

ORDINANCE No. 2620

AN ORDINANCE OF THE CITY OF SALISBURY TO AMEND CHAPTER 12.36 –
SIDEWALK CAFES OF THE SALISBURY MUNICIPAL CODE TO AMEND THE
REQUIREMENTS FOR SIDEWALK CAFES.

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, the City of Salisbury desires to require all applications for a sidewalk café seating area to include an inspection and approval by the City Fire Marshal to ensure compliance with the City's fire prevention code prior to issuance of a permit; and

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

WHEREAS, there has been a recent increase in the number of sidewalk cafes in the City and the City of Salisbury desires to update the requirements for sidewalk cafes to ensure better oversight and safety of all sidewalk cafes; and

WHEREAS, the City of Salisbury would like to amend the Chapter to update the requirements and process by which Sidewalks Cafes are permitted.

NOW, THEREFORE, be it enacted and ordained by the City of Salisbury, that Chapter 12.36 of the City of Salisbury Municipal Code be amended as follows:

Chapter 12.36 - SIDEWALK CAFES

12.36.010 - Definitions.

- A. "Sidewalk cafe" means any area situated on a public sidewalk where food, refreshments, and/or alcoholic beverages are sold by a restaurant, delicatessen, and/or ice cream shop for public consumption at tables or counters located on the public sidewalk fronting the operating establishment.
- B. "Street fixtures" means physical objects located within a public sidewalk, such as streetlights, trees, signs, parking meters and planters.

12.36.020 - Permit required.

- A. A person shall not construct, maintain, use or operate a sidewalk cafe on a public sidewalk without first obtaining a permit as provided for in this chapter.

- B. An application for a sidewalk café permit shall be made to the director of infrastructure and development on forms provided by the director. The application shall be made by the owner of the **[[public eating business]]** *food service facility* establishing the sidewalk café. *In addition, an application may be required to be filed with the Historic District Commission. The application for use of the public right-of-way for a sidewalk café should be from a food service facility located on private contiguous property. In the event the outdoor cafe area is not contiguous to the food service facility, it must be located within 25 feet of the storefront of the associated food service facility; and adjoining property owners and businesses will be notified of the permit application. The City may not be able to grant exclusive use of sidewalk café if there are additional food service facilities within 25' of the business applying for a sidewalk café permit.*
- C. A sidewalk cafe permit shall be for one year from March 1 of each year until the *last day of the following February* **[[28]]**. An annual fee *of fifty dollars (\$50)* shall be paid with the permit application**[[and The permit fee shall be established by ordinance of the city council]]**.
- D. *Sidewalk café permits are not transferable. In the event of the transfer of ownership of the food service facility, the new owner must reapply for a permit.*
- E. *The City may suspend or revoke a permit for violations of this section, conditions of the permit, or other applicable City, County, State, or Federal laws.*
- F. *Permittee is required to make any and all repairs to damage caused to the City right of way and sidewalk café at the expiration of permit period.*

12.36.030 - Operating standards.

- A. No part of a sidewalk cafe area shall encroach upon any part of the sidewalk frontage on any adjacent premises, right-of-way or alley.
- B. A sidewalk cafe shall comply with all building, health, safety, fire, zoning and environmental standards applicable to such uses.
- C. A sidewalk cafe shall not sell, serve or allow consumption of alcoholic beverages on its sidewalk without first obtaining the required license from the Wicomico County Liquor Board. Alcoholic beverages shall be served on the sidewalk cafe only in conjunction with the service of food. A public eating establishment shall not sell, serve or allow consumption of alcoholic beverages at its sidewalk cafe after the establishment's closing time.
- D. The following are prohibited in the cafe area: accumulated trash and refuse, storage, advertising banners, outdoor entertainment, music and loudspeakers.
- E. **[[A sidewalk cafe shall close and all]]***All cafe seating shall be removed from the cafe* **[[area]]***or secured in the area* **[[no later than 11:00 p.m.]]** *no later than an hour after the business closes daily.*
- F. The affected portion of the sidewalk shall be cleaned by the owner of the sidewalk cafe each business day that the sidewalk cafe business is in operation.

- G. *A sidewalk café must comply with any conditions imposed by the City in connection with the issuance of a sidewalk café permit.*
- H. *Sidewalk café must close at the same time as the permitted business. Permittee must ensure that all patrons do not linger or loiter in sidewalk café once business has closed.*

12.36.040 - Design standards.

- A. The permittee shall allow a minimum of five feet of unobstructed area for pedestrian foot passage between the outer edge of the sidewalk curb or designated sidewalk area and the area occupied by the permittee.
- B. Sidewalk cafe furniture shall be simple in character, constructed, of wood and/or painted metal. The only furniture permissible are tables, chairs and umbrellas which are intended for outdoor use. All portions of umbrellas must be contained entirely within the seating area, and must have at least seven feet of clearance over the sidewalk when extended. The only wording or advertisement permissible on umbrellas is the name of the restaurant associated with the sidewalk cafe.
- C. A scaled sketch plan shall be filed with the permit application showing all street fixtures affected, included property lines fronting the sidewalk in which the sidewalk cafe will be located, sidewalks, street curb lines, lighting, trees, planters, parking meters, street signs, fire hydrants and proposed location of the outdoor cafe and enclosure. Any plans to anchor the enclosures in the public sidewalk must be approved by the department of infrastructure and development.
- D. Railings and/or fencing for the enclosed cafe area shall be approved by the Salisbury Historic District Commission *and Department of Infrastructure & Development*, if applicable.
- E. The sidewalk cafe seating area shall be **[[approved by the Wicomico County Fire Inspection Division.]]** *Inspected and approved by City Fire Marshal for compliance with the City's Fire Prevention Code.*
- F. No portion of the sidewalk **[[café]]**café, *including furniture and fixtures*, shall obstruct view and/or access to hydrants, streetlights, *street signs*, telephones, mailboxes, transit stops or any other public service facility on the sidewalk area or adjacent street.
- G. No sidewalk cafe may be permanently located within the sidewalk area **[[by means of raised deck, platform, walls or other structures or enclosed by fixed walls of any material]]**, except that sidewalk cafe boundaries must be delineated by the use of **[[temporary]]** barriers such as railings or fencing. **[[Any such temporary barriers must be easily removed and no more than forty-two (42) inches in height above the sidewalk surface]].** **[[Temporary barriers may be attached by removable clips or devices approved in advance by the department of infrastructure and development.]]***Any barrier must be approved and permitted by the Department of Infrastructure & Development. Any portion of barriers above forty two (42) inches in height must provide sight lines into/through the sidewalk café area and must be secured in a manner that is acceptable to the Department of Infrastructure & Development.*

- H. *All portions of canopies must be contained entirely within the seating area, and must have at least nine feet of clearance over the café area when extended. The only wording or advertisement permissible on canopy is the name of the restaurant associated with the sidewalk café. Canopies must be reviewed and approved by the City of Salisbury Infrastructure & Development Department, Historic District Commission, and City Fire Marshal.*
- I. *Any proposed alterations to the sidewalk café after the permit is issued must be reviewed and approved by the City of Salisbury Infrastructure & Development Department, Historic District Commission, and City Fire Marshal.*

12.36.050 - Insurance and indemnification.

The sidewalk café permittee shall fully insure, indemnify and hold harmless the city of Salisbury and its officers, agents, and employees from and against any and all claims and damages in any way arising out of the acts or omissions of the permittee or its employees in construction, operation, maintenance, use, placement or condition of the sidewalk café. An applicant for a sidewalk café permit shall provide proof of five hundred thousand dollars (\$500,000.00) premises liability insurance before a permit may be issued or renewed under this chapter.

12.36.060 - Violation and penalties.

The provisions of the chapter shall be enforced by the **[[city]]** City of Salisbury building official or his/her designee. A person who continues to violate this chapter after written notice to take corrective action is guilty of a municipal infraction and shall be fined two hundred fifty dollars (\$250.00) for the first offense and shall be fined up to five hundred dollars (\$500.00) for each subsequent offense. Each day a violation exists shall be a separate offense. In addition, the building official may revoke or suspend a permit issued pursuant to this chapter after repeated infractions in any twelve-month period.

Explanation:


- * *ITALICIZED PRINT INDICATES MATERIAL ADDED TO EXISTING LAW.*
Deleted material from the existing Code is indicated by bold double bracketed [[]] language.

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

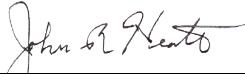
THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on this 28th day of September 2020, and thereafter, a statement of the substance of

the Ordinance having been published as required by law, was finally passed by the Council on the 12th day of October, 2020.

ATTEST:

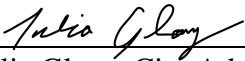


Kimberly R. Nichols
CITY CLERK



John R. Heath
PRESIDENT, City Council

APPROVED BY ME THIS 15 day of October, 2020



Julia Glanz, City Administrator,
for and at the direction of Jacob R. Day, MAYOR



City of
Salisbury
Jacob R. Day, Mayor

MEMORANDUM

To: Julia Glanz, City Administrator
From: Laura Soper, Director of Business Development
Subject: Sidewalk Café Code Changes
Date: 9/14/20

The Office of Business Development recently did a review of the Code regarding Sidewalk Cafes and would like to advance the following changes to update and amend the legislation. This came about as COVID began to manifest and the City recognized the need to update our existing legislation and formalize agreements in some of the public spaces available in Downtown Salisbury and throughout the City.