

Title 2

ADMINISTRATION AND PERSONNEL

Chapters:

2.04 Ethics

2.08 Civil Emergencies

2.12 Department of Building, Permitting and Inspections

2.14 Department of Neighborhood Services and Code Compliance

2.16 Fire Department

2.18 Department of Information Technology

2.20 Human Resources Department

2.24 Personnel Rules and Regulations

2.28 Planning and Zoning Commission

2.32 Purchases and Sales

2.36 Disposition of Surplus or Unused Real Property

2.40 Disposition of Personal Property

Chapter 2.04

ETHICS*

* **Editors Note:** Ordinance No. 2211, passed July 23, 2012, repealed and reenacted Ch. 2.04 in its entirety to read as herein set out. Former Ch. 2.04 pertained to the same subject matter and derived from Ord. 1750, passed in 2000; and Ord. 1917, passed in 2004.

Sections:

2.04.010 Short title.

2.04.020 Applicability.

2.04.030 Ethics commission.

2.04.040 Conflicts of interest.

2.04.050 Financial disclosure--Local elected officials and candidates to be local elected officials.

2.04.060 Financial disclosure--Employees and appointed officials.

2.04.070 Lobbying.

2.04.080 Exemptions and modifications.

2.04.090 Enforcement.

2.04.010 Short title.

This chapter may be cited as the "City of Salisbury Public Ethics Ordinance."
(Ord. No. 2211, 7-23-2012)

2.04.020 Applicability.

The provisions of this chapter apply to all city elected officials, employees, and appointees, boards and commissions of the city.
(Ord. No. 2211, 7-23-2012)

2.04.030 Ethics commission.

(a) There is a city ethics commission that consists of five members appointed by the mayor with the advice and consent of the city council.

(b) The commission shall:

(1) Devise, receive and maintain all forms required by this chapter;

(2) Develop procedures and policies for advisory opinion requests and provide published advisory opinions to persons subject to this chapter regarding the applicability of the provisions of this chapter to them;

(3) Develop procedures and policies for processing of complaints to make appropriate determinations regarding complaints filed by any person alleging violations of this chapter; and

(4) Conduct a public information program regarding the purposes and application of this chapter.

(c) The city attorney shall advise the commission.

(d) The commission shall certify to the state ethics commission on or before October 1 of each year that the City is in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland for elected local officials.

(e) The commission shall determine if changes to this chapter are required to be in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, and shall forward any recommended changes and amendments to the city council for enactment.

(f) The commission may adopt other policies and procedures to assist in the implementation of the commission programs established in this chapter.
(Ord. No. 2211, 7-23-2012)

2.04.040 Conflicts of interest.

(a) In this section, "qualified relative" means a spouse, parent, child or sibling.

(b) All city elected officials, officials appointed to city boards and commissions subject to this chapter and employees are subject to this section.

(c) Participation Prohibitions. Except as permitted by the commission regulation or opinion, an official or employee may not participate in:

- (1) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, or a qualified relative of the official or employee has an interest.
- (2) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter, in which any of the following is a party:
 - (i) A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;
 - (ii) A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner or employee;
 - (iii) A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating employment or has any arrangement concerning prospective employment;
 - (iv) If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;
 - (v) An entity, doing business with the city, in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interest; or
 - (vi) A business entity that:
 - (A) The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and
 - (B) As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.
- (3) A person who is disqualified from participating under paragraphs (1) or (2) of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:

- (i) The disqualification leaves a body with less than a quorum capable of acting;
 - (ii) The disqualified official or employee is required by law to act; or
 - (iii) The disqualified official or employee is the only person authorized to act.
- (4) The prohibitions of paragraph (1) and (2) of this subsection do not apply if participation is allowed by regulation or opinion of the commission.
- (d) Employment and Financial Interest Restrictions.
- (1) Except as permitted by regulation of the commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:
- (i) Be employed by or have a financial interest in any entity:
 - (A) Subject to the authority of the official or employee of the city, agency, board, commission with which the official or employee is affiliated; or
 - (B) That is negotiating or has entered a contract with the agency, board, or commission with which the official or employee is affiliated; or
 - (ii) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.
- (2) This prohibition does not apply to:
- (i) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to the authority;
 - (ii) Subject to other provisions of law, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publically disclosed to the appointing authority and the commission;
 - (iii) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted and in accordance with regulations adopted by the commission; or
 - (iv) Employment or financial interests allowed by regulation of the commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

(e) Post-Employment Limitations and Restrictions:

- (1) A former official or employee may not assist or represent any party other than the city for compensation in a case, contract, or other specific matter involving the city if that matter is one in which the former official or employee significantly participated as an official or employee.
- (2) Until the conclusion of one year after the elected official leaves office, a former member of the city council or a former mayor may not assist or represent another party for compensation in a matter involving the city that is subject to legislative action before the mayor and city council.

(f) Contingent Compensation. Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the city.

(g) Use of Prestige of Office.

- (1) An official or employee may not intentionally use the prestige of the office or public position for the private gain of that official or employee or the private gain of another.
- (2) This subsection does not prohibit performance of usual and customary constituent services by an elected local official without additional compensation.

(h) Solicitation and Acceptance of Gifts.

- (1) An official or employee may not solicit any gift.
- (2) An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.
- (3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:
 - (i) Is doing business with or seeking to do business with the city office, agency, board, or commission with which the official or employee is affiliated;
 - (ii) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;
 - (iii) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or
 - (iv) Is a lobbyist with respect to matters within the jurisdiction of the official or employee.
- (4) Notwithstanding paragraph 3. of this subsection, an official or employee may accept the following:

- (i) Meals and beverages consumed in the presence of the donor or sponsoring entity;
 - (ii) Ceremonial gifts or awards that have insignificant monetary value;
 - (iii) Unsolicited gifts of nominal value that do not exceed twenty dollars (\$20.00) in cost or trivial items of informational value;
 - (iv) Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;
 - (v) Gifts of tickets or free admission extended to an elected local official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;
 - (vi) A specific gift or class of gifts that the commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the city and that the gift is purely personal and private in nature;
 - (vii) Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee; or
 - (viii) Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is not related in any way to the official's or employee's official position.
- (5) The exceptions set forth in paragraph (4) shall not apply to a gift:
- (i) That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;
 - (ii) Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or
 - (iii) Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.
- (i) Disclosure of Confidential Information. Other than in the discharge of official duties, an official or employee may not disclose or use confidential information, that the official or employee acquired by reason of the official's or employee's public position and that is not available to the public, for the economic benefit of the official or employee or that of another person.
- (j) Participation in Procurement.

- (1) An individual, or a person that employs an individual who assists a city agency in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement may not submit a bid or proposal for that procurement, or assist or represent another person, directly or indirectly, who is submitting a bid for proposal for the procurement.
- (2) The commission may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring agency.

(Ord. No. 2211, 7-23-2012)

2.04.050 Financial disclosure--Local elected officials and candidates to be local elected officials.

- (a) [Application of Section.]
 - (1) This section applies to all local elected officials and candidates to be local elected officials.
 - (2) Except as provided in subsection (b) of this section, a local elected official or a candidate to be a local elected official shall file the financial disclosure statement required under this section:
 - (i) On a form provided by the commission;
 - (ii) Under oath or affirmation; and
 - (iii) With the commission.
 - (3) Deadlines for filing statements:
 - (i) An incumbent local elected official shall file a financial disclosure statement annually no later than April 30 of each year for the preceding calendar year.
 - (ii) An individual who is appointed to fill a vacancy in an office for which a financial disclosure statement is required and who has not already filed a financial disclosure statement, shall file a statement for the preceding calendar year within thirty (30) days after appointment.
 - (iii) [Statement required.]
 - (A) An individual who, other than by reason of death, leaves an office for which a statement is required shall file a statement within sixty (60) days after leaving the office.
 - (B) The statement shall cover:
 1. The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and

2. The portion of the current calendar year during which the individual held the office.

- (b) Candidates to be Local Elected Officials.
 - (1) Except for an official who has filed a financial disclosure statement under another provision of this section for the reporting period, a candidate to be an elected local official shall file a financial disclosure statement each year beginning with the year in which the certificate of candidacy is filed through the year of the election.
 - (2) A candidate to be an elected local official shall file a statement required under this section:
 - (A) In the year the certificate is filed, no later than the filing of the certificate of candidacy;
 - (B) In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and
 - (C) In all other years for which a statement is required, on or before April 30.
 - (3) A candidate to be an elected official:
 - (A) May file the statement required under Section 2.04.050(b)(2)(A) of this chapter with the city clerk or board of election supervisors with the certificate of candidacy or with the commission prior to filing the certificate of candidacy; and
 - (B) Shall file the statements required under Section 2.04.050(b)(2)(B) and (C) with the commission.
 - (4) If a candidate fails to file a statement required by this section after written notice is provided by the city clerk or board of election supervisors at least twenty (20) days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.
 - (5) The city clerk or board of election supervisors may not accept any certificate of candidacy unless a statement has been filed in proper form.
 - (6) Within thirty (30) days of the receipt of a statement required under this section, the city clerk or board of election supervisors shall forward the statement to the commission or the office designated by the commission.
- [(c) Reserved.]
- [(d) Reserved.]
- (e) Public Record.

- (1) The city clerk shall maintain all financial disclosure statements filed under this section.
 - (2) Financial disclosure statements shall be made available during normal office hours for examination and copying by the public subject to reasonable fees and administrative procedures established by the commission.
 - (3) If an individual examines or copies a financial disclosure statement, the city clerk shall record:
 - (i) The name and home address of the individual reviewing or copying the statement; and
 - (ii) The name of the person whose financial disclosure statement was examined or copied.
 - (4) Upon request by the official or employee whose financial disclosure statement was examined or copied, the commission or the office designated by the city clerk shall provide the official with a copy of the name and address of the person who reviewed the official's financial disclosure statement.
- (f) **Retention Requirements.** The commission or the office designated by the city clerk shall retain financial disclosure statements for four years from the date of receipt.
- (g) **Contents of Statement.**
- (1) **Interests in Real Property.**
 - (i) A statement filed under this section shall include a schedule of all interests in real property wherever located.
 - (ii) For each interest in real property, the schedule shall include:
 - (A) The nature of the property and the location by street address, mailing address, or legal description of the property;
 - (B) The nature and extent of the interest held, including any conditions and encumbrances on interest;
 - (C) The date when, the manner in which, and the identity of the person from whom the interest was acquired;
 - (D) The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;
 - (E) If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and

(F) The identity of any other person with an interest in the property.

(2) Interests in Corporations and Partnerships.

- (i) A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the city.
- (ii) For each interest reported under this paragraph, the schedule shall include:
 - (A) The name and address of the principal office of the corporation, partnership, limited liability partnership or limited liability corporation.
 - (B) The nature and amount of the interest held, including any conditions and encumbrances on the interest;
 - (C) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest and, if known, the identity of the person to whom the interest was transferred; and
 - (D) With respect to any interest acquired during the reporting, period:
 - 1. The date when, the manner in which, and the identity of the person or legal entity from whom the interest was acquired; and
 - 2. The nature and the amount of the consideration given in exchange for the interest or, if acquired, other than by purchase, the fair market value of the interest at the time acquired.
- (iii) An individual may satisfy the requirement to report the amount of the interest held under item (B)(ii) [sic] of this paragraph by reporting, instead of a dollar amount:
 - (A) For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held; or
 - (B) For an equity interest in a partnership, the percentage of equity interest held.

(3) Interests in Business Entities Doing Business with City.

- (i) A statement filed under this section shall include a schedule of all interests in any business entity that does business with the city, other than interests reported under paragraph (2) of this subsection.
- (ii) For each interest reported under this paragraph, the schedule shall include:

- (A) The name and address of the principal office of the business entity;
- (B) The nature and amount of the interest held, including any conditions to and encumbrances in the interest;
- (C) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest and, if known, the identity of the person to whom the interest was transferred; and
- (D) With respect to any interest acquired during the reporting period:
 - 1. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and
 - 2. The nature and the amount of the consideration given in exchange for the interest or, if acquired, other than by purchase, the fair market value of the interest at the time acquired.

(4) Gifts.

- (i) A statement filed under this section shall include a schedule of each gift in excess of twenty dollars (\$20.00) in value or a series of gifts totaling one hundred dollars (\$100.00) or more received during the reporting period from or on behalf of, directly or indirectly, any one person or legal entity who does business with or is regulated by the city.
- (ii) For each gift reported, the schedule shall include:
 - (A) A description of the nature and value of the gift; and
 - (B) The identity of the person or legal entity from whom, or on behalf of whom, directly or indirectly, the gift was received.

(5) Employment With or Interests in Entities Doing Business With City.

- (i) A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the city.
- (ii) For each position reported under this paragraph, the schedule shall include:
 - (A) The name and address of the principal office of the business entity;
 - (B) The title and nature of the office, directorship, or salaried employment held and

the date it commenced; and

(C) The name of each city agency with which the entity is involved.

(6) Indebtedness to Entities Doing Business With City.

(i) A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons or legal entities doing business with the city owed at any time during the reporting period;

(A) By the individual; or

(B) By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.

(ii) For each liability reported under this paragraph, the schedule shall include:

(A) The identity of the person or legal entity to whom the liability was owed and the date the liability was incurred;

(B) The amount of the liability owed as of the end of the reporting period;

(C) The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and

(D) The security given, if any, for the liability.

(7) A statement filed under this section shall include a schedule of the immediate family members of the individual employed by the City in any capacity at any time during the reporting period.

(8) Sources of Earned Income.

(i) A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income, at any time during the reporting period.

(ii) A minor child's employment or business ownership need not be disclosed if the agency that employs the individual does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.

(9) A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.

(h) For the purposes of Section 2.04.050(g)(1),(2) and (3) of this chapter, the following interests are

considered to be the interests of the individual making the statement:

- (1) An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual.
- (2) An interest held by a business entity in which the individual held a thirty (30) percent or greater interest at any time during the reporting period.
- (3) An interest held by a trust or an estate in which, at any time during the reporting period:
 - (i) The individual held a reversionary interest or was a beneficiary, or
 - (ii) If a revocable trust, the individual was a settler.
- (i) [Compliance with Provisions.]
- (1) The commission shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies.
- (2) The city ethics commission may take appropriate enforcement action to ensure compliance with this section.

(Ord. No. 2211, 7-23-2012)

2.04.060 Financial disclosure--Employees and appointed officials.

- (a) This section only applies to the following appointed officials and employees:

City Administrator - Assistant City Administrator

City Clerk - Assistant City Clerk

City Solicitor - Assistant City Solicitor

Department Directors - Assistant Department Directors

Members of Quasi-Judicial Boards and Commissions including, but not limited to:

Members of Board of Zoning Appeals

Members of Housing Board of Adjustment and Appeals

Members of Building Board of Adjustment and Appeals

Members of the Planning and Zoning Commission appointed by the city

Members of the Ethics Commission

Members of the Historic District Commission

(b) A statement filed under this section shall be filed with the commission under oath or affirmation.

(c) On or before April 30 of each year during which an official or employee holds office, an official or employee shall file a statement disclosing gifts received during the preceding calendar year from any person that contracts or is regulated by the city including the name of the donor of the gift and the approximate retail value at the time of receipt.

(d) An official or employee shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public.

(e) The commission shall maintain all disclosure statements filed under this section as public records available for public inspection and copying as provided in Section 2.04.050(e) and (f) of this chapter. (Ord. No. 2211, 7-23-2012)

2.04.070 Lobbying.

(a) A person shall file a lobbying registration statement with the commission if the person:

- (1) Personally appears before the city official or employee with the intent to influence that person in performance of the official duties of the official or employee; and
- (2) In connection with the intent to influence expends or reasonably expects to expend in a given calendar year excess of one hundred dollars (\$100.00) on food, entertainment or other gifts for officials or employees of city.

(b) A person shall file registration statement required under this section on or before the latter of January 15 of the calendar year or within five days after first performing an act that requires registration in the calendar year.

(c) [Registration statement.]

(1) The registration statement shall identify:

- (i) The registrant;
- (ii) Any other person on whose behalf the registrant acts; and
- (iii) The subject matter on which the registrant purposes to make appearances specified in subsection (a) of this section.

(2) The registration statement shall cover a defined registration period not to exceed one calendar

year.

(d) Within thirty (30) days after the end of any calendar year during which a person was registered under this section, the person shall file a report with the commission disclosing:

- (1) The value, date, and nature of any food, entertainment or other gift provided to a city official or employee; and
- (2) If a gift or series of gifts to a single official or employee exceeds one hundred dollars (\$100.00) in value, the identity of the official or employee.

(e) The commission shall maintain the registrations and reports filed under this section as public records available for public inspection and copying for four years after receipt by the commission.
(Ord. No. 2211, 7-23-2012)

2.04.080 Exemptions and modifications.

The commission may grant exemptions and modifications to the provisions of Sections 2.04.040 and 2.04.060 of this chapter to employees and to appointed members of the city boards and commissions, when the commission finds that an exemption or modification would not be contrary to the purposes of this chapter, and the application of this chapter would:

- (a) Constitute an unreasonable invasion of privacy; and
- (b) Significantly reduce the availability of qualified persons for public service.

(Ord. No. 2211, 7-23-2012)

2.04.090 Enforcement.

- (a) The Commission may:
 - (1) Assess a late fee of twenty dollars (\$20.00) per day for five days and \$10.00 for each subsequent day up to a maximum of two hundred fifty dollars (\$250.00) for failure to timely file a financial disclosure statement required under Sections 2.04.060 and 2.04.070 of this chapter;
 - (2) Assess a late fee of twenty dollars (\$20.00) per day for five days and \$10.00 for each subsequent day up to a maximum of two hundred fifty dollars (\$250.00) for failure to file a timely lobbyist registration or lobbyist report required under Section 2.04.080 of this chapter; and
 - (3) Issue a cease and desist order against any person found to be in violation of this chapter.
- (b) [Violation of provisions.]
 - (1) Upon a finding of a violation of any provision of this chapter, the commission may:
 - (i) Issue an order of compliance directing the respondent to cease and desist from the

violation;

- (ii) Issue a reprimand; or
- (iii) Recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal if that discipline is authorized by law.

(2) If the commission finds that a respondent has violated Section 2.04.070 of this chapter, the commission may:

- (i) Require a respondent who is a registered lobbyist to file any additional reports or information that reasonably related to the information that is required under Section 2.04.070 of this chapter.
- (ii) Impose a fine not exceeding five hundred dollars (\$500.00) for each violation; and
- (iii) Suspend the registration of an individual registered lobbyist if the commission finds that the lobbyist knowingly and willfully violated Section 2.04.070 of this chapter or has been convicted of a criminal offense arising from lobbying activities.

(c) [Requiring compliance.]

(1) Upon request of the commission, the city attorney may file a petition for injunctive or other relief in the Circuit Court for Wicomico County, or in any other court having proper venue for the purpose of requiring compliance with the provisions of this chapter.

(2) (i) The court may:

(A) Issue an order to cease and desist from the violation;

(B) Except as provided in subparagraph (ii) of this paragraph, void an official action taken by an official or employee with a conflict of interest prohibited by this chapter when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within ninety (90) days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public; or

(C) Impose a fine of up to five hundred dollars (\$500.00) for any violation of the provisions of this chapter, with each day upon which the violation occurs constituting a separate offense;

(ii) A court may not void any official action appropriating public funds, levying taxes, or providing for issuance of bonds, notes, or other evidences of public obligations.

(d) In addition to any other enforcement provisions in this chapter, a person who the commission or a court finds has violated this chapter:

(1) Is subject to termination or other disciplinary action; and

(2) May be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the commission or a court.

(e) A city official or employee found to have violated this chapter is subject to disciplinary or other appropriate personnel action, including removal from office, disciplinary action, suspension of salary, or sanction.

(f) Violations of Section 2.04.070 of this chapter shall be a misdemeanor subject to a fine of up to five hundred dollars (\$500.00) or imprisonment of up to one year.

(g) A finding of a violation of this chapter by the commission is public information.
(Ord. No. 2211, 7-23-2012)

Chapter 2.08

CIVIL EMERGENCIES

Sections:

2.08.010 Definitions.

2.08.020 Proclamation of civil emergency.

2.08.030 Establishment of general curfew.

2.08.040 Authorization for issuance of additional orders.

2.08.050 Dissemination of orders to public.

2.08.010 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

"Civil emergency" means:

- A. A riot, disorderly picketing or demonstrating or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by three or more persons acting together without authority of law;
- B. Any natural disaster or man-made calamity, including flood, conflagration, cyclone, tornado, earthquake, explosion or complete electrical blackout, within the corporate limits of the city, resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

"Curfew" means a prohibition against any person or persons walking, running, loitering, standing, remaining or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the city, except persons officially designated to duty with reference to such civil emergency.

(Prior code § 56-1)

2.08.020 Proclamation of civil emergency.

When, in the judgment of the mayor or, in his absence, the president of the council or, in his absence, his successor, upon the recommendation of competent police authority, a civil emergency, as defined in Section 2.08.010, is deemed to exist, he shall forthwith proclaim, in writing, the existence of same.
(Prior code § 56-2)

2.08.030 Establishment of general curfew.

After proclamation of a civil emergency by the mayor or his successors in order of authority, he may order a general curfew applicable to such geographical areas of the city or to the city as a whole as he deems necessary in the interest of the public safety and welfare.
(Prior code § 56-3)

2.08.040 Authorization for issuance of additional orders.

After proclamation of a civil emergency, the mayor or his successors in order of authority, as the case may be, may also, in the interest of public safety and welfare, make any or all of the following orders:

- A. Order the closing of all retail liquor stores;
- B. Order the closing of all beer taverns;
- C. Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor or beer is permitted;
- D. Order the discontinuance of the sale of beer;
- E. Order the discontinuance of selling, distributing or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle;
- F. Order the closing of gasoline stations and other establishments, the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products;
- G. Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever and provide for their safekeeping;
- H. Order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of firearms or ammunition;
- I. Order the temporary closing of any and all streets, alleys and other public ways in the city;
- J. Issue such other orders as are imminently necessary for the protection of life and property.

(Prior code § 56-4)

2.08.050 Dissemination of orders to public.

Should the mayor or his successors, in order of authority, deem it necessary to invoke any or all of the provisions of Sections 2.08.010 through 2.08.040, inclusive, he shall give notice of same by means of a written proclamation, publicly posted in city hall and issued to news media for immediate dissemination to the public. (Prior code § 56-5)

Chapter 2.12

DEPARTMENT OF BUILDING, PERMITTING AND INSPECTIONS*

Sections:

2.12.010 Establishment--Purpose.

2.12.020 Director of department of building, permitting and inspections.

2.12.030 Powers and duties of director and department.

2.12.040 Director responsible to mayor--Inspections--Issuance of warrants for violations.

2.12.050 Department procedure--Hearings.

2.12.060 Establishment of rules and regulations--Recommendations to mayor.

2.12.070 Assignment of additional duties.

* Prior history: Prior code §§ 18-1--18-7 as amended by Ord. 1945.

2.12.010 Establishment--Purpose.

There is established a department of building, permitting and inspections for the purpose of enforcement of the city's building, electrical, gas, and plumbing and zoning codes and the performance of all functions of the city as provided in such building, electrical, gas, and plumbing and zoning codes. (Ord. 1968 (part), 2005)

2.12.020 Director of department of building, permitting and inspections.

There shall be a department of building, permitting and inspections headed by a director. The director of building, permitting and inspections shall be appointed by the mayor with the advice and consent of a majority of the full council and shall serve continuously unless terminated pursuant to Section SC2-10. The compensation for the director shall be determined by a majority of the full council. All subordinate personnel shall be appointed as provided in Section SC3-4.C of the City Charter. (Ord. 1968 (part), 2005)

2.12.030 Powers and duties of director and department.

Under the authority of the mayor and the direct supervision of the city administrator, the director of the department of building, permitting and inspections is directed to enforce the city's building, electrical, gas, plumbing, zoning, fire, mechanical and existing building codes and to carry out and perform all functions of the city as provided by such building, electrical, gas, plumbing, zoning, fire, mechanical and existing building codes. The department of building, permitting and inspections shall have all the power and authority necessary to carry out its duties. (Ord. 1968 (part), 2005)

2.12.040 Director responsible to mayor--Inspections--Issuance of warrants for violations.

The director of the department of building, permitting and inspections shall be responsible and report directly to the city administrator under the authority of the mayor. The department of building, permitting and inspections shall make all necessary inspections to determine whether the building, electrical, gas, or plumbing or zoning codes have been or are being violated.
(Ord. 1968 (part), 2005)

2.12.050 Department procedure--Hearings.

The director of the department of building, permitting and inspections shall follow such procedures, including conducting formal or informal hearings for persons alleged to have violated either the building, electrical, gas, or plumbing or zoning codes, as shall best promote efficient administration, justice and good order and shall not be inconsistent with law or the Charter of the city.
(Ord. 1968 (part), 2005)

2.12.060 Establishment of rules and regulations--Recommendations to mayor.

The director of the department of building, permitting and inspections shall establish such rules and regulations as shall, from time to time, be necessary to the performance of the duties and functions of the department of building, permitting and inspections pursuant to this chapter. The director of the department of building, permitting and inspections shall recommend necessary changes which he deems desirable in the provisions of this chapter; other provisions of law; the Charter; the building, electrical, gas, heating, and plumbing and zoning codes; and ordinances or resolutions affecting the department of building, permitting and inspections for submission to and approval by the mayor.
(Ord. 1968 (part), 2005)

2.12.070 Assignment of additional duties.

In addition to its duties as provided in Sections 2.12.030 and 2.12.040 of this chapter, the department of building, permitting and inspections shall perform any and all other duties which may be assigned to it by the mayor, in writing or otherwise, and the director of the department of building, permitting and inspections shall have all power and authority necessary to carry out such additional assigned duties.
(Ord. 1968 (part), 2005)

Chapter 2.14

DEPARTMENT OF NEIGHBORHOOD SERVICES AND CODE COMPLIANCE

Sections:

- 2.14.010 Establishment--Purpose.**
- 2.14.020 Director of department of neighborhood services and code compliance.**
- 2.14.030 Powers and duties of director and department.**
- 2.14.040 Director responsible to mayor--Inspections--Issuance of warrants for violations.**
- 2.14.050 Department procedure--Hearings.**
- 2.14.060 Establishment of rules and regulations--Recommendations to mayor.**
- 2.14.070 Assignment of additional duties.**

2.14.010 Establishment--Purpose.

There is established a department of neighborhood services and code compliance for the purpose of enforcement of the city's housing and zoning codes to assure compliance with zoning, property maintenance and occupancy provisions.

(Ord. 1969 (part), 2005)

2.14.020 Director of department of neighborhood services and code compliance.

There shall be department of neighborhood services and code compliance headed by a director. The director of the department of neighborhood services and code compliance shall be appointed by the mayor with the advice and consent of a majority of the full council and shall serve continuously unless terminated pursuant to Section SC2-10. The compensation for the director shall be determined by a majority of the full council. All subordinate personnel shall be appointed as provided in Section SC3-4.C of the City Charter.

(Ord. 1969 (part), 2005)

2.14.030 Powers and duties of director and department.

Under the authority of the mayor and the direct supervision of the city administrator, the director of the department of neighborhood services and code compliance is directed to enforce the city's housing and zoning codes and to carry out and perform all functions of the city as provided by such housing and zoning codes. The department of neighborhood services and code compliance shall have all the power and authority necessary to carry out its duties.

(Ord. 1969 (part), 2005)

2.14.040 Director responsible to mayor--Inspections--Issuance of warrants for violations.

The director of the department of neighborhood services and code compliance shall be responsible and report directly to city administrator under the authority of the mayor. The department of neighborhood services and code compliance shall make all necessary inspections to determine whether the housing or zoning codes have been or are being violated. The director of department of neighborhood services and code compliance shall promptly and faithfully execute or secure the issuance of all writs (warrants) for any violations of the various codes mentioned above and shall attend any court having the enforcement of any such violations.

(Ord. 1969 (part), 2005)

2.14.050 Department procedure--Hearings.

The director of the department of neighborhood services and code compliance shall follow such procedures, including conducting formal or informal hearings for persons alleged to have violated either the housing or zoning codes, as shall best promote efficient administration, justice and good order and shall not be inconsistent with law or the Charter of the city.

(Ord. 1969 (part), 2005)

2.14.060 Establishment of rules and regulations--Recommendations to mayor.

The director of the department of neighborhood services and code compliance shall establish such rules and regulations as shall, from time to time, be necessary to the performance of the duties and functions of the department of neighborhood services and code compliance pursuant to this chapter. The director of the

department of neighborhood services and code compliance shall recommend necessary changes which he deems desirable in the provisions of this chapter; other provisions of law; the Charter; the housing and zoning codes; and ordinances or resolutions affecting the department of neighborhood services and code compliance for submission to and approval by the mayor.

(Ord. 1969 (part), 2005)

2.14.070 Assignment of additional duties.

In addition to its duties as provided in Sections 2.14.030 and 2.14.040 of this chapter, the department of neighborhood services and code compliance shall perform any and all other duties which may be assigned to it by the mayor, in writing or otherwise, and the department of neighborhood services and code compliance shall have all power and authority necessary to carry out such additional assigned duties.

(Ord. 1969 (part), 2005)

Chapter 2.16

FIRE DEPARTMENT

Sections:

2.16.010 Definitions.

2.16.020 Organization.

2.16.030 Career personnel.

2.16.040 Volunteer fire companies and volunteer personnel.

2.16.050 Selection of fire chief.

2.16.060 Unauthorized entry into hazardous areas at emergency incidents.

2.16.070 Hindrance of fire department personnel in the performance of duties.

2.16.080 Tampering with or damaging equipment or apparatus used for emergency services.

2.16.090 Uniforms--Equipment.

2.16.100 Authority for the removal of obstructions near fire hydrants.

2.16.010 Definitions.

As used in this chapter:

"Career officers or employees" means those paid officers or employees as are provided for by the city council pursuant to Article XVIII of the City Charter.

"Emergency services" means and includes those general duties and responsibilities of the fire department as set forth in Sections 2.16.020(C)(1) to (C)(3).

"Fire chief" means the fire chief appointed pursuant to Article XVIII, § SC18-1 of the City Charter.

"Fire department" means the city of Salisbury fire department, as constituted under Section 2.16.020(A).

"Firefighter" means any person engaged in providing emergency services on behalf of the fire department.

"Tax funds" means tax revenue paid by residents of the city of Salisbury and the Salisbury fire district to federal, state, county and municipal governments.

"Volunteer fire company" means a quasi-public nonprofit corporation recognized by the city as a component of the Salisbury fire department.
(Ord. 1909 (part), 2004)

2.16.020 Organization.

A. The fire department shall consist of:

1. The fire chief;
2. Career officers and employees;
3. Such volunteer fire companies and volunteer firefighters as are recognized by the city from time to time, which as of the date of adoption of this legislation are:

Salisbury Fire Department, Inc. (Station #16)

Salisbury Fire Department Inc., Company No. 1 (Station #1)

Salisbury Fire Company, No. 2, Inc. (Station #2)

B. The fire department shall have a sufficient number of career and volunteer supervisory personnel to effectively and efficiently manage fire department personnel and operations, including:

1. Fire chief (career);
2. Deputy fire chief of operations (career);
3. Deputy fire chief of volunteer services (volunteer);
4. Assistant fire chief (career and volunteer);
5. Fire captain (career and volunteer);
6. Fire lieutenant (career and volunteer).

C. General Duties and Responsibilities of the Fire Department.

1. The fire department shall respond to incidents including fires, explosions, rescues, extrications, medical emergencies, hazardous materials incidents, natural and technological disasters and other emergency events that are harmful to life, property and the environment;
2. The fire department shall provide pre-hospital advanced life support emergency medical services;

3. The fire department shall assist other city, county, state and federal agencies as necessary to control emergency situations and have such other powers and duties as required or provided by law or as assigned by the city council;
4. The fire department shall engage in programs of fire prevention;
5. Such other duties as may be assigned to it by the city.

D. Fire Department Service Area.

1. The fire department service area shall be known as the Salisbury fire district;
2. The Salisbury fire district shall include:

- a. All incorporated areas of the city of Salisbury,
- b. All areas in Wicomico County outside of the corporate city limits but within the boundaries as identified by the city upon agreement with the county.

E. Mutual Aid and Assistance With Other Emergency Services and Public Safety Organizations.

1. After approval by the city, the fire chief shall be authorized to enter into agreements that will permit the fire department to assist other agencies in the provision of emergency services;
2. After approval by the city, the fire chief shall be authorized to enter into agreements that will permit the fire department to receive assistance from other agencies for the provision of emergency services. If warranted by circumstances, the fire chief is authorized to recognize and to receive assistance from other agencies for the provision of emergency services;
3. Any mutual aid assistance requiring financial contribution from the city or the fire department must be authorized by the city;
4. Any emergency service or public safety organization with whom the city has a mutual aid agreement is recognized as an emergency service provider in the Salisbury fire district according to the terms of the mutual aid agreement;
5. Any nonprofit or for-profit emergency service or public safety organization shall be permitted to transport equipment, personnel or members of the public within the city.

F. Duties and Responsibilities of the Fire Chief. The fire chief shall have general command, control and supervision of all emergency services. Without limiting the scope of the foregoing sentence, the fire chief shall:

1. Ensure the efficient and effective response of adequate resources to incidents requiring emergency services in order to prevent the loss of life, destruction of property and damage to the environment;

2. Control, maintain and operate all physical facilities, apparatus, equipment and personal property used by the fire department;
3. Maintain accurate records for all aspects of the operation of the fire department;
4. Provide periodic reports regarding the operation of the fire department to the mayor, city council and executive officer;
5. Ensure that no fire department resources are used for the personal gain of individuals, or public or private corporations or other entities;
6. Maintain communications with senior staff members to ensure that the fire chief is promptly notified of any department related matters that require his active presence or action thereon;
7. Appoint or remove career and volunteer fire line officers;
8. Direct the use or transfer of fire department vehicles, equipment or personal property within or outside of the Salisbury fire district;
9. Prepare a proposed budget and administer the fire department budget as adopted by the city;
10. Approve the operational use of all fire-fighting and emergency medical services apparatus, vehicles, tools and equipment;
11. Attend or appoint a designee to attend the meetings of each volunteer fire company;
12. Serve as liaison with Wicomico County and volunteer fire departments on operational issues;
13. Be considered to be on duty at all times;
14. Promulgate rules and regulations governing the operation of the fire department and its provision of emergency services.

G. Duties and Responsibilities of the Deputy Fire Chief (Career). The deputy fire chief (career), or first in command after the fire chief, when on duty in the absence of the fire chief, shall assume all of the duties and responsibilities of the fire chief and for the time being shall possess all of the authority under the existing laws and regulations as have been laid down for the guidance and direction of the fire chief. The deputy fire chief shall assist the fire chief in the day to day operations of the fire department, and shall be subject to the direction and control of the fire chief.

H. Duties and Responsibilities of the Deputy Fire Chief (Volunteer). The deputy fire chief (volunteer), or second in command after the fire chief and deputy fire chief (career), when on duty in the absence of the fire chief and deputy fire chief (career), shall assume all of the duties and responsibilities of the fire chief and for the time being shall possess all of the authority under the existing laws and regulations as have been laid down for the guidance and direction of the fire chief and deputy fire chief (career). The deputy fire

chief (volunteer) shall assist the fire chief and deputy fire chief (career) in the day to day operations of the fire department, and shall be subject to the direction and control of the fire chief and deputy fire chief (career). Subject to the authority of the fire chief and the deputy fire chief (career), the deputy fire chief (volunteer) shall have primary responsibility for managing the volunteer component of the fire department.

I. Duties and Responsibilities of Other Fire Department Officers (Career and Volunteer).

1. In the absence of the fire chief, the deputy fire chief (career) and the deputy fire chief (volunteer), the duties and responsibilities of the fire chief for the time being shall be exercised by the assistant chiefs in order of seniority, as defined by regulation promulgated by the fire chief.
2. Each officer shall assist and be subject to the direction and control of the fire chief, deputy fire chief (career), deputy fire chief (volunteer), to enable each of such chiefs to successfully discharge their duties.

(Ord. 1909 (part), 2004)

2.16.030 Career personnel.

A. There shall be as many employees of the fire department as provided for in Article XVIII, §§ SC18-1, SC18-2, and SC18-3, and Article III, § SC3-4C of the Salisbury City Charter. All employees shall be under the command and control of the fire chief.

B. All career employees shall be governed and disciplined in accordance with the city of Salisbury Employee Handbook, the city fire department standing operating procedures and guidelines and other applicable departmental rules and regulations or city of Salisbury policies and procedures. If the departmental rules and regulations conflict with city personnel policy, the city personnel policy will control as to career employees.

(Ord. 1909 (part), 2004)

2.16.040 Volunteer fire companies and volunteer personnel.

A. A volunteer fire company must be recognized by the city in order to be permitted to provide emergency services within the city of Salisbury and Salisbury fire district. To retain or obtain recognition by the city, a volunteer fire company and its members must:

1. Comply with the City Charter, City Code, fire department rules and regulations, and all other applicable laws, rules and regulations;
2. Operate under the authority and unified command of the fire chief;
3. Receive approval of the fire chief to place any fire-fighting or emergency medical service apparatus, vehicles, tools or equipment in service for fire department operations;
4. Receive training required by the fire chief;

5. Not directly or indirectly purchase, alter, discard, dispose of, transfer or sell any vehicle, apparatus or equipment for or on behalf of a volunteer fire company, the fire department or the city of Salisbury without consultation with the fire chief;
 6. Not make any alterations to the fire department's vehicles, apparatus, equipment or physical facilities without the written approval of the fire chief.
- B. To retain or obtain recognition, a volunteer fire company must:
1. Be incorporated as a nonprofit member corporation under the general laws of the state of Maryland, and provide the fire chief all bylaws and articles of incorporation;
 2. Provide that its members shall be selected in accordance with the qualifications, guidelines and procedures set forth in such company's bylaws, which such bylaws will comply with the set of minimum standards for active membership selection as promulgated by the fire chief;
 3. Provide that all volunteer members shall be governed by and disciplined in accordance with the fire department standard operating procedures and guidelines and any other applicable laws, rules, regulations, policies or procedures;
 4. Have those corporate officers as it deems necessary for the effective management of its organization and adopt rules, regulations and bylaws as it may deem necessary to manage its corporate affairs; provided, however, that the same do not conflict with any federal or state law, the Salisbury City Charter, this code, any city policy or any fire department standard operating procedure or guidelines;
 5. Provide the following categories for membership in the fire company:

	Cadet:	Any person between the ages of fifteen (15) and eighteen (18) years of age, who qualifies for, and is accepted into, membership into one of the volunteer fire companies, and maintains compliance with departmental rules and regulations for cadet membership
	Probation:	Any person at least eighteen (18) years of age who qualifies for, and is accepted into, membership in one of the department's volunteer fire companies, and who maintains compliance with departmental rules and regulations pertaining to members

	Active:	Any person at least eighteen (18) years of age who has successfully completed initial training and medical physical requirements; and who maintains recurrent annual department training and medical physical requirements enabling them to qualify for participation in operational activities including emergency response
	Lifetime:	Status bestowed or conferred upon any volunteer member who has completed twenty (20) years of active operational service
	Honorary:	Any volunteer member or citizen who may have this status bestowed or conferred upon them by members of any of the volunteer fire companies

Any lifetime or honorary member may also serve as an active member provided that he or she meets all training and medical physical requirements for active members as established by the fire department. A lifetime or honorary member who is also an active member shall be counted toward a volunteer company's allotment of active member slots;

6. Use all tax funds received by the volunteer fire company to assist in the operation of the fire department. A volunteer executive board comprised of assistant fire chiefs (volunteer) from each volunteer fire company and the deputy chief (volunteer) shall manage the expenditure of these funds in consultation with the fire chief to assure the expenditure is for fire-fighting and emergency medical response needs of the fire department. The expenditure of charitable donations received by a volunteer fire company shall be supervised solely by the volunteer fire company;
7. Provide an annual financial disclosure statement, tax returns and audit report in such detail as the fire chief requests to enable the city to ensure accountability for the expenditure of tax funds;
8. Not conduct any fund raising activities of any kind on city property or with use of fire department apparatus or equipment without the written approval of the fire chief. The fire chief shall be notified of all fund raising activities;
9. Maintain all vehicles, apparatus and equipment in a state of readiness for immediate use under guidelines approved by the fire chief.

C. Active Membership. The total active membership of the volunteer fire companies recognized by the city of Salisbury shall be one hundred twenty (120). Active fire-fighting members shall include

probationary, life active, honorary active and active members. The fire chief shall be authorized to assign the number of active volunteer positions to each volunteer corporation as he deems appropriate for operational purposes. Only active firefighters may participate in operational activities including emergency response.

D. Compliance With Laws, Regulations and Orders. All officers and members of the volunteer fire companies shall obey and enforce applicable federal and state laws, rules and regulations; city laws, regulations, policies, guidelines; fire department standard operating procedures and guidelines; fire department rules, regulations and procedures; and operational orders of the fire chief.

E. Withdrawal of Recognition. If a volunteer fire company fails to obey the operational orders of the fire chief, or to comply with applicable federal or state law, applicable city laws, regulations, policies and procedures, fire department standard operating procedures and guidelines, or fire department rules and regulations, then the fire chief may notify the city. The city, after providing at least thirty (30) days' notice to the volunteer fire company, and after providing the volunteer fire company an opportunity to be heard within forty-five (45) days of the notice, may withdraw the city's recognition of the volunteer fire company. If such recognition is withdrawn, then the volunteer fire company and all of its officers and members shall vacate immediately any fire department premises owned by the city. All city real and personal property, vehicles, apparatus and equipment shall be turned over to the city immediately upon withdrawal of recognition.

F. Provision of Services Without City Recognition Prohibited. No nonprofit or for-profit emergency service organization shall engage in the delivery of emergency services in the Salisbury fire district without being recognized as a provider of such services by the city.

G. Discipline of Volunteer Line Officers or Members. The fire chief shall promulgate fire department regulations and procedures for discipline of volunteer line officers and members.

H. Auxiliary.

1. Each volunteer company shall be authorized to maintain a supporting organization known as the auxiliary for the express purpose of providing support to fire department members in the performance of their duties. All auxiliary members shall function under the authority and unified command of the fire chief. They shall comply with the fire department standard operating procedures and guidelines, department rules and regulations and all other applicable city policies and procedures.

2. The auxiliary of the volunteer fire companies shall not conduct any fund raising activities of any kind on city property or with use of city vehicles, apparatus or equipment without the written approval of the fire chief.

(Ord. 1909 (part), 2004)

2.16.050 Selection of fire chief.

A. As provided in Article XVIII, § SC18-1 of the Charter, the fire chief is appointed by the mayor with the advice and consent of the city council. His compensation is determined by the council.

B. Career and volunteer fire department personnel may make appropriate recommendations to the

mayor for the selection of the fire chief.
(Ord. 1909 (part), 2004)

2.16.060 Unauthorized entry into hazardous areas at emergency incidents.

No person shall cross a designated fire line or enter into any hazardous area as established by the fire department unless he or she is a member of the fire department or another agency authorized or requested to assist the fire department at the scene of the emergency.
(Ord. 1909 (part), 2004)

2.16.070 Hindrance of fire department personnel in the performance of duties.

No person shall:

1. Drive any vehicle over a fire hose or appliance in use at the scene of an emergency unless directed otherwise by authorized fire department personnel;
2. Molest, hinder, interfere or attempt to cause harm to any fire department officer or member during the performance of his or her duty;
3. Interfere or impede the progress of emergency apparatus that is displaying visible and employing audible warning devices during a response to provide emergency services;
4. Block or obstruct any fire hydrant which impedes its use by the fire department;
5. Report a false alarm of an event calling for fire department emergency services.

(Ord. 1909 (part), 2004)

2.16.080 Tampering with or damaging equipment or apparatus used for emergency services.

Any person who shall willfully, carelessly or maliciously tamper with, damage, mutilate or destroy any equipment or apparatus owned or operated by the fire department to provide emergency services, whether it is in use or stored, shall be guilty of a misdemeanor.
(Ord. 1909 (part), 2004)

2.16.090 Uniforms--Equipment.

A. The fire department's annual proposed operating budget shall include funding for the maintenance or purchase of uniforms and personal protective equipment for each member. All uniforms and personal protective equipment issued to any member shall be and remain the property of the city.

- B. The fire department's annual proposed operating budget shall include funding for the following:
1. Length of Service Award Program (LOSAP) premiums to provide a retirement benefit for qualified volunteer fire department members;

2. Medical physical examinations, fitness for duty and return to duty examinations for volunteer members in accordance with fire department standard operating procedures and guidelines.
(Ord. 1909 (part), 2004)

2.16.100 Authority for the removal of obstructions near fire hydrants.

The fire department shall be authorized to secure the removal of or to remove obstructions from the area in front of or nearby any fire hydrant that may impair the immediate identification or use of the fire hydrant.
(Ord. 1909 (part), 2004)

Chapter 2.18

DEPARTMENT OF INFORMATION TECHNOLOGY

Sections:

2.18.010 Establishment--Purpose.

2.18.020 Director of information technology.

2.18.030 Powers and duties of director and department.

2.18.040 Establishment of rules and regulations--Recommendations to mayor.

2.18.050 Assignment of additional duties.

2.18.010 Establishment--Purpose.

There is established a department of information technology for the purpose of planning and managing the information systems and data communications equipment utilized by the city government.
(Ord. No. 2120, 8-23-2010)

2.18.020 Director of information technology.

There shall be a department of information technology headed by a director. The director of the department of information technology shall be appointed by the mayor with the advice and consent of a majority of the full council and shall serve continuously unless terminated pursuant to Section SC2-10. The compensation for the director shall be determined by a majority of the full council. All subordinate personnel shall be appointed as provided in Section SC3-4.C of the City Charter.
(Ord. No. 2120, 8-23-2010)

2.18.030 Powers and duties of director and department.

Under the authority of the mayor and the direct supervision of the city administrator, the director of the department of information technology is directed to plan and manage the information systems and data communications equipment utilized by the city government. These responsibilities shall include: network security; network and server administration; application system administration; disaster recovery and end-user support.
(Ord. No. 2120, 8-23-2010)

2.18.040 Establishment of rules and regulations--Recommendations to mayor.

The director of the department of information technology shall establish such rules and regulations as

shall, from time to time, be necessary to the performance of the duties and functions of the department of information technology pursuant to this chapter. The director of the department of information technology shall recommend necessary changes which he deems desirable in the provisions of this chapter, other provisions of law, the Charter, and ordinances or resolutions affecting the department of information technology for submission to and approval by the mayor.
(Ord. No. 2120, 8-23-2010)

2.18.050 Assignment of additional duties.

In addition to its duties as provided in Sections 2.14.030 and 2.14.040 of this chapter, the department of information technology shall perform any and all other duties which may be assigned to it by the mayor, in writing or otherwise, and the department of information technology shall have all power and authority necessary to carry out such additional assigned duties.
(Ord. No. 2120, 8-23-2010)

Chapter 2.20

HUMAN RESOURCES DEPARTMENT

Sections:

2.20.010 Human resources department established.

2.20.020 Duties.

2.20.010 Human resources department established.

When the mayor and council deem it advisable, the city may establish a human resources department headed by a human resources director. The human resources director shall be appointed by the mayor, with the advice and consent of a majority of the full council and shall serve continuously unless terminated pursuant to § SC2-10. Compensation for the human resources director shall be determined by a majority of the full council. All subordinate personnel shall be appointed as provided in § SC3-4.C of the City Charter.
(Ord. 1945 (part), 2005: Ord. 1614 (part), 1995)

2.20.020 Duties.

Under the authority of the mayor and the direct supervision of the city administrator, the human resources director shall recommend personnel policy and procedures, assist with recruitment of personnel, assist with maintenance of personnel records, administer employee benefits, assist employees in obtaining information and services from benefit providers, coordinate safety and risk management programs and such other duties as the mayor may direct.
(Ord. 1945 (part), 2005: Ord. 1614 (part), 1995)

Chapter 2.24

PERSONNEL RULES AND REGULATIONS*

Sections:

2.24.010 Basis for appointments and promotions.

2.24.020 Personnel rules.

2.24.030 Retirement pay plan.

2.24.040 Job classification plan.

2.24.050 Applicability of regulations.

2.24.060 Police department written directives--Grant of authority.

2.24.070 Same--Applicability of directives.

2.24.080 Same--Conflicts.

* Prior code history: Prior code §§ 28-1--28-9.

2.24.010 Basis for appointments and promotions.

All appointments and promotions of city employees shall be made on the basis of merit and fitness. Merit and fitness shall be determined on the basis of experience, intelligence and general qualifications of the person for the position he is to fill, except, in case of persons employed to make or conduct a special inquiry, investigation, examination or installation, if the city administrator certifies that the employment is temporary and that the work should not be performed by regular city employees.

(Ord. 1926 (part), 2005)

2.24.020 Personnel rules.

The mayor shall prepare personnel rules to carry out the provisions of this chapter. After a hearing on the rules, the city council may approve such rules as proposed, or modify, reject or return them for revision or resubmission. Such rules shall become effective after adoption by the city council, with or without amendment. These rules shall provide for the following:

- A. A pay plan for each position within each department, subject to revision yearly prior to the beginning of the fiscal year;
- B. The procedure for discipline, grievance and appeal shall be set forth in the Employee Handbook adopted by mayor and council;
- C. The hours of work, the attendance regulations and the provisions for sick leave, vacation leave and legal holidays;
- D. Other practices and procedures necessary to the administration of the city personnel system.

(Ord. 1926 (part), 2005)

2.24.030 Retirement pay plan.

The mayor shall, with the approval of the city council, set up a retirement pay system and periodically review and revise that system.

(Ord. 1926 (part), 2005)

2.24.040 Job classification plan.

The mayor shall, with the approval of the city council, set up a job classification plan and establish rules and regulations for examinations for such personnel and periodically review and revise the same.

(Ord. 1926 (part), 2005)

2.24.050 Applicability of regulations.

City regulations and policies shall apply to all persons whose appointments are made under authority of the mayor and city council, unless otherwise provided for in the Charter of the city.
(Ord. 1926 (part), 2005)

2.24.060 Police department written directives--Grant of authority.

The mayor and city council of the city of Salisbury grant the authority to the chief of police to establish rules and regulations now known as the "City of Salisbury Police Department Written Directives."
(Ord. 1926 (part), 2005)

2.24.070 Same--Applicability of directives.

The written directives adopted by the police department govern the operation of the police department and employees of that department.
(Ord. 1926 (part), 2005)

2.24.080 Same--Conflicts.

When the written directives conflict with the city personnel policy, the written directives shall control.
(Ord. 1926 (part), 2005)

Chapter 2.28

PLANNING AND ZONING COMMISSION

Sections:

- 2.28.010 Commission created.**
- 2.28.020 Membership--Term.**
- 2.28.030 Powers and duties.**
- 2.28.040 Participation in countywide planning program.**
- 2.28.050 Continuation of powers.**
- 2.28.060 Transfer of powers and records.**
- 2.28.070 Provisions of former commission to apply.**

2.28.010 Commission created.

A municipal planning and zoning commission is created pursuant to provisions of Article 66B of the Annotated Code of Maryland and all amendments thereto, said Article entitled "Zoning and Planning," and said commission to hereafter be known as the "Salisbury Planning and Zoning Commission."
(Prior code § 31-1)

2.28.020 Membership--Term.

The Salisbury planning and zoning commission shall consist of seven members, who shall be appointed by the mayor and confirmed by the council. All members shall serve terms of five years or until a successor is

appointed, and all members shall be eligible for reappointment.
(Prior code § 31-2)

2.28.030 Powers and duties.

The Salisbury planning and zoning commission shall have all the powers and duties to conduct planning, zoning and other activities as authorized and delegated by the provisions of Article 66B of the Annotated Code of Maryland as amended.
(Prior code § 31-3)

2.28.040 Participation in countywide planning program.*

The Salisbury planning and zoning commission is authorized, after agreement between the mayor and city council and the Wicomico County Council, to participate in a countywide planning program under the applicable provisions of Article 66B of the Annotated Code of Maryland.
(Prior code § 31-4)

* Editor's Note: On 10-24-72, the Mayor and Council adopted Resolution 162, to establish and participate in the Wicomico County Areawide Planning Organization. Said resolution reads as follows:

"WHEREAS, Charter Counties are empowered by Article 25 of the Annotated Code of Maryland to engage in and carry out comprehensive planning; and

"WHEREAS, legislative bodies of municipalities are empowered by Article 66B of the Annotated Code of Maryland to participate by resolution in a countywide planning program; and

"WHEREAS, The City of Salisbury recognizes the importance of coordinating individual efforts of the city, county and town governments on mutual problems and concerns; and

"WHEREAS, the formation of an Areawide Planning Organization with membership open to all municipalities in Wicomico County will further promote cooperative arrangements and coordination among its members and will study such areawide problems and plans as are common among its members; "NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the City of Salisbury do hereby establish and become a member of the Wicomico County Areawide Planning Organization, which membership is recognized to include the county and all such municipalities in the county which by resolution shall become members and that membership shall be composed of representative(s) from the City of Salisbury, from Wicomico County and from each municipality according to bylaws to be adopted by the Organization, except that each representative shall be an elected official of the county or municipality or such other person(s) as the legislative body may designate; and

"BE IT FURTHER RESOLVED, that the Wicomico County Areawide Planning Organization shall consist, in part, of the members of the Salisbury--Wicomico County Planning and Zoning Commission, which members shall serve on both bodies; and

"BE IT FURTHER RESOLVED, that the Wicomico County Areawide Planning Organization is a review and advisory organization and does not replace nor assume any of the authority, duties nor responsibilities of the Salisbury--Wicomico County Planning and Zoning Commission nor of the Planning Commissions of any municipalities in Wicomico County."

2.28.050 Continuation of powers.

The newly established Salisbury planning and zoning commission created by this chapter shall have all the powers granted heretofore to any former planning and zoning commission of the city.
(Prior code § 31-5)

2.28.060 Transfer of powers and records.

From and after the creation of the Salisbury planning and zoning commission described in this chapter, all powers and records of the former planning and zoning commission shall be transferred to and become a part of the official files of the newly established Salisbury planning and zoning commission.
(Prior code § 31-6)

2.28.070 Provisions of former commission to apply.

All provisions relating in any way to the former Salisbury planning and zoning commission contained in any code or ordinance of the city of Salisbury, Maryland, not inconsistent with Article 66B of the Annotated Code of Maryland, shall apply to the newly established Salisbury planning and zoning commission.
(Prior code § 31-7)

Chapter 2.32

PURCHASES AND SALES

Sections:

- 2.32.010 Lending or leasing of city-owned equipment.**
- 2.32.020 City purchases and sales controlled by director of internal services.**
- 2.32.030 Detailed estimates--Requisitions required.**
- 2.32.040 Direct purchases.**
- 2.32.050 Procedure for competitive bidding.**
- 2.32.060 Emergency purchases.**
- 2.32.070 Inspection of purchases.**
- 2.32.080 Disposition of surplus supplies.**
- 2.32.090 Authority to establish rules and regulations.**
- 2.32.100 Annual report--Recommendations for changes.**

2.32.010 Lending or leasing of city-owned equipment.

A. The council may lend, lease or hire any city-owned equipment, machinery or other personal property to any person when, in the discretion of the council, conditions exist so that the lending, hiring or leasing thereof may be beneficial to the citizens of the city or to the citizens of the surrounding territory.

B. The chief of the city of Salisbury fire department is authorized to provide automatic aid to areas lying outside of the Salisbury fire district in Wicomico County, by lending the appropriate fire and emergency medical equipment and apparatus, until January 1, 2003, or until an updated reimbursement agreement for fire and emergency medical services is reached between the city, Wicomico County, and the outlying jurisdictions, whichever is later.

C. No agent, servant or employee of the city shall lend, lease or hire any of the equipment, machinery or other personal property of any kind or character owned by the city to any person, with the exception that any department head may authorize lending or leasing of equipment, machinery, personal property or personnel, for the purpose of providing mutual aid to federal, state, county or municipal governmental entities, including law enforcement, fire, rescue and emergency medical services, and emergency management and disaster assistance agencies. The city council shall be informed as soon as reasonable about any action by a department head.

(Ord. 1832, 2001: Ord. 1751 § 1 (part), 2001)

2.32.020 City purchases and sales controlled by director of internal services.

Except for contracts to sell public debt securities, the director of internal services shall control all city purchases and sales and shall make or approve all city contracts for all supplies, materials, equipment or

services needed by all offices, departments, institutions, boards, commissions and other agencies controlled by the city, which are supported wholly or partly by city funds, hereinafter in this chapter called the "using agencies."

(Ord. 1992 (part), 2006: Ord. 1751 § 1 (part), 2001)

2.32.030 Detailed estimates--Requisitions required.

All using agencies may at any time requisition any needed supplies, materials, equipment or service. Except in the case of direct purchases under Section 2.32.040, the filing of a proper requisition with the director of internal services shall be the first step in any city purchase or contract. Each such requisition shall be in writing, shall be signed by the head of the using agency, shall identify the article or service needed or specify the public work done or to be done and shall authorize the using agency's appropriation to be charged therefor. (Ord. 1992 (part), 2006: Ord. 1751 § 1 (part), 2001)

2.32.040 Direct purchases.

A. Where immediate procurement is necessary to prevent delays in its work and resulting loss to the city, any using agency may be permitted by the director of internal services to purchase directly any minor items of supplies, materials, equipment, or services not in excess of four hundred dollars (\$400.00) unit cost or an aggregate cost of one thousand dollars (\$1,000.00). Each direct purchase shall be made in accordance with rules of procedure established by the director of internal services.

B. The intent of this section is to permit direct purchase of minor items to prevent delays and loss and not as a substitute for advance planning of needs or as a regular method of recurring purchases of items. This section is not to be abused by unwarranted favoritism of one supplier or by division of one purchase into several small purchases, each less than four hundred dollars (\$400.00). The director of internal services shall report to the council any violation or attempted violation of this section. (Ord. 1992 (part), 2006: Ord. 1751 § 1 (part), 2001)

2.32.050 Procedure for competitive bidding.

Whenever the estimated value of the purchase or contract is twenty-five thousand dollars (\$25,000.00) or less, the council authorizes informal bidding procedures in the case of any single contract, purchase, or sale. Whenever the estimated value of the purchase or contract is in excess of twenty-five thousand dollars (\$25,000.00), the following procedures shall be followed:

- A. **Determination of When Bidding Required.** On receiving any requisition for any purchase or any request for the making of any contract or council approval of any sale of city property, the director of internal services shall estimate the value and shall determine whether the same appears to require competitive bidding and what form it should take. If in doubt, he/she may submit such question to the city solicitor, who shall render an opinion informally or in writing as may be required by the director of internal services.
- B. **Fixing of Terms, Conditions and Specifications of Bidding.** After consulting the head of the using agency, the director of internal services shall fix and determine all the detailed terms and conditions of bidding pursuant to Article XVI of the Charter and this section, including the form

and content of source selection, notices to bidders, times and conditions for bidding, specifications, surety for bids and other details. Bids may be requested in whole or in parts and with one or more alternates as the director of internal services may determine. In every instance, the city shall reserve the right to reject any bids, waive any irregularities and make the award in the best interests of the city.

Council approval shall be required for all unbudgeted capital outlay items and all capital outlay which exceeds budgeted funds. For budgeted goods and services, council approval shall only be required for contracts in excess of one hundred thousand dollars (\$100,000.00).

C. Methods of Source Selection. If the estimated value is twenty-five thousand dollars (\$25,000.00) or more, the director of internal services shall solicit bids using one of the following methods:

1. Competitive Sealed Bidding.

- a. A notice and invitation to bid shall be published at least once in a newspaper published in the city and allowing ample time for preparation of bids, but in no event less than seven calendar days before the date for submitting bids.
 - i. A notice and invitation to bid shall be mailed to persons listed on the city's list of prospective bidders.
 - ii. Other persons shall be notified by suitable means as the director of internal services may select, in his/her discretion, in order to discourage uniform bidding and to obtain as full and open competition as possible.
- b. Sealed bids submitted to the director of internal services on time shall be opened in public at the time and place designated and shall be tabulated, which shall be open to public inspection.
 - i. The director of internal services, on his/her own authority, may reject all bids or any part thereof, and readvertise for bids when, in his/her judgment, the public interest will be served thereby.
 - ii. The director may select the successful bidder by lot if the best bids are identical and the public interest will not permit the delay of readvertising.
- c. The director of internal services shall award the contract to the responsible bidder who submits the responsive bid that is either the lowest bid price, or is the lowest evaluated bid price, or is the bid most favorable to the city.
- d. If, after competitive sealed bids have been opened, the director of internal services determines that only one responsible bidder has submitted a responsive bid, the director of internal services may negotiate the procurement contract with that one bidder under the procedure for noncompetitive negotiation (sole source procurement).

- e. After competitive sealed bids have been opened, the director may award a procurement contract on the basis of revised bids if:
 - i. All bids are rejected;
 - ii. All bid prices exceed the funds available for the procurement; or
 - iii. The director determines that all bids are unreasonable as to at least one requirement and the delay that would result from issuing a new invitation for bids with revised specifications or quantities would be fiscally disadvantageous or otherwise not in the best interests of the city;
 - iv. If there is more than one bidder, discussions about revised specifications or quantities shall be conducted with all responsible bidders who submitted responsive bids. The bidders shall be treated fairly and equally with respect to any discussions;
 - v. An invitation for revised bids shall state whether the award will be made without competitive negotiations; such invitation is not subject to the notice requirements in subsection (C)(1)(a)(ii) of this section;
 - vi. After revised bids have been submitted, negotiations with bidders may not be conducted unless the director determines that there is a compelling reason to negotiate. Award shall be made pursuant to subsection (C)(1) of this section.

2. Multi-Step Bidding.

- a. May be used when the director determines that an initial preparation of specifications for price bids is impracticable;
- b. Shall follow notice and invitation to bid requirements found in subsection (C)(1)(a)(ii) of this section;
- c. Includes a request for unpriced technical offer or samples;
- d. Directs bidders to submit sealed price bids separately either with the technical offers or after the technical offers are evaluated and they have been found acceptable under the criteria set forth in the invitation to bid;
- e. Only those prices submitted by bidders whose technical offers have been found acceptable will be considered;
- f. Sealed price bids may not be opened until after a complete evaluation of the technical offers has been made;
- g. Award is made pursuant to requirements under competitive sealed bidding.

3. Competitive Sealed Proposals.

- a. Competitive sealed proposals may be used when the director of internal services determines that specifications cannot be prepared that allow an award based on the lowest bid price, the lowest evaluated bid price, or the bid most favorable to the city; or when the use of competitive sealed bidding is not practicable or not advantageous to the city.
- b. A request for proposals shall follow the notice and invitation to bid requirements found in subsection (C)(1)(a)(ii) of this section.
- c. A request for proposals shall include a statement of the scope of the procurement and the factors including price, that will be used in evaluating proposals and the relative importance of each factor.
- d. After receipt of proposals, but before award, the director may conduct discussions with an offeror to:
 - i. Obtain the best price for the city;
 - ii. Ensure full understanding of the city's requirements and the offeror's proposal.
- e. If discussions are conducted, the director:
 - i. Shall provide an opportunity to participate to each responsible offeror who submits a proposal that, in the judgment of the director, is reasonably susceptible of being selected for award;
 - ii. Shall treat all of those responsible offerors fairly and equally;
 - iii. May allow all of those responsible offerors to revise their initial proposals by submitting best and final offers, if discussions indicate that it would be in the best interest of the city to do so;
 - iv. May conduct more than one series of discussions and requests for best and final offers; and
 - v. May not disclose to an offeror any information derived from a proposal of or discussion with a competing offeror.
- f. Proposals are irrevocable for the period specified in the request. A best and final offer is irrevocable for the period specified in the request for best and final offers.
- g. The director shall award the procurement contract to the responsible offeror who submits the proposal or best and final offer determined to be the most advantageous to the city considering the evaluation factors set forth in the request for proposals.

4. Competitive Negotiations.

- a. To be used for certain professional, architectural, engineering, or other specialized services;
- b. The director requests statements of qualifications and information including description of work, time estimate, past experiences, references, hourly rates, if applicable;
- c. All responses are evaluated and discussions may be conducted with any bidder to clarify qualifications or discuss the approach to the work;
- d. Once evaluations and discussions are completed, the using department head and the director shall select, in order of qualification ranking, at least three acceptable suppliers. The best qualified supplier is then requested to submit cost or pricing data. A contract is then negotiated with that supplier;
- e. If a contract cannot be negotiated, the reasons for failure are documented and the same process is followed with the next most qualified supplier.

5. Noncompetitive Negotiation-Sole Source Procurement.

- a. Noncompetitive negotiation can be utilized if at least two sources are available for the services but the absence of effective competition makes it unreasonable to expect bids or proposals from the available sources.
- b. A request for general expressions of interest shall be published in the same manner as required for invitation for bids, shall state the general requirements for services, and shall request interested service providers to respond in writing with general expressions of interest.
- c. The director may conduct discussions with any responsible service provider who has submitted an expression of interest; the director shall treat fairly and equally with respect to discussions all responsible service providers who have submitted expressions of interest.
- d. The director may award a procurement contract to the provider offering the best price, conditions, and services and in the best interests of the city.
- e. Sole source procurement exists whenever the director determines that there is only one available source for the subject of a procurement contract and he/she may award the contract without competition to that source.

6. Procedure for Informal Competitive Bidding.

- a. If the estimated value is less than twenty-five thousand dollars (\$25,000.00) the director

of procurement shall solicit informal competitive bids by giving notice by mail, telephone, fax, or other means deemed effective by the director to such persons as he/she may select, at his/her discretion, in order to discourage uniform bidding and to obtain as full and open competition as possible.

- b. At least three competitive bids shall be secured whenever possible, and an award shall be made by the director to the lowest and best bid in the case of purchases or the highest and best bid in the case of sales.
- c. The director shall keep a record of all competitive bids submitted pursuant to this procedure, and such records shall be open in his/her office.

(Ord. 1992 (part), 2006: Ord. 1751 § 1 (part), 2001)

2.32.060 Emergency purchases.

A. **Emergency Procurement Defined.** A procurement of goods, services or construction necessitated by any threatened dangerous condition or by a threatened imminent or unforeseen curtailment of an essential service or supply which, if not remedied by a procurement, will endanger or cause damage to health, life or property and which remedy cannot be accomplished through a timely procurement using normal procedures.

B. **Procurement During Regular Hours.** Upon occurrence of an actual emergency, the director of internal services, on learning of such emergency and of the resulting need for immediate procurement by any using agency of any supplies, materials, equipment or services, shall seek approval, written if time permits, from the mayor to secure such goods and services in the open market at the lowest price obtainable without competitive bidding, regardless of the amount of the expenditure. If satisfied that an actual emergency exists and that such immediate procurement is necessary as a result, the mayor may give approval and the director may proceed with such procurement. The president of the council will also be informed as soon as possible. In the absence or disability of the mayor, the director shall attempt to secure such approval from the city administrator or the president of the council, in that order. If neither of them is available and the circumstances require, the director may proceed on his/her own authority.

C. **Procurement After Normal Business Hours.** Upon occurrence of an actual emergency, those called out to handle said emergency shall notify their department head at that time of any required purchases necessary to mitigate the emergency. The director of internal services shall be notified as early as possible on the next working day of any goods or services purchased during the emergency. The mayor and president of the city council shall be notified as in subsection B of this section.

D. **Public Record.** The director of internal services shall, at the earliest opportunity, obtain from the head of each using agency a requisition and a copy of the delivery record, together with a full written explanation of the circumstances of the emergency, whether or not during normal business hours, and such explanation shall be included as information to the council at the earliest opportunity and be open to public inspection.

(Ord. 1992 (part), 2006; Ord. 1751 § 1 (part), 2001)

2.32.070 Inspection of purchases.

The director of internal services shall inspect or arrange for the inspection of all deliveries of supplies, materials, equipment, and services to determine their conformance with the specifications set forth in the order or contract. Any department having the staff and facilities for adequate inspection may be authorized by the director of internal services to inspect all deliveries made to such using agencies under rules and regulations which the director of internal services shall establish. The director shall have authority to require chemical and physical tests of samples of deliveries, which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the director shall have authority to make use of laboratory facilities or any agency of the city or any outside laboratory.
(Ord. 1992 (part), 2006: Ord. 1751 § 1 (part), 2001)

2.32.080 Disposition of surplus supplies.

All using agencies shall submit to the director of internal services, at such times and in such form as he/she may prescribe, a request to declare as surplus all supplies, materials and equipment, costing four hundred dollars (\$400.00) or more and listed on the capital asset inventory, which are no longer used or which have become obsolete, worn out or scrapped. The director may transfer such stock to other agencies which have need for or can use it or, if not thus usable, may sell or otherwise dispose of same in accordance with the Charter. All supplies, materials, and equipment costing less than four hundred dollars (\$400.00), which are no longer used or which have become obsolete, worn out or scrapped, may be disposed of as determined by the head of the department disposing of such property.
(Ord. 1992 (part), 2006: Ord. 1751 § 1 (part), 2001)

2.32.090 Authority to establish rules and regulations.

The director of internal services shall establish and from time to time amend all rules and regulations authorized by this chapter and any others necessary to its operation. Such rules and regulations and amendments thereto shall be subject to the approval of the council.
(Ord. 1992 (part), 2006: Ord. 1751 § 1 (part), 2001)

2.32.100 Annual report--Recommendations for changes.

The director of internal services shall also submit to the mayor, at the time prescribed by the mayor, an annual report on the work of his/her office and may from time to time suggest changes in this chapter which he/she deems necessary.
(Ord. 1992 (part), 2006: Ord. 1751 § 1 (part), 2001)

Chapter 2.36

DISPOSITION OF SURPLUS OR UNUSED REAL PROPERTY*

Sections:

2.36.010 Purpose.

2.36.020 Objectives.

2.36.030 Disposition policies.

2.36.040 Procedure.

2.36.050 Selection of winning proposals.

2.36.051 Post auction procedure.

2.36.060 Design review.

2.36.070 Award of bid.

2.36.080 Disposition contract.

2.36.090 Applicability.

* Prior code history: Prior code §§ 33-12--33-20.

2.36.010 Purpose.

The purpose of this chapter is to provide rules and regulations which enable the mayor and city council to establish uniform procedures for the disposition of city-owned surplus or unused real property and to provide that such surplus or unused real property be developed in the most appropriate use for public purposes.

(Ord. 1963 (part), 2005)

2.36.020 Objectives.

The objectives of this chapter are to:

- A. Establish a process for declaring city-owned real property surplus or unused, selecting a winning proposal and negotiating a contract for the sale or lease;
- B. Encourage the development of surplus or unused real property in a manner which will best promote and be in the best interest of the citizens of the city of Salisbury;
- C. Encourage future private development activities that will maximize the public investment in existing capital improvements and will further promote the use and enjoyment of existing parking facilities, streets, highways, bridges, the Riverfront Park and open spaces, beautification efforts and the Downtown Pedestrian Plaza;
- D. Increase the city's assessable tax base with a resulting increase in tax revenues generated for the benefit of all citizens of Salisbury;
- E. Prevent land speculation and to promote the expeditious development of surplus or unused real property which is sold to a private individual.

(Ord. 1963 (part), 2005)

2.36.030 Disposition policies.

In order to carry out the objectives of this chapter, the following policies from the basis of the mayor and city council's actions in the disposition of surplus or unused city-owned real property:

- A. To assure that all who may be interested in developing real property owned by the city of Salisbury which is surplus or unused are given an equitable opportunity to participate;
- B. To assure that such development will begin and be completed within a reasonable time;
- C. To promote the assembly of city-owned and adjacent privately owned real property in order to encourage development.

(Ord. 1963 (part), 2005)

2.36.040 Procedure.

The following procedure shall guide the sale of city-owned surplus or unused real property:

- A. The director of procurement shall determine whether city-owned land is surplus or unused in accordance with the City Charter and make recommendations to the city council as to the sale or disposition of such real property.
- B. The city council may approve the sale or disposition of such property, and, if approved, the director of procurement shall be directed to either publish a notice inviting proposals for development or prepare an advertisement for auction sale.
- C. A notice inviting proposals or an auction advertisement shall be published in a local newspaper of general circulation not less than three times within thirty (30) days prior to the date that proposals shall be made or auction held, and such notice or auction advertisement shall identify the specific property to be sold, the site, side and location.
- D. If sealed bids are requested, the director of procurement shall establish the manner in which all proposals shall be submitted in response to the notice. All proposals for the purchase of said surplus or unused property shall contain sufficient information to specifically address the items listed in Section 2.36.050 of this chapter and be accompanied by a deposit of ten percent of the bid price.
- E. If an auction is offered, the director of procurement shall set the terms of the auction, including a deposit of ten percent of the successful bid.

(Ord. 1963 (part), 2005)

2.36.050 Selection of winning proposals.

After all bids have been opened and all information reviewed and compiled, the director of procurement shall make a report to the city council; the city council shall then consider all such information, the nature of all development proposals and make a selection which, in the council's judgment, is the highest and best proposal and in the best interest of the city, considering the following factors:

- A. The demonstrated financial and legal ability of the person making the proposal to implement the proposal;
- B. The significance of the proposal in having a positive impact on the city of Salisbury;
- C. The potential of the development for providing employment opportunities;
- D. The monetary value offered for the surplus land, as well as the monetary value of the proposed development after completion;
- E. A preliminary development plan for the property which shall consist of a description of all

proposed uses and the type of development proposed for the property and the preliminary design of all proposed buildings and structures and a preliminary site plan showing a footprint of the proposed buildings or structures and all amenities proposed to be developed on the site;

F. Such other and further factors as the city council may wish to consider.
(Ord. 1963 (part), 2005)

2.36.051 Post auction procedure.

After the auction sale, the successful bidder shall provide the city council with the following information:

- A. The financial and legal ability to implement the purchase and improvement to the subject real property;
- B. A preliminary development plan which will have a positive impact on the city of Salisbury;
- C. A preliminary development plan which will provide employment opportunities;
- D. The monetary value of the proposed development after completion;
- E. A preliminary development plan for the real property which shall consist of a description of all proposed uses and the type of development proposed for the real property, the preliminary design of all proposed buildings and structures, and a preliminary site plan showing a footprint of the proposed buildings or structures and all amenities proposed to be developed on the site;
- F. Such other and further information as the city council may request.

After city council review, the city council shall decide whether to proceed with an award by resolution and a disposition contract to the successful bidder pursuant to Section 2.36.070, et seq.
(Ord. 1963 (part), 2005)

2.36.060 Design review.

In the event that several proposals are received for the same parcel or if the city council is uncertain as to the impact of the proposed development or the proposed design accompanying the bid, the city council may appoint a design review committee consisting of at least two people who shall be qualified in architecture, landscaping or site design to review the design of the proposed buildings and site plan and report their findings to the city council.
(Ord. 1963 (part), 2005)

2.36.070 Award of bid.

The city council shall make an award by resolution and proceed to sell or dispose of the property pursuant to the terms of a disposition contract. The disposition contract for the sale of the property shall not merge into any deed, and the disposition contract shall contain the requirements of Section 2.36.080(A) and

such other specific requirements as the city council deems necessary to accomplish the purposes of this chapter. As a condition precedent to the city's obligation to convey the property, the purchaser shall submit to the city evidence satisfactory to the city that the purchaser has the equity capital and commitments for mortgage financing necessary for the construction of the improvements to the property. The city council may not convey such property until after the disposition contract is executed.
(Ord. 1963 (part), 2005)

2.36.080 Disposition contract.

A. In addition to the regulations set forth in the city building code, zoning code, historic district ordinance and other applicable codes and ordinances, the following controls shall be implemented by provisions in a disposition contract as are considered appropriate by the city council:

1. The purchaser of surplus or unused property shall devote such parcel to the uses as are specified in the development plan which has been provided to the city of Salisbury;
2. The purchaser shall agree, for itself and its successors and assigns and every successor in interest to the property or any part thereof, and the deed shall contain covenants that the purchaser and any such successors and assigns shall devote the property to and only to and in accordance with the uses specified in the development plan;
3. The purchaser shall agree, for itself, its successors and assigns and every successor in interest to the property or any part thereof, and the deed shall contain covenants that the purchaser and any such successors and assigns shall promptly begin and diligently prosecute to completion the development of the property through the construction of the improvements thereon, and that such construction shall in any event be begun and completed within the period specified in the disposition contract;
4. The deed conveying the property shall expressly provide that the agreements and covenants provided for in the development plan shall be covenants running with the land and shall be binding on the land for the benefit and in favor of the city;
5. The purchaser shall represent and agree that its purchase of the property and its other agreements pursuant to the development plan and disposition contract are and will be used for the purpose of development of the property and not for speculation in land holding;
6. None of the provisions of this chapter or the disposition contract are intended to or shall be merged by reason of any deed transferring title to the property to the purchaser or to any successor in interest;
7. All said final plans for structures, site improvements, landscaping, parking, etc., shall be approved as required by the city code and shall also be approved by the mayor and city council before a deed conveying the property shall be executed;
8. The purchaser shall agree to retain the interest it acquires in such property until construction of the required development is completed and shall agree not to sell, lease or otherwise transfer the

interest acquired or any part thereof without the prior written consent of the city of Salisbury until the city shall have certified, in writing, that the purchaser has completed construction. In the absence of any such written agreement, no such transfer shall be effective and shall not relieve the purchaser of its obligations under the disposition contract;

9. The purchaser shall agree that prior to completion of the development, it may not mortgage or encumber the property except for the purpose of obtaining funds to purchase the property and funds only to the extent necessary for making the improvements. The city shall agree that no mortgagee shall be required to construct or complete the improvements. The purchaser shall agree that in the event of default in the purchaser's mortgage, the city shall have the option of paying to the holder the amount of the mortgage debt and securing an assignment of the mortgage and the debt secured thereby;
10. The purchaser shall agree that in the event that prior to conveyance of the property to the purchaser, the purchaser, in violation of the disposition contract, assigns or attempts to assign the disposition contract or does not submit a final development plan within the time as required by the disposition contract or does not pay the purchase price and take title to the property upon tender of conveyance by the city pursuant to the disposition contract, then, in such event, the disposition contract, at the option of the city, shall be terminated, and the deposit shall be retained by the city as liquidated damages;
11. The purchaser shall agree that in the event that subsequent to the conveyance of the property to the purchaser, the purchaser shall default in or violate the disposition contract, prior to the completion of the development as certified by the city, including but not limited to failing to construct the improvements, or shall abandon or substantially suspend construction work or by failing to begin or complete the project in the period specified in the disposition contract or by failing to pay real estate taxes or suffer any levy or attachment or any unauthorized change in ownership and such violation is not cured after sixty (60) days' written demand by the city, then the city shall have the right to reenter and take possession of the property and to terminate (and revert in the city) the estate conveyed by deed to the purchaser and declare a termination of the disposition contract and revert of the property to the city, and the city shall have, in such event, the power to execute and file for record in the land records a declaration of termination of all right, title and interest of the purchaser, provided that this provision shall be limited by and shall not defeat or limit the lien of any mortgage authorized by the disposition contract and shall not apply to any parts or parcels upon which the improvements have been completed in accordance with the disposition contract and for which a certificate of completion has been issued.
 - a. The purchaser shall not be in default for failure to complete the project if such failure is caused by an enforced delay due to unforeseen causes beyond his control and without his fault or negligence, provided that the purchaser, within ten days of the start of any such enforced delay, has notified the city, in writing, and requested an extension for the period of the enforced delay,
 - b. Upon reverting of title in the city, the city shall use its best efforts to resell the parcel or part thereof as soon as is feasible and consistent with the city's objectives to a qualified party (as determined by the city) who will assume the obligation of completing the

improvements or such other improvements in their stead as shall be satisfactory to the city,

- c. Upon resale of the property, the proceeds thereof shall be applied:
 - i. First, to reimburse the city for all costs and expenses incurred by the city, including employees' salaries in connection with the recapture, management and resale of the property or part thereof; all taxes, assessments and water and sewer charges with respect to the property or part thereof; any payments made to discharge any encumbrances or liens on the property or portion thereof; any expenditures or obligations incurred with respect to making or completing the improvements; any other amounts owed or due to the city by the purchaser and his successors or transferees, and
 - ii. Second, to reimburse the purchaser, his successor or transferee up to the amount equal to the sum of the purchase price paid by him for the property (or allocable to the part thereof) and the cash actually invested by him in the making of the improvements on the property or part thereof, less any gains or income withdrawn or made by him from the development plan or from the property,
 - iii. Any balance remaining after such reimbursements shall be retained by the city as its property;

12. Easements for installation and maintenance of utilities shall be reserved to the city of Salisbury as required;

13. Promptly after completion of the improvements in accordance with the provisions of the disposition contract relating to the obligation of the purchasers to construct the improvements, the city will furnish the purchaser with an appropriate instrument in recordable form so certifying. Such certification by the city shall be (and it shall be so provided in the deed and in the certification itself) a conclusive determination of satisfaction and termination of the development plan and covenants therein and in the deed with respect to the obligations of the purchaser and its successors and assigns to construct the improvements and the dates for the beginning and completion thereof. With respect to such individual parts or sections, the purchaser may convey such portions as the improvements constructed therein are completed, and the city shall make such certification as it is related to the portion completed;

14. Any required control or covenant set forth herein may be modified or waived by the city council.

B. Amendments. The disposition contract for the sale of surplus or used property may be modified, including provisions pertaining to land use, building and site modification, before or after the transfer of property with written approval of the city council by resolution.
(Ord. 1963 (part), 2005)

2.36.090 Applicability.

A. The disposition contract's controls shall be applicable to the entire tract when a purchaser combines his adjacent property with city surplus or unused property for development, subject to waiver or modification by the mayor and city council.

B. The transfer or conveyance of remnant parcels of surplus or unused land resulting from street closing or other land transactions of the city where such parcels are not regarded as disposition parcels shall not be affected by the provisions of this chapter.

C. This chapter does not apply to any urban renewal project as such disposition is provided for in the city of Salisbury Charter, § SC13-1 et seq., nor shall this chapter modify the language of any bond ordinance.

(Ord. 1963 (part), 2005)

Chapter 2.40

DISPOSITION OF PERSONAL PROPERTY

Sections:

2.40.010 Custody by police department.

2.40.020 Return.

2.40.030 Methods of disposition.

2.40.040 Disposition of proceeds.

2.40.050 Claims to proceeds.

2.40.010 Custody by police department.

All tangible personal property recovered, abandoned, unclaimed or stolen that comes into the possession of the Salisbury police department shall be held until the department determines that its custody is no longer necessary in connection with any prosecution or claim.

(Prior code § 118-1)

2.40.020 Return.

After the expiration of the period referred to in Section 2.40.010, any tangible personal property shall be delivered to the person who satisfactorily establishes his right to its possession and gives a proper receipt therefor.

(Prior code § 118-2)

2.40.030 Methods of disposition.

Any remaining tangible personal property that has been in the possession of the department for a period of at least ninety (90) days may be disposed of as follows:

- A. By giving notice of the disposition of such property by ordinary mail to those persons entitled to its possession and to those lienholders whose names and addresses can be ascertained by the exercise of reasonable diligence;
- B. Thereafter, such property may be disposed of in accordance with Charter and code provisions. A

certificate by the director of internal services that personal property has been sold pursuant to this section shall constitute sufficient evidence of title to such property for all purposes.
(Ord. 1992 (part), 2006: prior code § 118-3)

2.40.040 Disposition of proceeds.

The amount received from the sale of personal property in accordance with this section shall be distributed in the following order of priority:

A. To lienholders in order of their priority;

B. Subject to the provisions of Section 2.40.050, to the general fund of the city of Salisbury.
(Prior code § 118-4)

2.40.050 Claims to proceeds.

At any time within three years from the date of such sale, any person submitting satisfactory proof of his right to possession of such personal property shall be paid, without interest, the amount distributed to the general fund pursuant to Section 2.40.040(B). After the expiration of three years from the date of such sale, such claims shall be absolutely barred.

(Prior code § 118-5)