeiture.

(a) *In general.*

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

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

(b) *Disposition of APM subject to security interest.*

(1) The secured party:

- (i) shall sell the APM in a commercially reasonable manner; and
- (ii) may not sell the APM to the owner or other person from whom it was seized.

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

- (i) to the court costs of the forfeiture proceedings;
- (ii) to the balance due to the secured party, including all reasonable costs incident to the sale;
- (iii) to payment of all other expenses of the proceedings for forfeiture, including expenses of seizure, maintenance, or custody; and
- (iv) to the general funds of the City.

(Ord. 13-166.)

§ 12A-16. Order of release.

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

(Ord. 13-166.)

§§ 12A-17 to 12A-19 {Reserved}

Part 4. Penalties

§ 12A-20. Penalties.

(a) *In general.*

A person who violates any provision of this subtitle is guilty of a misdemeanor and, on conviction, subject to a fine of not more than \$500 or imprisonment for not more than 6 months or both fine and imprisonment for each offense.

(b) *Each transaction a separate offense.*

Each transaction in violation of this subtitle is a separate offense.

(Ord. 13-166.)

SUBTITLE 13
REAL ESTATE PRACTICES – BROKERS, ETC.

§ 13-1. Definitions.

(a) *In general.*

This subtitle shall apply to real estate brokers, real estate salesmen, and real estate dealers as herein defined.

(b) *Real estate.*

“Real estate” shall include leaseholds and all other interests in real property.

(c) *Real estate broker.*

“Real estate broker” shall mean any person, association, copartnership, or corporation, foreign or domestic, who:

- (1) for another and for a fee, commission, or any other valuable consideration, sells, purchases, exchanges, leases, rents, or collects rent, for the use of real estate;
- (2) attempts or who offers by verbal solicitation, advertisement, or otherwise to perform any such function; or
- (3) is engaged in the business of subdividing and selling land in building lots or sites.

(d) *Real estate dealer.*

“Real estate dealer” shall mean one who is regularly engaged in the business of dealing and trading in real estate or leases and options thereof.

(e) *Real estate salesman.*

“Real estate salesman” shall mean any person who performs on behalf of any real estate broker, any act or acts authorized by the Maryland Real Estate Brokers Act to be performed by a real estate broker.

(City Code, 1966, art. 19, §114(a)(1); 1976/83, art. 19, §132(a)(1).) (Ord. 60-431.)

§ 13-2. Scope of subtitle – Inclusions.

Any person, partnership, association, or corporation who, for another in consideration of compensation by fee, commission, salary, or otherwise or with the intention or in the expectation or upon the promise of receiving or collecting a fee, does, offers, or attempts or agrees to do, engages in or offers or attempts or agrees to engage in, either directly or indirectly, any single act or transaction contained in the definition of “real estate broker” or “real estate salesman” in this subtitle, whether said act be an incidental part of a transaction or the entire transaction, shall be deemed a real estate broker or real estate salesman within the meaning of this subtitle.

(City Code, 1966, art. 19, §114(a)(2); 1976/83, art. 19, §132(a)(2).) (Ord. 60-431.)

§ 13-3. Scope of subtitle – Exclusions.

Notwithstanding the foregoing definitions, the terms “real estate broker” and “real estate salesman” shall not include:

- (1) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment of or order of any court;
- (2) public officers while performing their official duties as such;
- (3) any bank, trust company, or mortgage loan institution organized under the laws of this State or the United States with respect to the management or sale of any property acquired through or in connection with mortgage foreclosures;
- (4) investment homebuilders with respect to the sale or rental of housing constructed by them;
- (5) attorneys-at-law who are not regularly engaged in the real estate business and who do not hold themselves out by sign, advertisement, or otherwise as offering to the general public the services authorized to be performed by real estate brokers and pursuant to the Maryland Real Estate Brokers Act;
- (6) any person holding in good faith a duly executed power of attorney from the actual owner authorizing the sale and conveyance or leasing of any real estate where only 1 such transaction is involved; or
- (7) any duly licensed auctioneer with respect to sale of real estate at public auction.
(*City Code, 1966, art. 19, §114(a)(3); 1976/83, art. 19, §132(a)(3).*) (*Ord. 60-431.*)

§ 13-4. Prohibited conduct – Brokers and salespersons.

(a) *In general.*

No real estate broker or salesman shall, or shall attempt to:

- (1) use any contract form for the listing of property for sale, rent, or exchange or any contract form for the sale, rent, or exchange of property or advertising matter which includes the name of any association or organization of which the broker or salesman is not a member;
- (2) retain the services of any person as a salesman on a purely temporary or single transaction basis as a means of evading the law regarding the payment of commissions to non-licensed persons on some contemplated transaction;
- (3) act for more than 1 party in a transaction without the prior knowledge and consent of all parties for whom he acts;
- (4) refuse or fail within 30 days after demand to account for or to remit any monies coming into his possession which belong to others;

- (5) refuse or fail to promptly furnish a duplicate copy of all listing contracts to sell or rent property or of any lease or contract or sale when prepared by a real estate broker to all parties to any such contracts or leases;
 - (6) fail to retain a copy of such contracts;
 - (7) fail to disclose to any person with whom the broker or salesman is dealing any material fact or information within the knowledge of the broker or salesman concerning or relating to the property with which the broker or salesman is dealing;
 - (8) make any untrue or misleading statement in any attempt to obtain a listing of real property for sale:
 - (i) knowing such statement to be false or misleading; or
 - (ii) knowing that the broker or salesman making the statement has insufficient knowledge of its truth or falsity to warrant making the statement;
 - (9) accept a listing contract to sell property unless such contract provides for a definite termination date without notice from either party;
 - (10) accept any listing contract which provides for a net return to the vendor leaving the broker or salesman free to sell property and retain any excess over the price named by the vendor;
 - (11) pay or receive any rebate, compensation, or commission from any person whatever, except the seller of the real estate, without the prior knowledge and consent of all parties to the transaction;
 - (12) disregard or violate any of the provisions of the Maryland Real Estate Brokers Act; or
 - (13) have any interest, directly or indirectly, in the purchase of any residential real estate which he or his organization has listed for sale, where such purchase is made during or within 6 months after the termination of such listing.
- (b) *Exceptions to prohibited interest in purchase.*
- (1) Provided, however, that subsection (a)(13) shall not apply in cases in which a broker enters into a listing contract and a simultaneous “trade-in” agreement, whereby the broker or any company, partnership, or corporation in which the broker has any interest, either directly or indirectly, offers a guaranteed price for the listed property within a certain period in order for the seller to purchase another residence, either new or existing housing.
 - (2) Provided, further, that subsection (a)(13) shall not apply in cases in which:
 - (i) the broker or salesman discloses to the seller, in writing, at the time an offer or contract of sale is presented, any interest, direct or indirect, that the broker or salesman has in such offer to purchase the residential real estate which the broker or salesman or his organization has listed for sale; and

(ii) the terms of the offer or contract of sale permit the seller to withdraw from same if:

- (A) the appraised value of the property, as determined within 21 days of the offer or contract of sale by an appraiser who is a member of an appraisal organization affiliated with the Appraisal Foundation or is certified by the Maryland Commission of Real Estate Appraisers as a residential real estate appraiser, is higher than the purchase price as contained in the offer or contract of sale; and
- (B) the broker or salesperson declines to amend the purchase price in the offer or contract of sale to equal said appraised value.

(3) Nothing in this subsection shall prevent a seller from waiving the rights provided for in this subsection in a contract of sale.

(c) *Clarification.*

Nothing in this section shall be construed to authorize any such broker or salesman personally to prepare any such legal paper in his practice.

(*City Code, 1966, art. 19, §114(b); 1976/83, art. 19, §132(b).*) (*Ord. 60-431; Ord. 90-591.*)

§ 13-5. Prohibited conduct – Brokers, salespersons, and dealers.

In transactions involving residential real or leasehold properties, no real estate broker, salesman, or dealer shall or shall attempt to:

- (1) pursue a continued flagrant course of misrepresentation or make any false promises directly or through agents, salesmen, advertising, or otherwise;
- (2) make any misleading or untrue statements in advertising residential real or leasehold property including:
 - (i) advertising for sale or rent as an agent or broker without disclosing in such advertising the name of the advertiser or the fact that he is an agent or broker; or
 - (ii) where any such advertising is published over the name of a licensed real estate salesman, failing to disclose in such advertising the name of the broker for whom such salesman is licensed to represent;
- (3) solicit or induce any party to a contract lease or agreement to break such contract for the purpose of substituting a new contract lease or agreement when such soliciting or inducing is motivated by anticipated personal gain;
- (4) guarantee or authorize or permit any person to guarantee future profits which may result from the resale of residential real or leasehold property;
- (5) solicit or offer for sale residential real or leasehold property by:

- (i) offering “free lots”, conducting lotteries or contests, or offering prizes for the purpose of influencing a purchase or prospective purchaser of residential real or leasehold property; or
 - (ii) advertising or offering “free appraisals” unless the advertiser is equipped and stands ready to appraise real estate to any person requesting such an appraisal free of charge, regardless of the purpose for which such appraisal is requested;
- (6) make any untrue or misleading statements to induce the sale of residential real or leasehold property, whether to the person making the representation or to any other person:
- (i) knowing such statements to be false or misleading; or
 - (ii) knowing that the maker of the statement has insufficient knowledge of its truth or falsity to warrant making the statement;
- (7) if one of the purposes of the solicitation or attempted solicitation would be to change the racial composition of a neighborhood, solicit the listing of residential properties for sale or lease by:
- (i) in person, door-to-door solicitation;
 - (ii) telephone solicitation; or
 - (iii) mass distribution of circulars;
- (8) whether or not acting for monetary gain, knowingly induce another person to sell or rent a dwelling or otherwise transfer real estate or knowingly discourage another person from buying real estate by:
- (i) making representations about the entry or prospective entry into a neighborhood of individuals of a particular race, color, sex, religion, ancestry, sexual orientation, physical or mental disability, familial status, or national origin;
 - (ii) making representations about the existing or potential proximity of real property owned or used by individuals of a particular race, color, sex, religion, ancestry, sexual orientation, physical or mental disability, familial status, or national origin; or
 - (iii) representing that the existing or potential proximity of real property owned or used by individuals of a particular race, color, sex, religion, ancestry, sexual orientation, physical or mental disability, familial status, or national origin will or may result in:
 - (A) the lowering of property values;
 - (B) a change in the racial, religious, or ethnic character of the block, neighborhood, or area;
 - (C) an increase in criminal or antisocial behavior in the area; or

(D) a decline in the quality of schools serving the area; or

(9) provide financial assistance by loan, gift, or otherwise to another person if the real estate broker, salesman, or dealer has actual knowledge that the financial assistance will be used in a transaction that results from a violation of item (8) of this section.

(City Code, 1966, art. 19, §114(c); 1976/83, art. 19, §132(c).) (Ord. 60-431; Ord. 66-754; Ord. 68-051; Ord. 91-666.)

§ 13-6. Prohibited conduct – Salespersons.

No real estate salesman shall:

(1) accept a commission or valuable consideration as a real estate salesman for the performance of any act as a real estate salesman from any person except the real estate broker named in his license; or

(2) represent or attempt to represent any other real estate broker as a real estate salesman without the knowledge and consent of the broker named in his license.

(City Code, 1966, art. 19, §114(d); 1976/83, art. 19, §132(d).) (Ord. 60-431.)

§§ 13-7 to 13-8. {Reserved}

§ 13-9. Penalties.

(a) *In general.*

A violation of the provisions of this subtitle shall be a misdemeanor and any person convicted thereof shall be subject to a fine of \$100 and not more than \$500 or to imprisonment of not more than 60 days or to both such fine and imprisonment at the discretion of the court.

(b) *Corporations, partnerships, etc.*

(1) Where an offense is committed by 1 or more individuals acting for a corporation, it shall be deemed to be the offense of both the corporation and the individual.

(2) Where the offense is committed by 1 or more individuals acting in behalf of a partnership or association, it shall be deemed to be:

(i) the offense of the partnership or association and the individual; and

(ii) the personal offense of any partner or associate who aids, abets, directs, counsels, and/or knowingly participates therein.

(City Code, 1966, art. 19, §114(e); 1976/83, art. 19, §132(e).) (Ord. 60-431.)

SUBTITLE 14
REAL ESTATE PRACTICES – DISCLOSURES

§ 14-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Includes; including.*

“Includes” or “including” means by way of illustration and not by way of limitation.

(c) *Must or shall.*

“Must” and “shall” are each mandatory terms used to express a requirement or to impose a duty.

(d) *Person.*

(1) *In general.*

“Person” means:

- (i) an individual;
- (ii) a partnership, firm, association, corporation, or other entity of any kind; or
- (iii) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind.

(2) *Exclusions.*

“Person” does not include, unless otherwise expressly provided, a governmental entity or an instrumentality or unit of a governmental entity.

(e) *Seller.*

“Seller” means:

- (1) the owner of real property being offered for sale; or
- (2) a real estate agent, attorney, lender, or other person acting on behalf of the owner of the property being offered for sale.

(*Ord. 09-162; Ord. 12-053.*)

§ 14-2. {Reserved}

§ 14-3. Single-family zoning limitation.

(a) *In general.*

No person may advertise, through any medium, the sale or lease of any property that, under the Zoning Code of Baltimore City, is restricted in its use and occupancy to 1 family, without including in the advertisement a clear statement to that effect.

(b) *Penalties.*

Any person who violates any provision of this section is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 for each offense.
(*City Code, 1966, art. 19, §79; 1976/83, art. 19, §89.*) (*Ord. 62-1313; Ord. 99-547; Ord. 09-162.*)

§ 14-4. {Reserved}

§ 14-5. Property tax.

(a) *Advertisements.*

If a seller of real property provides property tax information as part of an advertisement, that information must indicate, at a minimum:

- (1) the tax year for which the information is being provided; and
- (2) the product of:
 - (i) the sum of the State and local property tax rates, multiplied by
 - (ii) the full assessed value for the tax year indicated.

(b) *Estimate of closing costs.*

Property tax information to be provided as part of a good-faith estimate of closing costs must be based on the product of:

- (1) the sum of the State and local property tax rates, multiplied by
- (2) the full assessed value for the tax year immediately following the purchase date of the property.

(c) *Penalties.*

Any person who violates any provision of this section is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 for each offense.
(*Ord. 09-162; Ord. 12-053.*)

§ 14-6. Heavy-industrial and railroad operations.

On or before entering into a contract for the sale of any real property, the seller must provide the buyer with the following disclosure:

Disclosure of Heavy-Industrial and Railroad Operations

Buyer is advised that the property may be located near heavy-industrial operations (that is, land uses limited to an I-2 General Industrial Zoning District, an MI Maritime Industrial Zoning District, or a T Transportation Zoning District) or near railroad operations.

These operations may involve the use of machinery, trucks, or trains, 24 hours a day, 7 days a week, and may create or cause noises, odors, fumes, bright lights, vibrations, and safety hazards.

Detailed information on the location of heavy-industrial (I-2, MI, and T) zones and on the location of railroad tracks can be found on the “Baltimore CityView” website, at <http://cityview.baltimorecity.gov>.

(Ord. 12-053; Ord. 16-581.)

SUBTITLE 15
{REPEALED BY ORD. 16-503}

SUBTITLE 16
TICKET SALES – CHARGES BY OPERATORS AND AGENTS

Part 1. Definitions; General Provisions

§ 16-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Authorized sales agent.*

“Authorized sales agent” means a person that:

- (1) is engaged in the business of selling tickets for others; and
- (2) by written contract with an operator, has been authorized to sell tickets for and on behalf of that operator.

(c) *Box office price.*

(1) *In general.*

“Box office price” means the price that:

- (i) has been established by the operator of an entertainment venue for admission to the venue or to a specified seat or area within the venue; and
- (ii) is so identified on the face of the ticket.

(2) *Inclusions.*

“Box office price” includes the applicable State or City admissions and amusement tax only if the tax is determined by the operator on a “tax-included basis” authorized by the State Tax-General Article, § 4-102(f).

(3) *Exclusions.*

“Box office price” does not include:

- (i) any additional service or other charge or fee imposed by an operator, by an operator’s authorized sales agent, or by any other person; or
- (ii) except as specified in paragraph (2) of this subsection, any tax to be collected by an operator or the operator’s authorized sales agent.

(d) *Entertainment.*

“Entertainment” includes any of the following, whether presented live, recorded, televised, or otherwise:

- (1) any theatrical, musical, sports, dance, movie, cultural, or educational event, performance, competition, or exhibition; and
- (2) any other form of diversion, recreation, or show.

(e) *Entertainment venue.*

(1) “Entertainment venue” means any place in Baltimore City for which a charge is imposed for admission to any form of entertainment.

(2) “Entertainment venue” includes:

- (i) any theater, hall, stage, arena, stadium, field, amusement park, circus, carnival, or fairgrounds; or
- (ii) or any other place, including any area within a venue for which a separate charge is imposed.

(f) *Gross ticket cost.*

“Gross ticket cost” means the sum of:

- (1) the box office price;
- (2) all State and City taxes collected by the operator or the operator’s authorized sales agent; and
- (3) all service or other charges or fees imposed on the ticket by the operator or the operator’s authorized sales agent.

(g) *Includes; including.*

“Includes” or “including” means by way of illustration and not by way of limitation.

(h) *May not, etc.*

“May not”, “must not”, and “no ... may” are each mandatory negative terms used to establish a prohibition.

(i) *Must; shall.*

“Must” and “shall” are each mandatory terms used to express a requirement or to impose a duty.

(j) *Operator.*

“Operator” means any person who:

- (1) owns, operates, or controls an entertainment venue in Baltimore City; or
- (2) promotes or produces entertainment in Baltimore City.

(k) *Person.*

“Person” means:

- (1) an individual;
- (2) a partnership, firm, association, corporation, or other entity of any kind;
- (3) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; and
- (4) except for the application of § 16-11 {“Enforcement by prepayable citation”} and § 16-12 {“Criminal penalties”} of this subtitle, a governmental entity or an instrumentality or unit of a governmental entity.

(l) *Sell.*

“Sell” means to sell or exchange or offer to sell or exchange a ticket, whether:

- (1) in-person;
- (2) by mail or delivery service; or
- (3) by telephone, facsimile, email, internet website, or other electronic medium.

(m) *Ticket.*

“Ticket” means any ticket, card, token, receipt, or other evidence of the privilege of admission to any entertainment venue.

(*Ord. 13-157.*)

§ 16-2. {Reserved}**§ 16-3. Applicability of other laws.**(a) *In general.*

Except as provided in subsection (b) of this section, nothing in this subtitle affects the applicability and enforceability of any other law, rule, or regulation, including those concerning consumer protection, licensing and regulation, fraudulent or misleading advertising, or theft.

(b) *Conflicting provisions.*

If any provision of this article is either more or less restrictive than a comparable condition imposed by any other law, rule, or regulation of any kind, the condition that is the more restrictive governs.

(Ord. 13-157.)

§ 16-4. Rules and regulations.

(a) *Authorization.*

The Director of Finance may adopt rules and regulations as necessary or appropriate to:

- (1) define or further define any terms used in this subtitle; and
- (2) otherwise promote the implementation and enforcement of this subtitle.

(b) *Filing.*

A copy of all rules and regulations adopted under this section must be filed with the Department of Legislative Reference before they take effect.

(Ord. 13-157.)

§ 16-5. {Reserved}

Part 2. Charges by Operators and Their Agents

§ 16-6. In general.

An operator or an operator’s authorized sales agent may not impose, accept, or receive, directly or indirectly, for any ticket more than the following:

- (1) the box office price;
- (2) any separately stated admissions and amusement tax; and
- (3) additional service or other charges or fees that have been identified and disclosed as required by this subtitle.

(Ord. 13-157.)

§ 16-7. Required disclosures.

(a) *On face of ticket.*

Every ticket printed by or under authority of an operator or an operator’s authorized sales agent must prominently disclose on its face the box office price of that ticket.

(b) *Advertising and listings.*

If a printed advertisement or listing prepared by or for an operator or an operator's authorized sales agent states the box office price of a ticket (or a range of tickets), and if the gross ticket price of the ticket (or range of tickets), as sold by the operator or the operator's authorized sales agent, exceeds the stated box office price (or range of prices), the advertisement or listing must, in the same or larger font as that used for the stated box office price (or range of prices), include the following statement: "Additional Charges May Apply".

(c) *Itemization of charges and fees at point or time of sale.*

(1) This subsection does not apply if the gross ticket cost of the ticket, as sold by either the operator or the operator's authorized sales agent, does not exceed the box office price disclosed on the face of the ticket.

(2) Every operator and its authorized sales agent must prominently post at its box office, sales outlet, or other point of sale (including a website or other electronic medium), an itemized list of the following, as applicable to each entertainment venue and each entertainment event at that venue for which tickets are being sold:

(i) the box office price of the tickets; and

(ii) in the same or larger font as that used for the box office price:

(A) the type and amount of each State and City tax that is applicable to the transaction and that has not been determined by the operator on a "tax-included basis" as authorized by the State Tax-General Article, § 4-102(f);

(B) the type and amount of each service or other charge or fee imposed on the ticket by the operator and by the operator's authorized sales agent, respectively; and

(C) the gross ticket cost of the ticket, as sold by the operator and as sold by the operator's authorized sales agent, respectively.

(3) In addition:

(i) immediately before finalization of any sale by an operator or its authorized sales agent:

(A) the itemized list of costs described in paragraph (2) of this subsection must be disclosed to each potential purchaser; or

(B) if the purchase is being finalized by telephone, the itemized list of costs described in paragraph (2) of this subsection must be read to the purchaser in a clear and distinct manner; and

(ii) immediately after finalization of any sale by an operator or its authorized sales agent:

(A) the itemized list of costs described in paragraph (2) of this subsection must be given to each purchaser; or

(B) the ticket provided to the purchaser must prominently disclose on its face both the amount of the box office price of the ticket and, in the same or larger font size, the amount of the gross price of the ticket.

(Ord. 13-157.)

§§ 16-8 through 16-10. {Reserved}

Part 3. Enforcement

§ 16-11. Prepayable 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. 13-157.)

§ 16-12. Criminal penalties.

(a) *In general.*

Any person who violates any provision of this subtitle or of a rule or regulation adopted under this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 or imprisonment for not more than 90 days or both fine and imprisonment for each offense.

(b) *Each ticket a separate offense.*

Each ticket sold or exchanged or offered for sale or exchange in violation of this subtitle is a separate offense.

(Ord. 13-157.)

SUBTITLE 17
TICKET SALES – TICKET PURCHASING SOFTWARE

Part 1. Definitions; General Provisions

§ 17-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Entertainment.*

“Entertainment” includes any of the following, whether presented live, recorded, televised, or otherwise:

- (1) any theatrical, musical, sports, dance, movie, cultural, or educational event, performance, competition, or exhibition; and
- (2) any other form of diversion, recreation, or show.

(c) *Entertainment venue.*

(1) *In general.*

“Entertainment venue” means any place in Baltimore City for which a charge is imposed for admission to any form of entertainment.

(2) *Inclusions.*

“Entertainment venue” includes:

- (i) any theater, hall, stage, arena, stadium, field, amusement park, circus, carnival, or fairgrounds; or
- (ii) or any other place, including any area within a venue for which a separate charge is imposed.

(d) *Includes; including.*

“Includes” or “including” means by way of illustration and not by way of limitation.

(e) *Operator.*

“Operator” means any person who:

- (1) owns, operates, or controls an entertainment venue in Baltimore City; or
- (2) promotes or produces entertainment in Baltimore City.

(f) *Person.*

“Person” means:

- (1) an individual;
- (2) a partnership, firm, association, corporation, or other entity of any kind;
- (3) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; and
- (4) except for the application of § 17-11 {“Enforcement by prepayable citation”} and § 17-12 {“Criminal penalties”} of this subtitle, a governmental entity or an instrumentality or unit of a governmental entity.

(g) *Retail ticket purchasing platform.*

“Retail ticket purchasing platform” means a retail ticket purchasing website, application, phone system, or other technology platform used to sell tickets.

(h) *Ticket.*

“Ticket” means any ticket, card, token, receipt, or other evidence of the privilege of admission to any entertainment venue.

(i) *Ticket purchasing software.*

“Ticket purchasing software” means any machine, device, computer program, or computer software that, on its own or with human assistance, bypasses security measures or access control systems on a retail ticket purchasing platform, or other controls or measures on a retail ticket purchasing platform that assist in implementing a limit on the number of tickets that can be purchased.

(Ord. 16-545.)

§§ 17-2 to 17-5. {Reserved}

Part 2. Prohibited Conduct

§ 17-6. Using ticket purchasing software.

No person may use ticket purchasing software to purchase tickets.

(Ord. 16-545.)

§ 17-7. Resale of tickets obtained by using ticket purchasing software.

No person may resell or offer to resell a ticket that the person knows was obtained by using ticket purchasing software.

(Ord. 16-545.)

§ 17-8. Maintaining interest in or control of ticket purchasing software.

No person may intentionally maintain any interest in or control of ticket purchasing software.
(Ord. 16-545.)

§§ 17-9 to 17-10. {Reserved}***Part 3. Enforcement*****§ 17-11. Prepayable 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. 16-545.)

§ 17-12. Criminal penalties.**(a) *In general.***

Any person who violates any provision of this subtitle is guilty of a misdemeanor and, on conviction, is subject to:

- (1) a fine of not more than \$500 or imprisonment for not more than 90 days or both fine and imprisonment for each offense;
- (2) forfeiture of all profits from the sale of tickets obtained in violation of this subtitle; and
- (3) forfeiture of any equipment used to purchase tickets in violation of this subtitle.

(b) *Each ticket a separate offense.*

Each ticket purchased, resold, or offered for resale in violation of this subtitle is a separate offense.
(Ord. 16-545.)