

# AS AMENDED ON JANUARY 9, 2012 ORDINANCE NO. 2184

AN ORDINANCE OF THE CITY OF SALISBURY, PURSUANT TO CHAPTER 17.228 OF TITLE 17, ZONING OF THE SALISBURY MUNICIPAL CODE AND SECTION 4.04 OF ARTICLE 66B OF THE ANNOTATED CODE OF MARYLAND FOR THE PURPOSE OF AMENDING SECTION 17.04.150 PROCEDURE, REGARDING PUBLIC NOTICE PROVISIONS.

WHEREAS, the ongoing application, administration and enforcement of Title 17, Zoning of the Salisbury Municipal Code, demonstrates a need for periodic review, evaluation, and amendment that will keep Title 17 current; and

WHEREAS, the Mayor and City Council may amend Title 17, Zoning, of the Salisbury Municipal Code, pursuant to the authority granted by Article 66B of the Maryland Annotated Code and in accordance with specific provisions of Chapter 17.228, Amendments and Rezoning, of Title 17, Zoning; and

WHEREAS, the Mayor and City Council requested that the Salisbury Planning and Zoning Commission periodically review Title 17 in light of existing procedural practices and input from the City Council and members of the public; and

WHEREAS, the City Council has proposed amendments to Section 17.04.150 relating to public notice provisions, and said legislation was submitted in accordance with Chapter 17.228, of Title 17, Zoning, of the Salisbury Municipal Code; and

WHEREAS, a Public Hearing on the proposed amendments was held by the Planning Commission in accordance with the provisions of Chapter 17.228, of Title 17, Zoning, of the Salisbury Municipal Code on December 15, 2011; and

WHEREAS, the Planning Commission did recommend approval of the proposed text amendments to Section 17.04.150 after a Public Hearing on December 15, 2011.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE CITY OF SALISBURY, MARYLAND, that Title 17, Zoning, of the Salisbury Municipal Code is hereby amended as follows:

# Title 17 – Zoning

### **ARTICLE III**

#### **PUBLIC NOTICE**

#### 17.04.150 Procedure.

Unless otherwise expressly provided by law, all notice to the general public required by the terms of this title shall be made as follows:

# A. Posting of the Property.

- 1. The property affected or to be affected by the pending proceeding shall be posted by the appropriate city official. Such posting shall be made not less than ten days fourteen days (14) prior to a public hearing for a variance, special exception, ordinance permit or other such zoning application or appeal and not less than fourteen (14) days prior to a public hearing for a zoning reclassification or zoning amendment. Such posting shall not be required for sectional or comprehensive amendment proceedings.
- 2. A sign shall be erected, by erection of a sign within ten feet of whatever boundary line of such land abuts the most traveled public road so as to be clearly visible to

- the public, and if no public road abuts thereon, then facing in such a manner as most readily may be seen by the public.
- 3. The property owner shall be responsible for maintaining the posted notice on the property. if the sign shall be obstructed, removed, or relocated on the property, then the property owner shall either remove the obstruction, return the sign to its original location, or replace the sign. the department director may postpone a hearing in order to provide the required posted notice.
- B. Newspaper Advertising. All proceedings under the terms of this title requiring a public hearing shall be advertised at least once in a newspaper of general <u>local</u> circulation, as follows:
  - 1. A variance, special exception, change in nonconforming use, ordinance permit or other such <u>application or</u> appeal shall be advertised ten <u>fourteen (14)</u> days prior to the scheduled hearing;
  - 2. A text amendment or reclassification of zone shall be advertised once each week for two successive weeks, with the first publication appearing at least fourteen (14) days prior to the scheduled hearing;
  - 3. The advertisement shall state:
    - a. The date, time and place of hearing,
    - b. A summary of the purpose of the proceeding in sufficient detail to inform the public of the nature of the proceeding and the relief sought by the initiator of the proceeding,
    - c. The location of the property involved, its area <u>size</u>, name of owner, zoning reference and the name of the governmental body before which such proceeding is to be conducted,
    - d. Any other information deemed necessary to adequately inform the public of the proceeding.

# C. <u>Notice to Adjacent Property Owners.</u>

- 1. Notice shall be provided to all property owners within two hundred (200) feet of the subject property boundaries and to the neighborhood association and/or homeowners association, if any. Such notice shall not be required for sectional or comprehensive amendment proceedings.
- 2. The notice shall state that an application or appeal under this title has been filed, as follows:

- <u>a.</u> The name and address of the applicant or appellant,
- b. The name and address of the property owner, if different,
- c. The location and size of the property,
- d. A summary of the requested relief,
- e. The date, time and place of the public hearing. and
- <u>f.</u> The name of the governmental body before which such proceeding is to be conducted.

# 3. Mailing.

The notice shall be mailed by regular mail, postage prepaid, at least fourteen (14) days prior to the date scheduled for the public hearing. the notice shall be mailed to the property owners' addresses to which city real estate tax bills are sent.

#### 4. Re-notification.

Re-notification of adjacent property owners under this section is not required for any hearing that is properly convened and continued in accordance with the requirements of this chapter.

# 5. Non-receipt.

Failure of a property owner, or neighborhood association, or homeowners association to receive notice under this section shall not affect the public hearing or the action on the application.

# <u>D</u>. Responsibility for Public Notice.

It shall be the responsibility of the <u>applicable</u> board <u>or commission</u> <u>of zoning appeals</u> to ensure that the provisions of this article are fully complied with for all matters that come before the <u>applicable</u> board <u>or commission or the City Council</u>. It shall be the responsibility of the planning commission to ensure that the provisions of this article are fully complied with for all matters that come before it or the City Council. (Prior code § 150-309)

AND BE IT FURTHER ORDAINED BY THE CITY OF SALISBURY, MARYLAND, that this Ordinance shall take effect from and after the date of its final passage, but in no event until ten (10) days after the date of the Council's Public Hearing, and

THE ABOVE ORDINANCE was introduced at a meeting of the Council on the 9<sup>th</sup> day of January, 2012, and thereafter, a statement of the substance of the ordinance having been published as required by law, in the meantime, was finally passed by the Council on the 23<sup>rd</sup> day of January, 2012.

# ATTEST:

City Clerk

President of the City Council

of the City of Salisbury

Approved by me this

Mayor of the City of Salisbury



# City of Salisbury - Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT P.O. BOX 870
I 25 NORTH DIVISION STREET, ROOM 203
SALISBURY, MARYLAND 2 I 803-0870

410-548-4860 FAX: 410-548-4955

JAMES IRETON, JR. MAYOR

JOHN R. PICK CITY ADMINISTRATOR RICHARD M. POLLITT, JR.
COUNTY EXECUTIVE

THEODORE E. SHEA, II DIRECTOR OF ADMINISTRATION

January 3, 2012

TO:

John Pick, City Administrator

FROM:

John F. Lenox, AICP, Director, Salisbury/Wicomico Planning & Zoning

**SUBJECT:** 

PUBLIC HEARING – Text Amendment to Section 17.04.150 – Article III – Public Notice Procedures – relative to posting requirements for certain zoning actions and newspaper advertising requirements -

**Planning Commission Recommendations** 

# I. INTRODUCTION.

On December 15, 2011, the Salisbury Planning Commission held a public hearing on amendments to Section 17.04.150 – Public Notice relative to posting requirements for certain zoning actions and newspaper advertising requirements. (See Attachment A.)

#### II. RECOMMENDATION.

After considering the staff report and following discussion by the Commission on the proposed amendment, the Salisbury Planning Commission forwarded a **Favorable** recommendation to the Mayor and City Council for adoption of the Ordinance including a few additional amendments as shown in the attached draft. (Commission amendments are shown in all caps, bold, italics and underlined.)

### III. BACKGROUND.

The amendments recommended by the Commission are mostly cosmetic to provide further consistency between the newspaper advertisements and the posting information on the properties. Briefly, the amendments include in 17.04.150.C.1 the inclusion of notification neighborhood or homeowner associations; in section 17.04.150.C.2 the addition of item f – the name of the government body conducting the proceeding, renumbering of items D, E, and F as items B, B, and B and B are lettering item B as item B.

#### Attachments

cc: Mayor James Ireton, Jr.

William Holland, Director, Building, Permits and Inspections

Paul Wilber, City Solicitor



# CITY OF SALISBURY - WICOMICO COUNTY DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT



Tel: 410-548-4860

Planning & Zoning Commission Historic District Commission Metropolitan Planning Organization Fax: 410-548-4955

Wicomico County Board of Appeals Salisbury Board of Zoning Appeals Agricultural Land Preservation Advisory Board

# STAFF REPORT

# **MEETING OF DECEMBER 15, 2011**

**CASE NO.:** 

**#SP-1103** 

APPLICANT:

City of Salisbury

**REQUEST:** 

PUBLIC HEARING – Text Amendment to Section 17.040150 – To

amend Public Notices in Article III, Title 17, Zoning, of the Salisbury

Municipal Code.

# I. REQUEST:

The Salisbury City Council has been reviewing Safe Streets Legislation proposed by the Mayor, including amendments related to Salisbury Board of Zoning Appeals procedures. The City Solicitor's Office has prepared a Draft Ordinance to amend the Public Notices section of the Zoning Code – Section 17.04.150. (See Attachment #1.)

In accordance with the requirements of Section 17.228 of the Salisbury Municipal Code, the Planning Commission must hold a Public Hearing on proposed Text Amendments to the Code. The Commission must forward a recommendation (within six months) to the City Council. The City Council must also hold a public hearing before granting final approval to Code text amendments (by Ordinance).

#### II. DISCUSSION:

In the attached draft ordinance, all items in the section regarding Title 17, Article III, Public Notice that are shown in all capital letters and bold print are the new language or sections proposed for addition to the Code.

# A. Posting the Property.

The time for posting of the property prior to a public hearing for a variance, special exception, ordinance permit or other zoning appeal is

proposed at 14 days. This makes the posting time consistent with that required for rezoning requests.

A new item #3 is proposed which makes the property owner responsible for maintenance of the sign posted on the property so that it is visible to the public up until the time of the public hearing.

## B. Newspaper Advertising.

The time for advertising a variance, special exception, change in nonconforming use, ordinance permit or other zoning appeal is now proposed at 14 days prior to the hearing. This makes the advertising time consistent with the advertising time for rezonings and text amendments.

Items, C, D, E, and F are all new items adding requirements for notice to adjacent property owners within 200 ft. of the request, notification by regular mail, re-notification not required for cases that are continued, and non-receipt by the property owners does not affect the hearing or the action on the request.

#### III. RECOMMENDATION.

Staff recommends that the Commission forward a Favorable recommendation to the Mayor and City Council for the Text Amendments to the Salisbury Municipal Code as submitted.

These amendments would resolve certain timing inconsistencies regarding public notice, and would help to better inform interested parties regarding upcoming public deliberations.

COORDINATOR:

Gloria Smith, Planner

DATE:

December 6, 2011



DRAFT

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SALISBURY, MARYLAND, PURSUANT TO CHAPTER 17.228 OF TITLE 17, ZONING OF THE SALISBURY MUNICIPAL CODE AND SECTION 4.04 OF ARTICLE 66B OF THE ANNOTATED CODE OF MARYLAND FOR THE PURPOSE OF AMENDING SECTION 17.04.150 PROCEDURE, REGARDING PUBLIC NOTICE PROVISIONS.

WHEREAS, the ongoing application, administration and enforcement of Title 17, Zoning of the Salisbury Municipal Code, demonstrates a need for periodic review, evaluation, and amendment that will keep Title 17 current; and

WHEREAS, the Mayor and City Council may amend Title 17, Zoning, of the Salisbury Municipal Code, pursuant to the authority granted by Article 66B of the Maryland Annotated Code and in accordance with specific provisions of Chapter 17.228, Amendments and Rezoning, of Title 17, Zoning; and

WHEREAS, the Mayor and City Council requested that the Salisbury Planning and Zoning Commission periodically review Title 17 in light of existing procedural practices and input from the City Council and members of the public; and



WHEREAS, the City Council has proposed amendments to Section 17.04.150 relating to public notice provisions, and said legislation was submitted in accordance with Chapter 17.228, of Title 17, Zoning, of the Salisbury Municipal Code; and

WHEREAS, a Public Hearing on the proposed amendments was held by the Planning Commission in accordance with the provisions of Chapter 17.228, of Title 17, Zoning, of the Salisbury Municipal Code on December 15, 2011; and

**WHEREAS**, the Planning Commission did recommend approval of the proposed text amendments to Section 17.04.150 after a Public Hearing on December 15, 2011.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE CITY OF SALISBURY, MARYLAND, that Title 17, Zoning, of the Salisbury Municipal Code is hereby amended as follows:

Title 17 - Zoning

#### **ARTICLE III**

## **PUBLIC NOTICE**

# 17.04.150 Procedure.

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# A. Posting of the Property.

- 1. The property affected or to be affected by the pending proceeding shall be posted BY THE APPROPRIATE CITY OFFICIAL. Such posting shall be made not less than FOURTEEN DAYS (14) prior to a public hearing for a variance, special exception, ordinance permit or other such zoning APPLICATION OR appeal and not less than fourteen (14) days prior to a public hearing for a zoning reclassification or zoning amendment. Such posting shall not be required for sectional or comprehensive amendment proceedings.
- 2. A SIGN SHALL BE ERECTED by erection of a sign within ten feet of whatever boundary line of such land abuts the most traveled public road so as to



be clearly visible to the public, and if no public road abuts thereon, then facing in such a manner as most readily may be seen by the public.

- 3. **PROPERTY OWNER** SHALL BE RESPONSIBLE MAINTAINING THE POSTED NOTICE ON THE PROPERTY. IF THE SIGN SHALL BE OBSTRUCTED, REMOVED, OR RELOCATED ON THE PROPERTY, THEN THE PROPERTY OWNER SHALL EITHER REMOVE THE OBSTRUCTION, RETURN THE **SIGN** TO ITS ORIGINAL LOCATION, OR REPLACE THE SIGN. THE DEPARTMENT DIRECTOR MAY POSTPONE A HEARING IN ORDER TO PROVIDE THE REQUIRED POSTED NOTICE.
- B. Newspaper Advertising. All proceedings under the terms of this title requiring a public hearing shall be advertised at least once in a newspaper of general circulation, as follows:
  - 1. A variance, special exception, change in nonconforming use, ordinance permit or other such **APPLICATION OR** appeal shall be advertised **FOURTEEN (14)** ten days prior to the scheduled hearing;
  - 2. A text amendment or reclassification of zone shall be advertised once each week for two successive weeks, with the first publication appearing at least fourteen (14) days prior to the scheduled hearing;
  - 3. The advertisement shall state:
    - a. The date, time and place of hearing,
    - b. A summary of the purpose of the proceeding in sufficient detail to inform the public of the nature of the proceeding and the relief sought by the initiator of the proceeding,
    - c. The location of the property involved, its area SIZE, name of owner, zoning reference and the name of the governmental body before which such proceeding is to be conducted,
    - d. Any other information deemed necessary to adequately inform the public of the proceeding.

## C. NOTICE TO ADJACENT PROPERTY OWNERS.

1. NOTICE SHALL BE PROVIDED TO ALL PROPERTY OWNERS WITHIN TWO HUNDRED (200) FEET OF THE SUBJECT PROPERTY BOUNDARIES. SUCH NOTICE SHALL NOT BE REQUIRED FOR SECTIONAL OR COMPREHENSIVE AMENDMENT PROCEEDINGS.



- 2. THE NOTICE SHALL STATE THAT AN APPLICATION OR APPEAL UNDER THIS TITLE HAS BEEN FILED, AS FOLLOWS:
  - a. THE NAME AND ADDRESS OF THE APPLICANT OR APPELLANT.
  - b. THE NAME AND ADDRESS OF THE PROPERTY OWNER, IF DIFFERENT,
  - c. THE LOCATION OF THE PROPERTY,
  - d. A SUMMARY OF THE REQUESTED RELIEF; AND
  - e. THE DATE, TIME AND PLACE OF THE PUBLIC HEARING.

#### D. MAILING.

THE NOTICE SHALL BE MAILED BY REGULAR MAIL, POSTAGE PREPAID, AT LEAST FOURTEEN (14) DAYS PRIOR TO THE DATE SCHEDULED FOR THE PUBLIC HEARING. THE NOTICE SHALL BE MAILED TO THE PROPERTY OWNERS' ADDRESSES TO WHICH CITY REAL ESTATE TAX BILLS ARE SENT.

### E. RE-NOTIFICATION.

RE-NOTIFICATION OF ADJACENT PROPERTY OWNERS UNDER THIS SECTION IS NOT REQUIRED FOR ANY HEARING THAT IS PROPERLY CONVENED AND CONTINUED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS CHAPTER.

## F. NON-RECEIPT.

FAILURE OF A PROPERTY OWNER TO RECEIVE NOTICE UNDER THIS SECTION SHALL NOT AFFECT THE PUBLIC HEARING OR THE ACTION ON THE APPLICATION.

#### **G.** Responsibility for Public Notice.

It shall be the responsibility of the board of **ZONING** appeals to ensure that the provisions of this article are fully complied with for all matters that come before the board. It shall be the responsibility of the planning commission to ensure that the provisions of this article are fully complied with for all matters that come before it or the City Council. (Prior code § 150-309)



# AND BE IT FURTHER ORDAINED BY THE CITY OF SALISBURY,

MARYLAND, that this Ordinance shall take effect from and after the date of its final passage, but in no event until ten (10) days after the date of the Council's Public Hearing, and

• / •	
THE ABOVE ORDINAN	CE was introduced at a meeting of the Council on the
day of	_, 2011, and thereafter, a statement of the substance of the
ordinance having been published as	required by law, in the meantime, was finally passed by the
Council on the day of	, 2011.
ATTEST:	
Brenda J. Colegrove City Clerk	Terry E. Cohen President of the City Council of the City of Salisbury
Approved by me this	
day of, 2011.	
James Ireton, Jr. Mayor of the City of Salisbury	



<b>ORDINAN</b>	NCE NO.	

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Title 17 – Zoning

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# **PUBLIC NOTICE**

## 17.04.150 Procedure.

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  - 1. The property affected or to be affected by the pending proceeding shall be posted BY THE APPROPRIATE CITY OFFICIAL. Such posting shall be made not less than FOURTEEN DAYS (14) prior to a public hearing for a variance, special exception, ordinance permit or other such zoning APPLICATION OR appeal and not less than fourteen (14) days prior to a public hearing for a zoning reclassification or zoning amendment. Such posting shall not be required for sectional or comprehensive amendment proceedings.
  - 2. A SIGN SHALL BE ERECTED by erection of a sign within ten feet of whatever boundary line of such land abuts the most traveled public road so as to

be clearly visible to the public, and if no public road abuts thereon, then facing in such a manner as most readily may be seen by the public.

- 3. THE PROPERTY OWNER SHALL BE RESPONSIBLE MAINTAINING THE POSTED NOTICE ON THE PROPERTY. IF THE SIGN SHALL BE OBSTRUCTED, REMOVED, OR RELOCATED ON THE PROPERTY, THEN THE PROPERTY OWNER SHALL EITHER REMOVE THE OBSTRUCTION, RETURN THE SIGN ORIGINAL LOCATION, REPLACE THE OR THE SIGN. DEPARTMENT DIRECTOR MAY POSTPONE A HEARING IN ORDER TO PROVIDE THE REQUIRED POSTED NOTICE.
- B. Newspaper Advertising. All proceedings under the terms of this title requiring a public hearing shall be advertised at least once in a newspaper of general **LOCAL** circulation, as follows:
  - 1. A variance, special exception, change in nonconforming use, ordinance permit or other such **APPLICATION OR** appeal shall be advertised **FOURTEEN (14)** ten days prior to the scheduled hearing;
  - 2. A text amendment or reclassification of zone shall be advertised once each week for two successive weeks, with the first publication appearing at least fourteen (14) days prior to the scheduled hearing;
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#### C. NOTICE TO ADJACENT PROPERTY OWNERS.

1. NOTICE SHALL BE PROVIDED TO ALL PROPERTY OWNERS WITHIN TWO HUNDRED (200) FEET OF THE SUBJECT PROPERTY BOUNDARIES <u>AND THE NEIGHBORHOOD ASSOCIATION</u>, <u>IF ANY, AND/OR HOMEOWNERS ASSOCIATION</u>. SUCH NOTICE SHALL NOT

BE REQUIRED FOR SECTIONAL OR COMPREHENSIVE AMENDMENT PROCEEDINGS.

- 2. THE NOTICE SHALL STATE THAT AN APPLICATION OR APPEAL UNDER THIS TITLE HAS BEEN FILED, AS FOLLOWS:
  - a. THE NAME AND ADDRESS OF THE APPLICANT OR APPELLANT,
  - b. THE NAME AND ADDRESS OF THE PROPERTY OWNER, IF DIFFERENT.
  - c. THE LOCATION AND SIZE OF THE PROPERTY,
  - d. A SUMMARY OF THE REQUESTED RELIEF; AND
  - e. THE DATE, TIME AND PLACE OF THE PUBLIC HEARING.
  - <u>f. THE NAME OF THE GOVERNMENTAL BODY BEFORE WHICH</u>
    <u>SUCH PROCEEDING IS TO BE CONDUCTED.</u>

### 3. MAILING.

THE NOTICE SHALL BE MAILED BY REGULAR MAIL, POSTAGE PREPAID, AT LEAST FOURTEEN (14) DAYS PRIOR TO THE DATE SCHEDULED FOR THE PUBLIC HEARING. THE NOTICE SHALL BE MAILED TO THE PROPERTY OWNERS' ADDRESSES TO WHICH CITY REAL ESTATE TAX BILLS ARE SENT.

#### 4. RE-NOTIFICATION.

RE-NOTIFICATION OF ADJACENT PROPERTY OWNERS UNDER THIS SECTION IS NOT REQUIRED FOR ANY HEARING THAT IS PROPERLY CONVENED AND CONTINUED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS CHAPTER.

#### 5. NON-RECEIPT.

FAILURE OF A PROPERTY OWNER TO RECEIVE NOTICE UNDER THIS SECTION SHALL NOT AFFECT THE PUBLIC HEARING OR THE ACTION ON THE APPLICATION.

#### **D.** Responsibility for Public Notice.

It shall be the responsibility of the board of **ZONING** appeals to ensure that the provisions of this article are fully complied with for all matters that come before the board. It

shall be the responsibility of the planning commission to ensure that the provisions of this article are fully complied with for all matters that come before it or the City Council. (Prior code § 150-309)

AND BE IT FURTHER ORDAINED BY THE CITY OF SALISBURY, MARYLAND, that this Ordinance shall take effect from and after the date of its final passage,

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ATTEST:	
Brenda J. Colegrove City Clerk	Terry E. Cohen President of the City Council of the City of Salisbury
Approved by me this	
day of, 2012.	
James Ireton, Jr. Mayor of the City of Salisbury	