

AS AMENDED ON AUGUST 28, 2017

ORDINANCE NO. 2434

AN ORDINANCE BY THE MAYOR AND COUNCIL OF THE CITY OF SALISBURY TO AMEND THE SALISBURY CITY CODE BY DELETING CHAPTER 8.32-SMOKING AND REPLACING IT WITH A NEW CHAPTER 8.32-SMOKING TO PROHIBIT SMOKING ON, IN, OR AROUND PROPERTY OWNED, LEASED OR OPERATED BY THE CITY, INCLUDING PUBLIC PARKS.

WHEREAS, studies have found that tobacco smoke is believed to be a major contributor to air pollution, and that breathing secondhand smoke, also known as environmental tobacco smoke, is believed to be a potential cause of disease in healthy nonsmokers, including heart disease, respiratory disease, and lung cancer; and

WHEREAS, at special risk are believed to be children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

WHEREAS, there is a probable health and safety risk posed to all employees and patrons of City of Salisbury owned and operated facilities by the smoking of, and exposure to, cigarettes, cigars, pipes, or any other conveyance method; and

WHEREAS, the City has declared that smoking in violation of this newly established ordinance is a public nuisance; and

WHEREAS, in creating certain exceptions to the smoking prohibitions, the City of Salisbury has balanced the needs and desires of smokers and non-smokers; and

WHEREAS, the City of Salisbury finds and declares that the new legislation is necessary to protect the public health and welfare by prohibiting smoking in public places, government facilities, and in and around other government property and to promote the ability of nonsmokers to breathe smoke-free air and the City recognizes that the need to breathe smoke-free air shall have priority over the desire to smoke.

NOW, THEREFORE, be it enacted and ordained by the Council of the City of Salisbury, that Chapter 8.32-SMOKING of the City of Salisbury Code is amended by deleting it in its entirety and replacing it with a new Chapter 8.32-SMOKING to read as follows:

~~Chapter 8.32—SMOKING~~

~~Sections:~~

~~8.32.010—Definitions.~~

~~In this chapter, the following words shall have the meanings indicated:~~

~~"City" means the city of Salisbury, Maryland.~~

~~"Common use space" means the lobby, lounge, maintenance, telephone and storage areas of the government office building.~~

~~"County/city combined use space" means the planning and zoning office, council chambers, conference rooms and central reproduction.~~

~~"Government office building" means that building known as the "government office building," located at East Church Street and North Division Street in the city.~~

~~"Leased building" means any building leased exclusively to the city and those portions of any building that are exclusively leased to the city.~~

~~"Smoking" or "to smoke" means the act of smoking or carrying a lighted or smoldering cigar, cigarette or pipe of any kind or lighting a cigar, cigarette or pipe of any kind.~~

#### ~~8.32.020 – Smoking prohibited in certain areas:~~

~~Except as provided in Section 8.32.030 of this chapter, it is unlawful for any person to smoke in any of the following areas:~~

- ~~A. In any city-owned building;~~
- ~~B. In any city-leased building;~~
- ~~C. In all common areas, meeting rooms, lunchrooms, and all city-occupied office areas in the government office building;~~
- ~~D. In all city-owned or operated vehicles; and~~
- ~~E. In the fenced perimeters of the city zoo and Ben's Red Swings playground.~~

#### ~~8.32.030 – Exceptions:~~

~~The prohibitions contained in Section 8.32.020 shall not apply in the following:~~

- ~~A. Designated smoking areas;~~
- ~~B. In any city-owned building which is leased to another party.~~

#### ~~8.32.040 – Designation of smoking areas:~~

~~The mayor may designate a separate room or area in which smoking is permitted in a city-owned building, city-leased building or the government office building provided that any area so designated must meet the requirements for the designation of smoking areas set forth in the Code of Maryland Administrative Regulations (COMAR). No common use space or county/city combined use space in the government office building may be designated as a smoking area without approval of the county.~~

#### ~~8.32.050 – Violations – Penalties:~~

~~A person who violates a provision of this chapter is guilty of a misdemeanor and, on conviction thereof, is subject to a fine not exceeding one hundred dollars (\$100.00) and costs for each violation.~~

#### ~~8.32.060 – Effect on fire and health regulations:~~

~~Nothing in this chapter shall be deemed to repeal applicable fire or health regulations.~~

#### ~~8.32.070 – Regulations for posting no smoking signs:~~

~~The department of building, permitting and inspections shall establish rules and regulations relating to the posting of no smoking signs to be applicable to the city-owned and leased buildings.~~

### **Chapter 8.32 - SMOKING**

#### **Sec. 8.32.010 - Definitions.**

**In this chapter, the following words shall have the meanings indicated:**

**“Bus shelter”** means those structures located at certain bus stops that provide protection from nature's elements.

**“City”** means the City of Salisbury, Maryland.

**“Designated smoking area”** means an area approved from time to time by Resolution by the Mayor and City Council as an area where smoking is permitted, and which area is clearly delineated by signage or the presence of clearly marked authorized cigarette/cigar butt receptacles.

**“Electronic smoking devices”** “ESD,” a/k/a electronic nicotine delivery system “ENDS,” electronic nicotine delivery device “ENDD,” e-cigarette, or e-vapor means battery-powered disposable or rechargeable nicotine delivery systems using flavored liquids and various levels of nicotine that are atomized by a heating element and is absorbed into the lungs as an aerosol resembling a vapor.

**“Environmental smoke”** and **“environmental tobacco smoke”** means the complex mixture formed from escaping smoke of a burning tobacco product, to include the burning of other plant or synthetic material or smoke, which is exhaled by the smoker.

**“Government Office Building”** means the building located at 125 North Division Street including the steps, patio, picnic area, and plaza adjacent to the building.

**“Leased building”** means a building leased exclusively to the City and those portions of any building that are exclusively leased to the City.

**“Playground”** means any park or recreational area designed in part to be used by children that has play, or where sports, equipment is installed, or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds, or on City grounds.

**“Recreational area”** means any City owned or operated property open to the public for recreational purposes, including but not limited to athletic fields, open space, gardens, parks, patios, skate parks, plazas, pools, trails, and zoos.

**“Riverwalk”** means the areas of land designated and distinguished on the numerous plats of the downtown area of Salisbury, Maryland, which designate the Riverwalk, which is comprised of the walking path, including the ramps placed thereon, recreational areas along the Riverwalk, the pedestrian bridge spanning the East Branch of the Wicomico River, the walkways connecting sidewalks to the Riverwalk, boat launches, and tables, pavilions, and benches placed thereon, and the recreational and entertainment areas surrounding and adjoining the boat launches, tables, pavilions, and benches, but excluding the parking lots adjoining the Riverwalk.

**“Smoking”** means the burning, carrying, inhaling, or exhaling of a lighted or heated cigarette, cigar, pipe, or any other matter or substance that contains tobacco or plant based product or synthetic matter intended for inhalation. Smoking includes the use of an electronic smoking device which creates an aerosol or vapor in any manner or form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Chapter.

**“Vaping”** means the process of inhaling the flavored aerosol and exhaling it.

**“Vapor(s)”** means the exhaled product from an electronic smoking device.

Sec. 8.32.020 - Legislative intent.

It is the intent of the Mayor and Council of the City of Salisbury to protect the public from involuntary exposure to environmental tobacco smoke, environmental plant based and synthetic materials based smoke, and vapor in certain areas open to the public.

**Sec. 8.32.030 – Smoking prohibited in certain areas.**

- (a) Except as provided in this Chapter, smoking and vaping is unlawful in, on, or within 25 feet of all public parks, public bus shelters, public owned or leased and operated buildings and vehicles, the Government Office Building, and the Salisbury Zoo, and along the Riverwalk, including recreational areas within and located along the Riverwalk, except within 15 feet of an officially designated smoking area. Certain specific areas where smoking is not allowed, except within 15 feet of a designated smoking area, are listed below and newly acquired, dedicated, constructed and/or designated public parks or other City property coming into existence after the passage of the ordinance establishing this code section shall automatically be included as areas where smoking is not allowed. The current listed City parks include, but are not limited to:
- (1) Salisbury City Park, inclusive of trail ways and greenways, equipment, outbuildings, seating, picnic areas, areas designated for organized sports, restrooms, fountains, entertainment and recreational venues, pavilions, etc. This area runs from Snow Hill Road through Memorial Plaza and to Beaglin Park Drive;
  - (2) Salisbury Dog Park, North Park Drive;
  - (3) Salisbury Marina building and fuel pumps, Fitzwater Street;
  - (4) Salisbury Skate Park, South Park Drive;
  - (5) Salisbury Zoological Park;
  - (6) Bens Red Swings, Beaver Dam Drive;
  - (7) Camden Tot Lot Park and Playground, Newton Street and Light Street;
  - (8) Clairmont Park, Lorecrop Drive between Pinehurst Avenue and West College Avenue;
  - (9) Comfort Safety Zone Park, 116 East William Street;
  - (10) Doverdale Park and Playground, Decatur Avenue and Johnson Street;
  - (11) Elizabeth W. Woodcock Park and Playground, Riverside Road and Pennsylvania Avenue;
  - (12) Jeanette P Chipman Boundless Park and Playground, Broad Street and Poplar Hill Avenue;
  - (13) Johnson Lake Neighborhood Playground, New York Avenue and Chase Street;
  - (14) Lake Street Park and Playground, 710 Lake Street;
  - (15) Monument Park, Parkway Circle and Parkway Avenue;
  - (16) Monument Plaza, Priscilla Street and North Division Street;
  - (17) Robins Nest Park, Parsons and 310 Gay Street;
  - (18) Riverwalk Park, inclusive of all recreational areas within, along and associated with the Riverwalk, to include pavilions, entertainment areas, park benches, the pedestrian bridge, boat launches, etc., Circle Avenue to South Salisbury Boulevard; and
  - (19) Waterside Park and Playground, Fitzwater Street and Parsons Road.

**Sec. 8.32.040 – Exceptions**

The prohibitions contained in this ordinance shall not apply to the following;

- (a) Designated smoking areas;
- (b) Inside a non-City owned or operated vehicle which is legally parked at a playground or recreational area, so long as it is at least 25 feet away from the playground or recreational area; or,
- (c) On any boat or vessel legally docked at the City Marina.

**Sec. 8.32.050 – Designation of smoking areas.**

The Mayor and Council of the City of Salisbury by Resolution may designate areas in which smoking is permitted outside of City-owned, operated, or leased buildings, or on City-owned, operated, or leased property. The Mayor and Council of the City of Salisbury by Resolution may also designate smoking areas at playgrounds, recreational areas, parks, etc. and those smoking areas shall be at least 25 feet away from any recreational equipment or sports fields. The designated smoking areas may include a 15-foot radius and shall include a sign reading "Designated Smoking Area" which is at least 10 inches " wide and 15 inches " tall. The Mayor and Council of the City of Salisbury by Resolution may also designate temporary smoking areas from time to time for special events within the City. The Department of Field Operations shall be responsible for signage and shall ensure that all signage is installed to meet any applicable signage regulations.

**Sec. 8.32.060 - Penalties.**

Any person who violates Section 8.32.030 or 8.32.050 shall be subject to a municipal infraction resulting in a fine of up to \$500.00 for an initial offense, up to \$1,000.00 for each repeat offense, or shall be subject to up to 12 hours of community service work for the initial offense, up to 48 hours of community service work for each repeat offense, or a combination of a monetary fine and community service time not to exceed the upper limits of either initial or repeat offense category, respectively. The community service work may take the form of a park cleaning project. The municipal infraction citation for the violation shall be issued by an employee of the Salisbury Police Department.

**Sec. 8.32.070 – Effect on fire and health regulations.**

Nothing in this chapter shall be deemed to repeal applicable fire or health regulations.

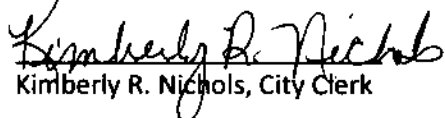
~~\*Strikethrough shows language deleted from the Code.~~

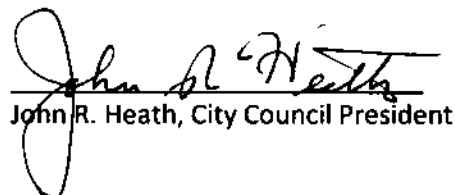
\*Bold language added to the Code.

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

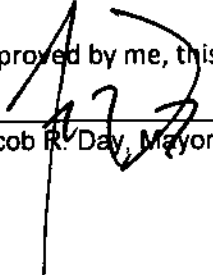
THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the 28<sup>th</sup> day of August, 2017 and thereafter, a statement of the substance of the ordinance having been published as required by law, in the meantime, was finally passed by the Council on the 11<sup>th</sup> day of September, 2017.

ATTEST:

  
Kimberly R. Nichols, City Clerk

  
John R. Heath, City Council President

Approved by me, this 13 day of SEP, 2017.

  
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Jacob R. Day, Mayor



June 26, 2017

TO: Julia Glanz  
City Administrator

FROM: Chief Barbara Duncan

Subject: No Smoking Ordinance

Attached is an ordinance of the City of Salisbury amending the Salisbury City Coder by deleting Chapter 8.32- Smoking and replacing it with a new chapter 8.32- Smoking to prohibit smoking on, in, or around property owned, leased or operated by the city, including public parks.

Unless you or the Mayor has further questions, please forward this Ordinance to the Salisbury City Council.

Barbara Duncan  
Chief of Police



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