



**SALISBURY CITY COUNCIL  
WORK SESSION AGENDA**

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**MAY 2, 2022**

**Government Office Building, Council Chambers, Salisbury, MD and Zoom Video Conferencing**

4:30 p.m. **Proclamation**- National Small Business Week- presented by Mayor Jacob R. Day

**Presentations**

- National Small Business Week- presented by Vinessa Williams
- Criminal Justice Reform Task Force- presented by Chair Eileen Johnson

5:00 p.m. Ordinance to appropriate funds received from auction of vehicle- Deputy Fire Chief Chris O'Barsky

5:10 p.m. Ordinance to accept FY22 Community Mental Health Services (COVID Relief) Block Grant funds- Housing & Homelessness Manager Christine Chestnutt

5:20 p.m. Ordinance to accept CFES donation for water fountain at Bens Red Swings- Water Works Director Cori Cameron

5:30 p.m. Ordinance No. 2719- to require a permit to remove and replace certain trees- Council discussion

5:45 p.m. Dirt Bike Ordinance- Council discussion

6:00 p.m. Administration and Council Remarks

6:05 p.m. Adjournment

6:05 p.m. **SPECIAL MEETING**- separate agenda

*Times shown are approximate. Council reserves the right to adjust the agenda as circumstances warrant.  
The Council reserves the right to convene in Closed Session as permitted under the Annotated Code of Maryland 3-305(b).*

Join Zoom Meeting

<https://us02web.zoom.us/j/88186172560>

Meeting ID: 881 8617 2560

Phone: 1.301.715.8592



City of  
**Salisbury**  
Jacob R. Day, Mayor

## MEMORANDUM

**To:** Julia Glanz,  
**From:** Chris O’Barsky, Deputy Chief  
**Subject:** Budget Amendment Request  
**Date:** April 21, 2022

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The Fire Department is requesting the approval of a budget amendment in the amount of \$20,350.93 for proceeds received from the auction sale of one (1) Fire Department vehicle listed below that were declared as surplus:

- 2012 International Terrastar Horton Ambulance

This vehicle was sold through auction in compliance with City code and policy.

Thank you in advance for your time and consideration on this request. If you should have any questions or need any additional information, please do not hesitate to contact me.

Attachment: Budget Amendment Ordinance



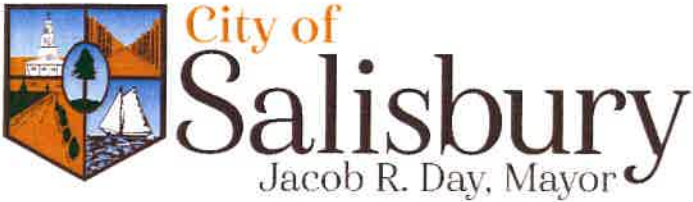
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\_\_\_\_\_  
**Kimberly R. Nichols, City Clerk**

\_\_\_\_\_  
**John R. Heath, City Council President**

Approved by me, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
**Jacob R. Day, Mayor**



MEMO

To: Julia Glanz-City Administrator, Ron Strickler-Director HCDD  
From: Christine Chestnutt-Housing & Homelessness Mgr.  
Subject: Ordinance – Budget Amendment – Acceptance / Appropriation of  
Community Mental Health Services Block Grant (CIT) Funding  
Date: April 27, 2022

The City of Salisbury has received an award of FY22 Community Mental Health Services Block Grant Funds (Critical Time Intervention or CTI) funding from SAMSHA passed through the Wicomico County Local Behavioral Health Authority.

Attached is an Ordinance approving a budget amendment of the City's Grant Fund to appropriate \$12,562.00 in FY22 CTI funds that have been awarded to the City of Salisbury. These funds will be utilized to partially pay for the Homeless Services Case Specialist.

Please forward this information to the City Council to be placed on their agenda for the May 2, 2022 work session, the May 9, 2022 legislative meeting, and second reading / final passage at the May 23, 2022 legislative meeting. Thank you for your assistance.

Christine Chestnutt  
Housing & Homelessness Manager  
HCDD

Attachments  
CC: Olga Butar  
Kim Nichols



46 **BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF**  
47 **SALISBURY, MARYLAND**, as follows:

48 **Section 3.** It is the intention of the Mayor and Council of the City of Salisbury that each provision of this  
49 Ordinance shall be deemed independent of all other provisions herein.

50 **Section 4.** It is further the intention of the Mayor and Council of the City of Salisbury that if any section,  
51 paragraph, subsection, clause or provision of this Ordinance shall be adjudged invalid, unconstitutional or  
52 otherwise unenforceable under applicable Maryland or federal law, such adjudication shall apply only to the  
53 section, paragraph, subsection, clause or provision so adjudged and all other provisions of this Ordinance shall  
54 remain and shall be deemed valid and enforceable.

55 **Section 5.** The recitals set forth hereinabove are incorporated into this section of the Ordinance as if such  
56 recitals were specifically set forth at length in this Section 5.

57 **Section 6.** This Ordinance shall take effect from and after the date of its final passage.

58  
59 **THIS ORDINANCE** was introduced and read at a Meeting of the Mayor and Council of the City of  
60 Salisbury held on the \_\_\_\_\_ day of \_\_\_\_\_, 2022 and thereafter, a statement of the substance of the  
61 Ordinance having been published as required by law, in the meantime, was finally passed by the Council of the  
62 City of Salisbury on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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64 **ATTEST:**

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69 **Kimberly R. Nichols, City Clerk**

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68 \_\_\_\_\_  
69 **John R. Heath, City Council President**

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72 Approved by me, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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76 \_\_\_\_\_  
77 **Jacob R. Day, Mayor**

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City of  
**Salisbury**  
Jacob R. Day, Mayor

## MEMORANDUM

**To:** Julia Glanz, City Administrator  
**From:** Cori Cameron, Director of Water Works  
**Subject:** Donation from CES  
**Date:** April 27, 2022

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A new blue fountain with a water bottle filling station was installed at Ben's Red Swings by the Department of Water Works in the spring of 2021. The fountain was requested by The Community Foundation of the Eastern Shore, Inc. and they promised to reimburse the city for a portion of the price of the fountain.

The Community Foundation of the Eastern Shore, Inc. sent a check for \$1000.00 to the City of Salisbury. An ordinance has been drafted to deposit these funds into the Playground Maintenance Account No. 10700-523628-76100.

*Cori Cameron*

Authorized By:

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Cori Cameron, Director of Water Works





48 **Section 5.** The recitals set forth hereinabove are incorporated into this section of the Ordinance as if  
49 such recitals were specifically set forth at length in this Section 5.

50 **Section 6.** This Ordinance shall take effect from and after the date of its final passage.  
51

52 **THIS ORDINANCE** was introduced and read at a Meeting of the Mayor and Council of the City of  
53 Salisbury held on the \_\_\_\_\_ day of \_\_\_\_\_, 2022 and thereafter, a statement of the substance of  
54 the Ordinance having been published as required by law, in the meantime, was finally passed by the Council  
55 of the City of Salisbury on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

56  
57 **ATTEST:**  
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61 \_\_\_\_\_  
62 **Kimberly R. Nichols, City Clerk**

\_\_\_\_\_ **John R. Heath, City Council President**

63  
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65 Approved by me, this \_\_\_\_\_ day of \_\_\_\_\_, 202~~2~~<sup>1</sup>.  
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69 \_\_\_\_\_  
70 **Jacob R. Day, Mayor**  
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**To:** All Council Members  
**From:** Nathaniel Sansom, Special Assistant to the Mayor  
**Subject:** Tree Removal Permit  
**Date:** April 27, 2022

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Council Members,

Advancing our City's commitment to sustainability and environmental stewardship as a Tree City USA member city, the Administration requests your consideration of this ordinance, which would amend Title 8 of the City code to create a tree removal permit requirement for the removal of certain trees.

### **Tree Removal Permit Requirement**

Once enacted, the provisions of the ordinance would require that a tree removal permit be obtained prior to the removal of trees with a Diameter at Breast Height (DBH) of 12 or more inches. Permits would be issued by HCDD free of charge. If a tree removal company is used, the company or removal service will be responsible for obtaining a removal permit; if a tree removal company or service is not used, the property owner or tenant will be responsible for obtaining the permit.

A tree removal permit would not be required for trees with a DBH of less than 12 inches. Additionally, upon presentation of proof to HCDD, a permit would not be required for trees that are: dead or dying; diseased; of a species that has been identified as being infected with contagious, threatening diseases or infested with pests; or that present a hazardous or dangerous condition requiring immediate action for the safety of structures or human life.

### **Tree Replacement Requirement**

Whenever a tree removal permit is issued for the removal of a tree, each tree shall be relocated or replaced by the applicant. All replacement trees shall be located on the same parcel of land from which the tree(s) was removed. Where tree relocation or replacement is not possible on the same property, the applicant shall pay a tree replacement fee into a Tree Replacement Fund. This Fund shall be managed by the Department of Field Operations, which will use these funds to offset the costs of planting trees in city-owned parks and properties.

Trees that are part of a Forest Conservation Plan authorized under the Forest Conservation will be exempt from this tree replacement requirement so long as applicants claiming this exemption provide documentation verifying their participation in an approved Forest Conservation Plan.

### **Recommendation**

The Administration requests your consideration and adoption of this ordinance to amend Title 8 of the City Code. The provisions of this legislation are similar to measures enacted by Dearborn, Michigan, which is also a Tree City USA city.

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ORDINANCE NO. \_\_\_\_\_, 2719

**AN ORDINANCE OF THE CITY OF SALISBURY AMENDING TITLE 8 OF THE SALISBURY CITY CODE, ENTITLED “HEALTH AND SAFETY”, TO ADD SECTION 08.07 TO REQUIRE A PERMIT TO REMOVE CERTAIN TREES FROM PROPERTY WITHIN THE CITY AND TO REQUIRE REPLACEMENT OF TREES OR PAYMENT INTO A TREE RESTORATION FUND.**

**WHEREAS**, the ongoing application, administration and enforcement of the City of Salisbury Municipal Code (the “**Salisbury City Code**”) demonstrates a need for its periodic review, evaluation and amendment, in order to comply with present community standards and values, and promote the public safety, health and welfare of the citizens of the City of Salisbury (the “**City**”);

**WHEREAS**, the Mayor and Council of the City of Salisbury (the “**Mayor and Council**”) are authorized by MD Code, Local Government, § 5-202 to adopt such ordinances, not contrary to the Constitution of Maryland, public general law or public local law, as the Mayor and Council deem necessary to assure the good government of the municipality, to preserve peace and order, to secure persons and property from damage and destruction, and to protect the health, comfort and convenience of the citizens of the City;

**WHEREAS**, the Mayor and Council may amend Title 8 of the Salisbury City Code pursuant to the authority granted in § SC 2-15 of the Salisbury City Charter;

**WHEREAS**, recognizing Salisbury’s status as a Tree City USA city, the purpose of this ordinance is to establish policies, regulations and standards necessary to ensure that the City will continue to realize the benefits provided by its urban forest;

**WHEREAS**, the Mayor and Council find that the health, safety and general welfare of the citizens of the City will be furthered by amending Title 8 of the Salisbury City Code to require a permit to remove certain trees within the City, and to require replacement of such trees or payment into a Tree Restoration Fund; and

**WHEREAS**, the Mayor and Council have determined that the amendments to Title 8 of the Salisbury City Code set forth shall be adopted as set forth herein.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY COUNCIL OF THE CITY OF SALISBURY, MARYLAND**, that Title 8 of the Salisbury City Code is hereby amended by adding the bolded and underlined language as follows:

**Section 1.** Title 8 of the Salisbury City Code of the Salisbury City Code, entitled “Health and Safety” is amended by adding Chapter 08.07 as follows:

**Chapter 08.07 TREE REMOVAL PERMIT**

**08.07.010 Purpose.**

**Recognizing Salisbury’s status as a Tree City USA city, the purpose of this Chapter is to establish policies, regulations and standards necessary to ensure that the City will continue to realize the benefits provided by its urban forest.**

**08.07.020 Scope.**

**Nothing contained in this Chapter shall be deemed to impose any liability or duty upon the City, its officers or employees, nor to relieve any owner of private property from any duty to keep a tree, shrub or plant under control and in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, boulevard, alley or public place within the City.**

47 **08.07.030 Definitions.**

48 **“Diameter at Breast Height” (“DBH”) means the diameter in inches of the tree measured at**  
49 **four feet above the existing grade.**

50  
51 **“Tree Replacement Fund” means a City fund established for maintenance, preservation, and**  
52 **planting of trees within the City.**

53  
54 **08.07.040 Tree removal permit.**

55 **A. Required. The removal or relocation of any tree with a DBH of 12 inches or greater on**  
56 **any property without first obtaining a tree removal permit shall be prohibited.**

57  
58 **B. Application. Permits shall be obtained by submitting a tree removal permit application in**  
59 **a form provided by the Housing and Community Development Department, which shall**  
60 **include the following information:**

- 61 **1. The owner and/or occupant of the land on which the tree is located; and**  
62 **2. A description of each tree to be removed and the location thereof.**

63  
64 **C. Fee. There shall be no fee for the permit application.**

65  
66 **D. Review procedures. The Housing and Community Development Department shall review**  
67 **all applications for tree removal permits. The Housing and Community Development**  
68 **Department may impose such conditions on the manner and extent of the proposed tree**  
69 **removal as are necessary to ensure that the proposed tree removal will be conducted in such**  
70 **a manner as to cause the least possible damage, encroachment or interference with natural**  
71 **resources and natural processes within the affected area.**

72  
73 **E. If a tree removal service or company is hired to perform tree removal, the removal service**  
74 **or company shall be responsible for applying for and receiving the tree removal permit. If a**  
75 **tree removal service or company is not utilized, the property owner or tenant shall be**  
76 **responsible for applying for and receiving the tree removal permit.**

77  
78 **08.07.050 Exemptions**

79 **A. Upon presentation of proof, removal of the following does not require a tree removal**  
80 **permit:**

- 81 **1. A tree that is dead or dying;**  
82 **2. A tree that is diseased;**  
83 **3. A species of tree that has been identified as being infected with contagious,**  
84 **threatening diseases or ingested with pests; or**  
85 **4. A tree the presents a hazardous or dangerous condition requiring immediate action**  
86 **for the safety of structures or human life.**

87  
88 **B. Proof of an exemption shall be provided to the Housing and Community Development**  
89 **Department prior to removal of the tree or, in case of an emergency, at the earliest**  
90 **opportunity after the tree is removed.**

91  
92 **C. The Housing and Community Development Department shall confirm that removal of the**  
93 **tree is exempt and does not require a tree removal permit. If the Housing and Community**  
94 **Development Department determines that the tree is not exempt, the provisions of this**  
95 **Chapter shall apply, including the penalties set forth in 08.07.080.**

96

97 D. Nothing in this chapter shall prohibit immediate removal of a tree which presents a  
98 hazardous or dangerous condition. In such circumstance, the Housing and Community  
99 Development Department shall be notified within 48 hours of removal of the tree.

100 08.07.060 Replacement of trees; Payment to Tree Replacement Fund.

101 A. Whenever a tree removal permit is issued for the removal of a tree, each tree shall be  
102 relocated or replaced by the applicant. All replacement trees shall be located on the same  
103 parcel of land from which the tree(s) was removed.

104  
105 B. Where tree relocation or replacement is not possible on the same property, the applicant  
106 shall pay monies into the Tree Replacement Fund. All sums payable to the Tree Replacement  
107 Fund shall be paid prior to the issuance of a tree removal permit.

108  
109 C. Exemptions.

110 1. Trees subject to a Forest Conservation Plan authorized under the Forest  
111 Conservation Act shall not be subject to the provisions of 08.07.060 and need not be  
112 replaced. All applicants claiming this exemption shall provide documentation  
113 verifying their participation in an approved Forest Conservation Plan.

114 2. Trees located within the Chesapeake Bay Critical Area Overlay District (the  
115 “Critical Area District”) shall not be subject to the provisions of 08.07.060 and need  
116 not be replaced. All applicants claiming this exemption shall provide documentation  
117 verifying that the property for which tree removal permit(s) would be sought is  
118 located within the Critical Area District as established in Chapter 12.20.

119  
120 08.07.070 Tree Replacement Fund.

121 A. The Tree Replacement Fund is intended to provide for the off-site replacement of trees  
122 and to compensate for the loss of trees due to development, construction and inadequate  
123 safeguards during construction. This fund is to be used for the planting of trees in public  
124 areas.

125  
126 B. The amount payable to the Tree Replacement Fund per tree shall be set by the City  
127 Council from time to time. The amount set by the City Council shall include the reasonable  
128 cost incurred by the City in planting appropriate replacement trees on public property and  
129 otherwise maintaining this program. The Tree Replacement Fund shall be administered by  
130 the Department of Field Operations.

131  
132 08.07.080 Responsibility of enforcement.

133 Compliance with this Chapter shall be enforced by Housing and Community Development  
134 Department.

135  
136 08.07.090 Violations, penalties.

137 A. Any person violating any of the provisions of this Chapter shall be guilty of a municipal  
138 infraction and shall be subject to a fine not to exceed five hundred dollars (\$500.00) per  
139 offense.

140  
141 B. Each tree removed in violation of this chapter shall be considered a separate offense.

142  
143 C. The City may issue a stop-work order or withhold issuance of a certificate of occupancy,  
144 permits or inspections until the conditions of the Chapter are met. Failure to obey a stop-  
145 work order shall constitute a violation of this Chapter.

146

147 **BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF**  
148 **SALISBURY, MARYLAND**, as follows:

149 **Section 2.** It is the intention of the Mayor and Council of the City of Salisbury that each provision  
150 of this Ordinance shall be deemed independent of all other provisions herein.

151 **Section 3.** It is further the intention of the Mayor and Council of the City of Salisbury that if any  
152 section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged invalid,  
153 unconstitutional or otherwise unenforceable under applicable Maryland or federal law, such adjudication  
154 shall apply only to the section, paragraph, subsection, clause or provision so adjudged and all other  
155 provisions of this Ordinance shall remain and shall be deemed valid and enforceable.

156 **Section 4.** The recitals set forth hereinabove are incorporated into this section of the Ordinance as  
157 if such recitals were specifically set forth at length in this Section 4.

158 **Section 5.** This Ordinance shall take effect from and after the date of its final passage.  
159

160 **THIS ORDINANCE** was introduced and read at a Meeting of the Mayor and Council of the City  
161 of Salisbury held on the \_\_\_\_\_ day of \_\_\_\_\_, 2022 and thereafter, a statement of the substance of  
162 the Ordinance having been published as required by law, in the meantime, was finally passed by the Council  
163 of the City of Salisbury on the \_\_\_\_\_ day of \_\_\_\_\_, 2022

164 **ATTEST:**

165  
166 \_\_\_\_\_  
167 **Kimberly R. Nichols, City Clerk** **John R. Heath, City Council President**

168  
169 Approved by me, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

170  
171 \_\_\_\_\_  
172 **Jacob R. Day, Mayor**



# City of Salisbury

Housing and Community  
Development Department

207 W. Main Street,  
Suite 102  
Salisbury, Maryland  
410-341-9550

## TREE REMOVAL PERMIT APPLICATION – Page 1/2

Site Address: \_\_\_\_\_

### Property Owner Information/Affidavit

I do hereby certify that I am the owner of the property described and that I concur with the information described in this application. I understand that I must have physical possession of the permit before beginning any work and that failure to obtain a permit may result in a court appearance ticket for a misdemeanor with possible penalties of fines for each tree removed. I agree to meet all tree replanting requirements as outlined in Chapter 8.07 of the City Code and I understand that replanting or payment in lieu of replanting is a condition of the tree removal permit. I further grant permission for the City of Salisbury and its agents, officers, and employees to enter the property for the purposes of site inspections of the proposed tree removal/replacement activity.

Owner Name:		Phone Number:	
Owner Address:	City:	State:	ZIP:
Signature of Property Owner:			Date:

### Applicant / Contractor Information

Name:	Phone Number:	Fax Number:	
Address:	City:	State:	ZIP:
Email Address:			
Signature:			Date:

### Tree Removal Permit

I am applying for a Standard Tree Removal Permit. If Construction Related (Construction Permit #) \_\_\_\_\_ Start Date: \_\_\_\_\_

I am applying for an Emergency Tree Removal Permit (Retroactive). I had to remove the tree(s) because there was hazardous or dangerous conditions requiring immediate action for the safety of human life or structures and there was insufficient time to obtain a permit. I am submitting this application within 7 days of the work in order to receive a retroactive Tree Removal Permit. I have included photographic evidence of the hazardous conditions that created the emergency.

**NOTE:** The property owner and/or the contractor may be found in violation of City ordinance if it is determined that trees were removed without a permit and the property owner or contractor is unable to demonstrate the emergency.

Tree Information (If more than 4 trees, please use additional paper)	Permit Exemption Request (If Applicable)
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**Tree 1:** Reason for removal: \_\_\_\_\_  
Species : \_\_\_\_\_ Size (DBH): \_\_\_\_\_

**Tree 2:** Reason for removal: \_\_\_\_\_  
Species : \_\_\_\_\_ Size (DBH): \_\_\_\_\_

**Tree 3:** Reason for removal: \_\_\_\_\_  
Species : \_\_\_\_\_ Size (DBH): \_\_\_\_\_

**Tree 4:** Reason for removal: \_\_\_\_\_  
Species : \_\_\_\_\_ Size (DBH): \_\_\_\_\_

To request an exemption, submit this form along with appropriate documentation of each Tree's condition, and indicate below which tree(s) you are requesting an exemption for.

Tree 1  Tree 2  Tree 3  Tree 4

**Note:** Upon presentation of proof, removal of the following does not require a tree removal permit:  
- A tree that is dead or dying  
- A tree that is diseased  
- A species of tree that has been identified as being infected with contagious, threatening diseases or ingested with pests  
- A tree the presents a hazardous or dangerous condition requiring immediate action for the safety of structures or human life.

Estimated Date of Tree Removal: \_\_\_\_\_

Estimated Date of Tree Replacement: \_\_\_\_\_





# City of Salisbury

Housing and Community Development  
Department

207 W. Main Street,  
Suite 102  
Salisbury, Maryland  
410-341-9550

## TREE REMOVAL PERMIT APPLICATION – Page 2/2

Salisbury is recognized as a Tree City USA certified City. The City recognizes that the protection and conservation of trees and promotion of urban forestry is a vital component of an ecosystem. Pursuant to City of Salisbury Code Chapter 8.07, a Tree Removal Permit is required to remove or relocate any tree with a DBH (diameter at breast height) of 12 inches or greater. Please see “**Application Requirements**” below. If a healthy tree is removed, the tree shall be relocated or replaced. Please see “**Tree Replacement Information**” below.

### Application Requirements

1. Complete the Tree Removal Application Form
2. Property Owner Signature is required on the application form. A copy of a signed contract for the tree removal will fulfill this requirement.
3. Complete the **Site Plan** section on the application form. Include the following:
  - a. Location of all property lines and easements
  - b. Existing buildings and structures
  - c. Location of tree(s) to be removed
  - d. DBH (diameter at breast height) of tree(s) being removed
  - e. Location of tree(s) to be replaced (If tree(s) are not going to be replaced, payment to the tree fund must be made with submission of permit application)
5. There are no fees for a tree removal permit.
6. Please allow five (5) business days for processing.

Permits are emailed to the applicant upon approval. If an email address is not included on the application; the applicant will be contacted when the permit is be available for pickup at the HCDD office.

### Tree Replacement Information

Replacement trees must be located on the same parcel of land on which the activity is to be conducted. Where tree relocation or replacement is not possible on the same property, a fee is to be paid into the city tree fund for tree replacement within the city.

Tree replacement shall occur on a 1:1 ratio, for each tree that is removed, a new tree must be planted on the premises, or a fee of \$\_\_\_\_\_ per tree removed shall be paid to the City’s Tree Replacement Fund.

In accordance with City Code Chapter 08.07.060, Trees removed within Salisbury’s Critical Area District shall not be subject to the tree replacement requirement. Additionally, trees removed within approved Forest Conservation Plan area, authorized under the Forest Conservation Act, shall not be subject to the tree replacement requirement. All applicants claiming either of these exemptions must provide appropriate documentation verifying either their participation in an approved Forest Conservation Plan or confirming that the trees which they seek to remove are located within the Critical Area District.

**For Office Use Only:** Check One Box in Section 1 and One Box in Section 2 below.

Date Submitted: \_\_\_/\_\_\_/\_\_\_\_\_

1.  Tree Replacement Plan                       Forest Conservation Plan Exemption  
 Replacement Fund Contribution                      Documented

2.  Permit Approved by: \_\_\_\_\_

Permit Denied, Reason: \_\_\_\_\_

Permit Not Required per Code Chapter 08.07.50 – **Appropriate documentation has been submitted**

### Tree Fund Billing:

*Payment into Tree Fund is required if replanting of healthy trees is not completed as required by Code Chapter 08.07.060*

Date Invoice Submitted: \_\_\_\_\_

Invoice Billing Date: \_\_\_\_\_

Invoice Number: \_\_\_\_\_

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**From:** Muir Boda  
**Sent:** Monday, April 25, 2022 3:58 PM  
**To:** All City Council Members  
**Cc:** Donna Haag; Andy Kitzrow; Julia Glanz; Barbara Duncan; Bosche@cbmlawfirm.com  
**Subject:** Dirt Bike Ordinance  
**Attachments:** Article19PoliceOrdinances-Subtitile40-DirtBikes Baltimore City.pdf

Good afternoon,  
I would like to include at the next work session discussion on a proposed ordinance regarding Dirt Bikes. I have had numerous discussions with residents and neighbors in my district about the issue over the past few weeks.

This ordinance is from Baltimore City and is clear, concise, and has some teeth to it.

Muir W. Boda  
Vice-President  
Salisbury City Council

[www.Salisbury.md](http://www.Salisbury.md)

**SUBTITLE 40**  
**UNREGISTERED MOTORCYCLES AND SIMILAR VEHICLES**

*Part 1. Definitions; General Provisions*

**§ 40-1. Definitions.**

(a) *In general.*

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

(b) *Department.*

“Department” means the Department of Transportation.

(c) *Dirt bike.*

(1) “Dirt bike” means, except as provided in paragraph (3) of this subsection, any motorcycle or similar vehicle that is not registered under the Maryland Vehicle Law.

(2) “Dirt bike” includes:

(i) a minibike;

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

(iii) except as provided in paragraph (3) of this subsection, any other motorcycle or similar vehicle that is not eligible for registration under the Maryland Vehicle Law.

(3) “Dirt bike” does not include:

(i) a moped, as defined in State Transportation Article § 11-134.1; or

(ii) a motor scooter, as defined in State Transportation Article § 11-134.5.

(d) *Minibike.*

(1) “Minibike” means, except as provided in paragraph (2) of this subsection, a motor vehicle that:

(i) has a saddle for the use of the rider;

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

(iii) is not eligible for registration under the Maryland Vehicle Law; and

(iv) has:

A. a 10-inch (254 mm) or less nominal wheel-rim diameter;

B. 40 inches or less wheel base;

C. 25 inches or less seat height, measured at the lowest point on the top of the seat cushion without rider; or

D. a propelling engine with piston displacement of 50 cc or less.

(2) "Minibike" does not include:

(i) a moped, as defined in State Transportation Article § 11-134.1; or

(ii) a motor scooter, as defined in State Transportation Article § 11-134.4.

(e) *Motorcycle or similar vehicle.*

(1) "Motorcycle or similar vehicle" means any motor vehicle that is designed to travel on not more than 3 wheels in contact with ground.

(2) "Motorcycle or similar vehicle" includes a minibike.

(f) *Unregistered motorcycle or similar vehicle.*

"Unregistered motorcycle or similar vehicle" means a motorcycle or similar vehicle that:

(1) is eligible for registration under the Maryland Vehicle Law; but

(2) is not in fact registered.

(Ord. 00-040; Ord. 07-398; Ord. 07-504; Ord. 08-063; Ord. 09-217.)

**§ 40-2. Exclusions from subtitle.**

(a) *In general.*

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

(1) tractors;

(2) snowblowers;

(3) lawn mowers;

(4) wheel chairs; or

(5) golf carts.

(b) *Government vehicles.*

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

(Ord. 00-040.)

**§ 40-3. Rules and regulations.****(a) Department may adopt.**

The Department of Transportation 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. 00-040; Ord. 07-398.)

**§§ 40-4 to 40-5. {Reserved}****Part 2. Prohibited Operations****§ 40-6. Driving or riding; leaving unimmobilized.****(a) Driving or riding vehicle.**

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

**(b) Possessing unimmobilized vehicle.**

No person may own, control, possess, or have custody of any dirt bike or any unregistered motorcycle or similar vehicle in Baltimore City unless the vehicle is securely locked or otherwise immobilized by a wheel clamp or other object, device, method, or mechanism, whether attached to the vehicle or not, that:

(1) prevents the vehicle from being freely moved; and

(2) cannot be removed or deactivated without the assistance of the vehicle's owner.

(Ord. 00-040; Ord. 01-144; Ord. 08-060.)

**§ 40-7. Permitting another to drive or ride.**

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

(Ord. 00-040; Ord. 01-144.)

**§ 40-8. Parents and guardians.**

No parent or guardian of a minor may knowingly permit the minor to violate any provision of § 40-6 or § 40-7 of this subtitle.

(Ord. 00-040.)

**§ 40-9. Motor fuel sales.***(a) In general.*

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

*(b) Enforcement by citation.*

- (1) In addition to any other civil or criminal remedy or enforcement procedure, this section may be enforced by issuance of a civil citation under City Code Article 1, Subtitle 41 {"Civil Citations"}.
- (2) The issuance of a civil citation to enforce this section does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

**Editor's Note:** Chapters 114 and 115, Acts of 2010, enacted state legislation that, among other things, imposes additional penalties on persons dispensing motor fuel into a dirt bike (State Transportation Article § 21-1128 and § 27-101(dd)) and requires service stations in Baltimore City to post signs of the State and City prohibitions relating to dispensing motor fuel for dirt bikes (State Business Regulation Article § 10-503).

*(Ord. 00-130; Ord. 04-683.)*

**§ 40-10. {Reserved}*****Part 3. Seizure and Forfeiture*****§ 40-11. When authorized.***(a) Grounds for seizure.*

Except as provided in subsection (b) of this section, a dirt bike or unregistered motorcycle or similar vehicle is subject to seizure and forfeiture if it is used in violation of this subtitle.

*(b) Defense.*

A vehicle may not be forfeited under this subtitle solely because of an act or omission by a person other than the vehicle's owner committed or omitted while the vehicle was unlawfully in that other person's possession.

*(Ord. 00-040; Ord. 07-398.)*

**§ 40-12. Seizure by police.***(a) When warrant not needed.*

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

- (1) the police officer has probable cause to believe the vehicle has been used in violation of this subtitle; and
- (2) a warrant is not constitutionally required under the circumstances.

(b) *Removal of vehicle.*

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

(c) *Vehicle not repleviable.*

A vehicle 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. 00-040; Ord. 07-398.)

**§ 40-13. 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 vehicle was used in violation of this subtitle, the Solicitor shall notify the vehicle'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 vehicle to the owner on the owner's request.

(Ord. 00-040.)

**§ 40-14. Forfeiture petition; notice.**

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

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

(1) file a forfeiture petition in a court of competent jurisdiction, in the name of the City against the vehicle, as designated by make, model, year, and motor or serial number; and

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

(b) *Contents.*

The petition for forfeiture shall contain:

- (1) the name of the registered owners of the vehicle;
- (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 vehicle;
- (4) a statement of the specific grounds for forfeiture; and
- (5) a request that the vehicle 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 vehicle must file a defense to the petition within 15 days of the date of the notice.

(Ord. 00-040; Ord. 08-060.)

**§ 40-15. 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. 00-040.)

§ 40-16. *{Repealed by Ord. 08-060.}*

§ 40-17. **Order of forfeiture.**

(a) *In general.*

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

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

(1) The secured party:

- (i) shall sell the vehicle in a commercially reasonable manner; and
- (ii) may not sell the vehicle 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.

(c) *Disposition of forfeited vehicle.*

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

- (1) sold as provided in City Code Article 31, Subtitle 31, Part 5;
- (2) transferred to a charitable organization for export abroad, as provided in City Code Article 31, § 31-58(c); or
- (3) destroyed.

(Ord. 00-040; Ord. 02-285; Ord. 08-060.)

**§ 40-18. Order of release.**

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

*(Ord. 00-040.)*

**§§ 40-19 to 40-20. {Reserved}*****Part 4. Penalties*****§ 40-21. Penalties.**

Any person who violates any provision of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 for each offense or to imprisonment for not more than 90 days, or both fine and imprisonment, for each offense.

*(Ord. 00-040; Ord. 00-130; Ord. 07-398.)*