

AS AMENDED ON AUGUST 26, 2019
ORDINANCE NO. 2556

AN ORDINANCE OF THE CITY OF SALISBURY TO AMEND THE MUNICIPAL CODE, TITLE 5-BUSINESS LICENSES AND REGULATIONS, CHAPTER 5.32-TRANSIENT MERCHANTS AND MOBILE VENDORS; CHAPTER 5.44-PLAYS, CONCERTS AND CIRCUSES; AND CHAPTER 5.52-RESTAURANTS IN CONNECTION WITH ADDING CITY FIRE MARSHAL INSPECTION AND APPROVAL REQUIREMENTS TO ENSURE COMPLIANCE WITH THE CITY FIRE PREVENTION CODE AND TO REMOVE CHAPTER 5.04-COMMERCIAL DISTRICT MANAGEMENT AUTHORITY.

WHEREAS, the ongoing application, administration and enforcement of the City of Salisbury Municipal Code demonstrates the need for periodic review, evaluation and amendment; and

WHEREAS, Chapter 5.04 of the Municipal Code for the City of Salisbury is no longer needed or used; and

WHEREAS, the City of Salisbury desires to require all applications for an annual downtown business license to include a report of inspection and approval by the City Fire Marshal to ensure compliance with the City's fire prevention code prior to issuance of a license; and

WHEREAS, the City of Salisbury desires to require any mobile vendor engaged in the preparation and/or sale of food to include a report of inspection and approval by the City Fire Marshal to ensure compliance with the City's fire prevention code prior to issuance of a license; and

WHEREAS, the City of Salisbury desires to require any license application for a play, farce, interlude, show, opera, concert, circus, menagerie, or other public exhibition of any kind to include a report of inspection and approval by the City Fire Marshal to ensure compliance with the City's fire prevention code prior to issuance of a license; and

WHEREAS, the City of Salisbury desires to require any application for a restaurant license to include a report of inspection and approval by the City Fire Marshal of compliance with the City's fire prevention code prior to issuance of a license; and

WHEREAS, the City of Salisbury has adopted the State Fire Prevention Code with certain local amendments.

NOW, THEREFORE, be it enacted and ordained by the City of Salisbury, that Title 5-Business Licenses and Regulations of the City of Salisbury Municipal Code is hereby amended as follows:

~~Chapter 5.04 – COMMERCIAL DISTRICT MANAGEMENT AUTHORITY~~

5.04.010 – Boundary.

The area located within the boundaries set forth herein is declared to be a commercial district and may be referred to as the "Central Salisbury Revitalization District," described as found in Exhibit A, Section 5.04.150.

5.04.020 – Definitions.

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

"Business association" means the incorporated organization of persons who operate retail, service, rental or professional businesses within the central Salisbury revitalization district which provides management and promotional services for the district.

"Business establishment" means any retail, service, rental or professional business entity.

"Central Salisbury revitalization district (also known as the "downtown business district")" means a designated geographic area in the city of Salisbury encompassing a concentration of retail and/or personal service business establishments.

"Exempt establishment" means any business establishment which is:

- A. Operated solely by a federal, state or local government entity, except for city-owned markets as described in Section 5.04.040(A);
- B. Operated by a nonprofit organization which is not engaged in a retail business;
- C. Operated primarily for the manufacture of products to be sold at wholesale in the district; or
- D. A parking lot.

"Licensable space" means the number of square feet of space in a business establishment subject to the license fee in accordance with the fee calculation method as set forth in Exhibit B, Section 5.04.160. Space used primarily for warehousing shall not be included for purposes of determining licensable square footage.

"Main floor" means the largest primary business floor of the retail establishment.

"Person" includes any individual, firm, corporation, partnership or joint venture.

5.04.030 – Business association rules and procedures.

- A. A business association of the district comprised of the licensees of the district shall be incorporated under the laws of Maryland, and a copy of its charter and bylaws shall be filed with the city clerk. The bylaws shall include, without limitation, membership requirements, voting rights, procedure for calling meetings and voting on rates, budgets and related matters. The bylaws shall provide that each licensee shall have one vote per licensed business establishment. The business association shall be responsible for the conduct of a management program to provide promotional services for the district and for the administration of the funds provided through the license fee procedure set forth in this chapter. Voting on all budgetary matters shall be by the majority of the licensees, and no vote shall carry except by a majority of the votes cast.
- B. The business association created pursuant to this chapter shall provide in its bylaws that the business association cannot be dissolved except upon an affirmative vote of

seventy-five (75) percent of its members, which must be ratified by the mayor and city council by ordinance.

- C. ~~On an annual basis, the business association representing the district shall file with the city clerk:~~
 - 1. ~~An annual budget setting forth projected expenditures for advertising, promotions and related activities and administrative expenses;~~
 - 2. ~~Any amendments to the charter or bylaws made during the preceding year;~~
 - 3. ~~A letter of intent of the business association to expend the funds transferred to the district in accordance with the annual budget.~~
- D. ~~In the event that the business association representing the district intends to request from the city council of the city of Salisbury a request for additional funds, it shall comply with all procedures associated with the normal budget process and a request for funds and a budget must be submitted to the mayor's office no later than February 1st of each year in which it intends to request additional funds.~~

5.04.040 - Downtown business district license.

- A. ~~No person shall operate any business establishment within the downtown business district without obtaining an annual license, to be known as the "downtown business district license," from the treasurer of the city. The operator of any exempt establishment shall not be required to obtain a business district license and shall not be eligible to use the management services provided by the business association for the district. To the extent that the central Salisbury revitalization district includes within its boundaries a public market owned by the city, and business operated by any merchant in such market shall be included within the downtown business district and subject to this chapter.~~
- B. ~~The fee for the downtown business district license shall be as set forth in Exhibit B, Section 5.04.160.~~
- C. ~~The business association shall certify to the treasurer on a yearly basis the following:~~
 - 1. ~~The name, business address and mailing address of the person(s) responsible for payment of the downtown business district license fee for each business establishment;~~
 - 2. ~~The fee due from each business establishment, other than an exempt establishment.~~
- D. ~~The downtown business district license fee shall be in two categories: category one, pertaining to retailers; category two, pertaining to professional service, rental and all nonretail establishments in the district. The rate for the 1988 calendar year shall be as set forth in Exhibit B, Section 5.04.160. There shall be no rate change for successive years unless the district, by a majority vote of the licenses therein, suggests a rate change, which shall be ratified by the mayor and city council by ordinance.~~
- E. ~~The treasurer shall collect the fee from the responsible person of each business establishment. The downtown business district license fee shall be due and payable on January 1st of each and every year, and the entire charge prescribed for the year shall be collected when the license is issued. The treasurer shall not collect the downtown~~

~~business district license fee due and payable on January 1, 1999, January 1, 2000, January 1, 2001, January 1, 2002 and January 1, 2003.~~

- ~~F. Subject to all applicable provisions of other ordinances of the city, statutes of Maryland and laws of the federal government, the downtown business district licenses shall be transferable, upon written notice to the treasurer, and renewable from year to year during the continuous operation of the business by the downtown business district licensee within the downtown business district and so long as such area continues to be designated as a commercial district.~~
- ~~G. In the event that any person commences business operations in the business district subsequent to January 1st in any year, the treasurer may prorate the amount of the fee due and payable based on the number of months of operation during the licensing year. There shall be no refund for any business that ceases operation during the licensing year.~~

~~5.04.050 – Fund.~~

- ~~A. The treasurer shall maintain a special fund account for the central Salisbury revitalization district, and said special fund shall be credited with the collections of the downtown business district license fees from the district.~~
- ~~B. The treasurer, with the approval of the mayor and council, may set a reasonable fee to be charged to the district for the collection, accounting, legal and administrative services performed by the city, in an amount not to exceed the actual cost of the services.~~
- ~~C. Each year, on a quarterly basis, the treasurer shall transfer to the business association for the district the license fees collected for the district, less any administrative fees charged.~~
- ~~D. The fund comprised of the license fees collected for the district in accordance with this chapter shall be utilized solely for the purposes determined by the licensees.~~

~~5.04.060 – Civil penalty.~~

~~Any person liable to pay the downtown business district license fee who fails to pay the same within thirty (30) days after billing date and payable shall be subject to a civil penalty of ten percent of the fee and interest at the rate of one percent per month, or a fraction thereof, in addition to the annual license fee. The appeals board created in Section 5.04.070 is authorized for good and sufficient cause to waive the imposition of this penalty and interest in its entirety or a portion thereof prior to the institution of civil prosecution. Failure to pay said penalty and interest when due shall subject the violator to civil prosecution, including possible liens, payment of court costs and reasonable attorneys' fees.~~

~~5.04.070 – Appeals board.~~

~~There shall be an appeals board to hear and decide appeals arising under this chapter. The members of the appeals board shall be appointed by the mayor and council of the city of Salisbury. The appeals board, by a majority vote thereof, shall have the authority to reverse or affirm, wholly or partially, or modify the determination, decision, order or notice appealed from, and may give or make such determination, decision, order or notice as ought to be made; provided, however, that nothing contained herein shall be construed as authorizing the appeals board to waive, set aside or in any manner change any provision~~

~~or provisions of this chapter, other than as authorized in the penalty section and as to any question arising as to the determination of square footage, nor any decision made by the mayor and the city council pursuant to this chapter.~~

~~5.04.080 — Right to appeal.~~

~~If any licensee or prospective licensee who is or will be liable for the payment of the downtown business district license fee disagrees with or is aggrieved by any determination, decision, order or notice of any kind, which is made, rendered, issued or given under the provisions of this chapter, such licensee or prospective licensee, within thirty (30) days after written notice of such action or determination has been given or mailed to him, shall have the right to bring the matter in dispute before the appeals board by written request setting forth in full the reasons for said appeal.~~

~~5.04.090 — Applicability of other provisions.~~

~~Any person who owns or operates a business establishment in the downtown business district shall be subject to all applicable provisions of all other ordinances of the city of Salisbury, statutes of Maryland and the laws of the federal government.~~

~~5.04.100 — Additional rules and regulations.~~

~~The mayor and council of the city of Salisbury are authorized and empowered to make, adopt, promulgate and amend, from time to time, such rules and regulations as the mayor and council deem necessary or proper to carry out and enforce the provisions of this chapter and to define or construe any of the terms or provisions of this chapter, including rules for the appeals board created herein. A copy of said rules and regulations, when created, shall be filed with the city clerk of the city of Salisbury.~~

~~5.04.110 — Use of fees.~~

~~Any fees imposed under this chapter shall be used only for the purposes stated in this chapter and may not revert to the general fund of the city of Salisbury.~~

~~5.04.120 — Purpose of authority.~~

~~The purpose of the commercial district management authority shall be promotion and marketing.~~

~~5.04.130 — Restrictions on authority.~~

~~The authority established pursuant to this chapter may not exercise the power of eminent domain, purchase, sell, construct or, as a landlord, lease office or retail space or, except as otherwise authorized by law, otherwise engage in competition with the private sector.~~

~~5.04.140 — Licensing period.~~

~~For the purposes of the downtown business district specified in this chapter, the initial licensing period shall begin January 1, 1988, and shall end December 31, 1988, and~~

subsequent licensing periods shall begin January 1st of each year thereafter, with bills due and payable thirty (30) days from the date of billing.

5.04.150 — Exhibit A — Central Salisbury Revitalization District Boundary Description.

The boundaries of the Commercial District Management Authority (CDMA) shall begin at the point of intersection of South Salisbury Boulevard, also known as "U.S. Route 13," and East Carroll Street; thence generally in a westerly direction by the center line of East Carroll Street and West Carroll Street a distance of approximately one thousand six hundred (1,600) feet to the point of intersection of West Carroll Street and Waverly Drive; thence in a southerly direction by the center line of Waverly Drive a distance of approximately two hundred (200) feet; thence generally in a westerly direction by and with the southerly and back lot lines of the lands binding on the south side of West Carroll Street a distance of approximately one thousand three hundred forty (1,340) feet to the center line of Camden Avenue; thence in a northerly direction by the center line of Camden Avenue a distance of approximately three hundred (300) feet to the center line of Riverside Drive; thence in a southwesterly direction by the center line of Riverside Drive a distance of approximately five hundred (500) feet to a point on an extension of the southwesterly boundary line of the lands of Jerome Isear, formerly owned by Victor Lynn Lines; thence in a northwesterly direction by the southwesterly boundary line of Jerome Isear a distance of approximately three hundred fifty (350) feet to the thread of Wicomico River; thence in a southwesterly direction by the thread of Wicomico River a distance of approximately one thousand six hundred (1,600) feet to an extension of the easterly boundary of the Chesapeake Shipbuilding Yard; thence in a northerly direction by the easterly boundary of the Chesapeake Shipbuilding Yard a distance of approximately nine hundred fifty (950) feet to the center line of Fitzwater Street; thence generally in an easterly direction by the center line of Fitzwater Street and West Main Street a distance of approximately two thousand seventy (2,070) feet; thence generally in a northerly direction by the westerly and back lot lines of the lands binding on the west side of Lake Street a distance of approximately four hundred eighty (480) feet to the southerly right-of-way line of Salisbury Parkway also known as "U.S. Route 50"; thence generally in an easterly direction by and with the southerly right-of-way line of Salisbury Parkway a distance of approximately three thousand (3,000) feet to the center line of North Salisbury Boulevard; thence in a southerly direction by the center line of North Salisbury Boulevard and South Salisbury Boulevard a distance of approximately one thousand six hundred (1,600) feet to the point of beginning and containing approximately one hundred thirty (130) acres.

5.04.160 — Exhibit B — Commercial district management authority licensing fees.

A. — Category 1: Retail License Fee Schedule.

Main Floor Licensable Space (square feet)	Annual License Fee

0 to 1,000	\$ 200.00
1,000 to 2,500	300.00
2,501 to 5,500	500.00
Over 5,501	900.00

B. — Category 2: Professional and Service License Fee Schedule.

~~Each professional, service, nonretail or rental business establishment within the district will be subject to the following fee structure based upon the total number of square feet of floor space for each business establishment:~~

Total Licensable Space (square feet)	Annual License Fee
0 to 500	\$ 75.00
Over 501	150.00

Chapter 5.32 – TRANSIENT MERCHANTS AND MOBILE VENDORS

5.32.080 - Investigation—Issuance of license—Determination of threat to health, safety and welfare.

- A. The Business Development Director shall contact the city police and fire departments and may contact any other agency of the city government as he or she deems necessary in connection with any investigation under this chapter.
- B. Unless after investigation the Business Development Director finds that the person making the application has not complied with this chapter, or the Business Development Director ~~or~~, chief of police, or chief of the fire department determines that the person being licensed as a mobile vendor or transient merchant may be a threat to the health, safety and welfare of the citizens of the city, he or she shall issue a license upon the posting of the bond as

provided in Section 5.32.060. No license shall be issued to any holder of a license previously issued under this chapter within one year of a revocation of the previous license.

- C. In determining the threat to health, safety and welfare, the Business Development Director shall consider the reputation of the person seeking the license, his or her criminal record, if any, and license history in this or other jurisdictions as reported to the Business Development Director by the police department, fire department, or any other department or agency of the city government. Emphasis in reaching a decision shall be given to any convictions for crimes of violence, sex offenses, violations of the gaming, narcotic and alcoholic beverage laws and fraud.
- D. A mobile vendor engaged in the preparation and/or sale of food or other similar activity shall submit proof of an inspection and approval by the City Fire Marshal showing compliance with the City's fire prevention code prior to the issuance of a license under this chapter.

Chapter 5.44 - PLAYS, CONCERTS AND CIRCUSES

5.44.10 - License required—Fees.

- A. Except as provided in Section 5.44.020, it is unlawful for any person within the corporate limits of the city to present any play, farce, interlude, show, opera, concert, circus, menagerie or other public exhibition of any kind whatsoever for gain, directly or indirectly, unless he shall first have obtained a license therefor from the city clerk.
- B. The license fee required to be paid for a license under this section shall be as follows:
 - 1. For every circus or feats of horsemanship performed under a covering of canvas or any other material temporarily erected for that purpose: seventy-five dollars (\$75.00) for each day;
 - 2. For every other exhibition of any kind whatsoever: five dollars (\$5.00) for each day.

5.44.020 - License required for halls presenting entertainment—Fees—Duration of license.

- A. It is unlawful for any person owning or renting a hall located within the corporate limits of the city, fitted up permanently for giving entertainments, as referred to in Section 5.44.010, for gain, to permit such hall to be used for such purpose without first obtaining a license therefor from the city clerk. A license fee of fifty dollars (\$50.00) per year shall be paid therefor. When any entertainment, as referred to in Section 5.44.010, is presented in any hall licensed under this section, the license required under Section 5.44.010 need not be obtained.
- B. Licenses issued under the provisions of this section shall expire on the last day of the year in which issued. All such licenses issued during any year shall be charged for on a pro rata basis from the date of issue until the end of the year in which issued.

5.44.030 – Safety requirements

No license, in accordance with this chapter, shall be issued prior to an inspection and approval by the City Fire Marshal showing compliance with the City fire prevention code.

Chapter 5.52 - RESTAURANTS

5.52.030 - Application for license—Contents.

- A. An application for a restaurant license under this chapter shall be made in writing on a form supplied by the city clerk. In such application, the applicant shall agree to conform to all provisions of this chapter and other ordinances of the city and the rules and regulations governing restaurants, to permit such examinations and inspections as may be deemed necessary by the health officer or assistant health officer and to the revocation of the restaurant license at any time for failure to comply with the provisions of this chapter and other ordinances of the city and the rules and regulations governing restaurants.
- B. Any person requesting a restaurant license under this chapter shall complete and sign an application as provided for in subsection (A) of this section, which shall be filed with the city clerk.
- C. An application for a restaurant license under this chapter shall include a report of inspection and approval by the City Fire Marshal showing compliance with the City Fire Prevention Code.

Explanation:

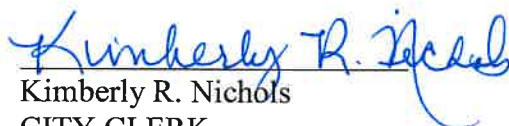
* ITALICIZED AND UNDERLINED PRINT INDICATES MATERIAL ADDED TO EXISTING LAW.

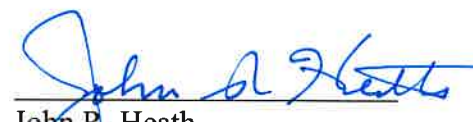
Bolded and struck through print indicates material deleted from existing law.

AND BE IT FURTHER ORDAINED AND ENACTED BY THE CITY OF SALISBURY, MARYLAND, THAT this ordinance shall take effect immediately upon adoption.

THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on this 12th day of August, 2019, and thereafter, a statement of the substance of the Ordinance having been published as required by law, was finally passed by the Council on the 26th day of August, 2019.

ATTEST:


Kimberly R. Nichols
CITY CLERK


John R. Heath
PRESIDENT, City Council

APPROVED BY ME THIS 27th day of AUGUST, 2019


Jacob R. Day, Mayor



City of
Salisbury
Jacob R. Day, Mayor

MEMORANDUM

To: Julia Glanz, City Administrator
From: Eric Cramer, Fire Marshal
Date: July 10, 2019
Re: **Updating Fire Inspection Requirements**

Please see the attached ordinance to require a favorable fire inspection prior to the issuance of certain City licenses.

Should you require any additional information, please do not hesitate to contact me.