

**AS AMENDED ON MARCH 9, 2015
ORDINANCE NO. 2313**

AN ORDINANCE of the Mayor and Council of the City of Salisbury amending Sections 15.24.280 General, 15.24.1640 Violation of occupancy provisions, and 15.26.110 Denial, nonrenewal, revocation or suspension of license or registration of the Salisbury Municipal Code.

WHEREAS, the Department of Neighborhood Services and Code Compliance is experiencing a rise in over-occupancy violations; and

WHEREAS, due to this rise in over occupancy, there is a need to strengthen the enforcement for occupancy violations; and

WHEREAS, a reduction in the allowed occupancy of nonconforming uses where over-occupancy has occurred is desirable; and

WHEREAS, the addition of denial, nonrenewal, revocation or suspension of a license or registration will make enforcement more effective; and

WHEREAS, the Department of Neighborhood Services and Code Compliance recommends approval of these proposed code changes.

NOW, THEREFORE, be it enacted and ordained by the Council of the City of Salisbury, Maryland, that Chapters 15.24 and 15.26 of the Salisbury Municipal Code, be amended as follows:

15.24.280 General

When a structure or equipment is found by the housing official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provision of this code and declared a public nuisance.

A. **Unsafe Structure.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is likely.

B. **Unsafe Equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public occupants of the premises or structure.

C. Structures Unfit for Human Occupancy. A structure is unfit for human occupancy whenever the building official finds that such structure is unsafe, unlawful or, is in disrepair or lacks required maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code.

D. Unlawful Structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

E. An unlawful structure which is ordered to be "vacated or condemned" shall, ~~in the appropriate zones~~ in the case of a dwelling, be permanently reduced to an the maximum occupancy of two unrelated persons, not including the children of either of them allowed for the applicable conforming use, with no additional occupants permitted pursuant to the dwelling's status as a nonconforming use.

15.24.1640 Violation of occupancy provisions.

If the Department of Neighborhood Services and Code Compliance determines that the number of unrelated occupants in a dwelling violates the occupancy provisions established by this code, then the number of unrelated occupants, not including the children of either of them, shall be permanently reduced to comply with city code the maximum allowed for the applicable conforming use, with no additional occupants permitted pursuant to the dwelling's status as a nonconforming use. The application of this section is subject to the City's policy directive on this issue, as approved by resolution of the Council.

15.26.110 Denial, nonrenewal, revocation or suspension of license or registration.

If after any period for compliance with this chapter has expired, the NSCC determines that a rental dwelling unit or a rental dwelling unit owner fails to comply with any of the licensing or registration standards set forth herein or with the occupancy provisions of this code, and the NSCC has ~~shall~~ initiated an action to deny, revoke, suspend, or not renew a registration or license, ~~NSCC shall~~ and mail the owner a notice of denial, nonrenewal, revocation, or suspension of the license or registration. The notice shall state:

A. That NSCC has determined that the rental dwelling unit fails to comply with the ~~registration~~ standards for rental dwelling units in this chapter, and/or the owner has failed to comply with the Maryland Department of Environment lead abatement reporting requirements;

B. The specific reasons why the rental dwelling unit fails to meet ~~licensing or registration~~ the required standards, including copies of applicable inspection reports, or notices sent to a licensee about the rental dwelling unit;

C. That the director will deny, refuse to renew, revoke, or suspend the license or registration unless the owner appeals the determination within twenty-one (21) days after receipt of the notice, in the manner provided in Section 15.26.120 of this chapter;

D. That after denial, nonrenewal, revocation or suspension, the rental dwelling unit shall be vacated within sixty (60) days, and shall not be reoccupied until all violations are corrected and a license and/or registration is granted by NSCC pursuant to provisions of Annotated Code of Maryland, Real Property Article, Title 8;

E. The notice shall describe how an appeal may be filed under Section 15.26.120 of this chapter;

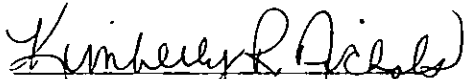
F. The director shall cause a notice to tenants to be mailed or delivered to each registered rental dwelling unit and prominently posted on the building. The notice shall indicate that the rental dwelling unit registration or owner license for the rental dwelling unit has been denied, revoked, not renewed or suspended, whichever is applicable; that the action will become final on a specific date unless the rental dwelling unit owner appeals and requests a hearing; that tenants may be required to vacate the building when the action becomes final; that further information can be obtained from NSCC.

The application of this section with regard to occupancy is subject to the City's policy directive on this issue, as approved by resolution of the Council.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE CITY OF SALISBURY, MARYLAND, that the Ordinance shall take effect upon final passage.


THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the 26 day of January, 2015 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 9 day of March, 2015.

ATTEST:


Kimberly R. Nichols, City Clerk


Jacob R. Day, City Council President

Approved by me, this 18th day of March, 2015.


James Ireton, Jr.,
Mayor

Memo

To: Tom Stevenson
From: Susan Phillips
Date: December 22, 2014
Re: Occupancy Enforcement Policy Outline

Per our request, the below information outlines the occupancy enforcement that would take place if the proposed over-occupancy legislation goes into effect. This content will be placed in the NSCC Directives.

1. If an over-occupancy violation is identified, a citation for a municipal infraction is issued.
2. At the same time, an Investigation of Excessive Occupancy letter is issued requiring the property owner to contact the City Department of Neighborhood Services & Code Compliance regarding this matter within ten (10) days.
3. Immediately following the ten-day time period, if the structure remains over-occupied and the landlord has not taken action to evict the persons who over-occupy the property, the following will occur:
 - An Order to Vacate the unit will be issued and sixty (60) days will be given for occupants to vacate the premises. This notice must be mailed via certified mail to both the current owner of record as identified by the State of Maryland and the listed property agent as required in the City of Salisbury Housing Code Rental Registration requirements. This notice will also be posted on the subject property.
 - Rental unit registration will be suspended once an inspection has confirmed that the unit has been vacated.
 - 1st offense will be a three (3) month suspension
 - 2nd offense will be a six (6) month suspension
 - 3rd offense will be a twelve (12) month suspension
 - Neighborhood Services & Code Compliance reserves the right to issue continuing municipal infractions during this time.
 - Additionally, if an exemption for 3 or 4 unrelated was granted, this non-conforming use will be lost permanently.
4. Following the suspension of the rental unit registration, a comprehensive inspection will be completed. If the unit is found to be in compliance, a certificate of occupancy will be issued and the unit may resume as a rental use.

In addition to the above the directives, the proposed changes made to Chapter 15.24 & 15.26 are as follows:

15.24.280 E. Removing "two (2) unrelated" since not all zoning districts permit a minimum occupancy of two unrelated. This change will cause more consistency and accuracy throughout the code.

15.24.1640 Similar language as stated above in 15.24.280 will be added to 15.24.1640. to maintain consistency.

15.26 Denial, Nonrenewal or Suspension of License and/or Registration – If the occupancy limitations are violated and if the requirements of the licensing and registration standards of this code are not satisfied, the license and registration may be denied, not renewed or suspended.

Please let me know if you have any questions.