

**CITY OF SALISBURY
ORDINANCE NO. 2106
AS AMENDED ON SECOND READING – MAY 10, 2010**

AN ORDINANCE of the Mayor and the Council of the City of Salisbury adding Chapter 12.36 to the Salisbury Municipal Code to allow businesses that are designated as public eating establishments to obtain a sidewalk café permit to operate a sidewalk café.

WHEREAS, it has been determined that it is in the interest of health, safety and welfare of the general public to establish a uniform set of rules and regulations for operating a sidewalk café; and

WHEREAS, the Mayor and Council of the City of Salisbury desire to develop sidewalk café regulations that will enhance the overall appearance and environment in the City of Salisbury; and

WHEREAS, the Mayor and Council of the City of Salisbury desire to provide economic development opportunities to small entrepreneurs; and

WHEREAS, the Mayor and Council of the City of Salisbury desire to promote vendors who in turn intensify pedestrian activity and make street life more attractive and enhance the character of the City of Salisbury.

NOW THEREFORE, be it enacted and ordained by the Council of the City of Salisbury, Maryland, that Chapter 12.36 be added to Title 12-Streets, Sidewalks, and Public Places of the Salisbury Municipal Code.

Chapter 12.36 is added to the Salisbury Municipal Code and shall read:

12.36 Sidewalk Cafes

- Sections:
- 12.36.010 Definitions
- 12.36.020 Permit Required
- 12.36.030 Operating Standards
- 12.36.040 Design Standards
- 12.36.050 Insurance and Indemnification
- 12.36.060 Violation and Penalties

12.36.010 Definitions

A. “Sidewalk café” means any area situated on a public sidewalk where food, refreshments, and/or alcoholic beverages are sold by a restaurant, delicatessen, and/or ice cream shop for public consumption at tables or counters located on the public sidewalk fronting the

operating establishment

B. "Street fixtures" means physical objects located within a public sidewalk, such as streetlights, trees, signs, parking meters and planters.

12.36.020 Permit Required

A. A person shall not construct, maintain, use or operate a sidewalk café on a public sidewalk without first obtaining a permit as provided for in this chapter.

B. An application for a sidewalk café permit shall be made to the Director of Building, Permitting & Inspections on forms provided by the Director. The application shall be made by the owner of the public eating business establishing the sidewalk café.

C. A sidewalk café permit shall be for one year from March 1 of each year until the following February 28. An annual fee shall be paid with the permit application and with any request for renewal of the permit. The permit fee shall be established by ~~resolution~~ ordinance of the City Council.

12.36.030 Operating Standards

A. No part of a sidewalk café area shall encroach upon any part of the sidewalk frontage on any adjacent premises, right-of-way or alley.

B. A sidewalk café shall comply with all building, health, safety, fire, zoning and environmental standards applicable to such uses.

C. A sidewalk café shall not sell, serve or allow consumption of alcoholic beverages on its sidewalk without first obtaining the required license from the Wicomico County Liquor Board. Alcoholic beverages shall be served on the sidewalk café only in conjunction with the service of food. A public eating establishment shall not sell, serve or allow consumption of alcoholic beverages at its sidewalk café after the establishment's closing time.

D. The following are prohibited in the café area: accumulated trash and refuse, storage, advertising banners, outdoor entertainment, music and loud speakers.

E. A sidewalk café shall close and all café seating shall be removed from the café area no later than eleven p.m.

F. The affected portion of the sidewalk shall be cleaned by the owner of the sidewalk café each business day that the sidewalk café business is in operation.

12.36.040 Design Standards

A. The permittee shall allow a minimum of five (5) feet of unobstructed area for pedestrian foot passage between the outer edge of the sidewalk curb or designated sidewalk area and the area occupied by the permittee.

B. Sidewalk café furniture shall be simple in character, constructed of wood and/or painted metal. The only furniture permissible are tables, chairs and umbrellas which are intended for outdoor use. All portions of umbrellas must be contained entirely within the seating area, and must have at least seven (7) feet of clearance over the sidewalk when extended. The only wording or advertisement permissible on umbrellas is the name of the restaurant associated with the sidewalk café.

C. A scaled sketch plan shall be filed with the permit application showing all street fixtures affected, included property lines fronting the sidewalk in which the sidewalk café will be located, sidewalks, street curb lines, lighting, trees, planters, parking meters, street signs, fire hydrants and proposed location of the outdoor café and enclosure. Any plans to anchor the enclosures in the public sidewalk must be approved by the Department of Public Works.

D. Railings and/or fencing for the enclosed café area shall be approved by the Salisbury Historic District Commission, if applicable.

E. The sidewalk café seating area shall be approved by the Wicomico County Fire Inspection Division.

F. No portion of the sidewalk café shall obstruct access to hydrants, streetlights, telephones, mailboxes, transit stops or any other public service facility on the sidewalk area or adjacent street.

G. No sidewalk café may be permanently located within the sidewalk area by means of raised deck, platform, walls or other structures or enclosed by fixed walls of any material, except that sidewalk café boundaries must be delineated by the use of temporary barriers such as railings or fencing. Any such temporary barriers must be easily removed and no more than forty two (42) inches in height above the sidewalk surface. Temporary barriers may be attached by removable clips or devices approved in advance by the Department of Public Works.

12.36.050 Insurance and Indemnification

The sidewalk café permittee shall fully insure, indemnify and hold harmless the City of Salisbury and its officers, agents, and employees from and against any and all claims and damages in any way arising out of the acts or omissions of the permittee or its employees in construction, operation, maintenance, use, placement or condition of the sidewalk café. An applicant for a sidewalk café permit shall provide proof of \$500,000 premises liability insurance before a permit may be issued or renewed under this chapter.

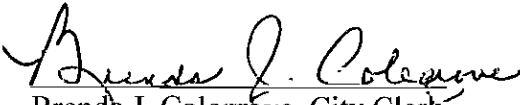
12.36.060 Violation and Penalties

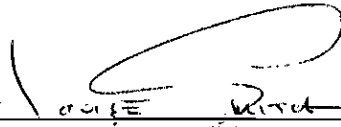
The provisions of the chapter shall be enforced by the City of Salisbury building official or his/her designee. A person who continues to violate this chapter after written notice to take corrective action is guilty of a municipal infraction and shall be fined two hundred fifty dollars (\$250.00) for the first offense and shall be fined up to five hundred dollars (\$500.00) for each

subsequent offense. Each day a violation exists shall be a separate offense. In addition, the building official may revoke or suspend a permit issued pursuant to this chapter after repeated infractions in any twelve month period.


AND BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that the changes set forth in the Ordinance shall take effect upon its final passage.

THIS ORDINANCE was introduced and read at the 12th day of April, 2010, and having been published as required by law, in the meantime, was finally passed by the Council on the 10th day of May, 2010.


Brenda J. Colegrove, City Clerk


Louise Smith, President of the Council
of the City of Salisbury

Approved by me this 13th
day of May, 2010.


James Breton, Jr., Mayor of the
City of Salisbury