

ORDINANCE NO. 2717

AN ORDINANCE OF THE CITY OF SALISBURY TO AMEND CHAPTER 5.52 OF THE CITY CODE, DEFINING THE DEFINITION OF “FOOD SERVICE FACILITY” IN LIEU OF “RESTAURANT,” AND GRANTING THE CITY FIRE MARSHAL THE AUTHORITY TO ENFORCE THE PROVISIONS OF CHAPTER 5.52.

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

WHEREAS, the City of Salisbury desires to redefine which Food Service Facilities shall be licensed by the City pursuant to Chapter 5.52 of the Code; and

WHEREAS, the City of Salisbury desires to grant the responsibility to enforce the requirements of Chapter 5.52 to the Fire Marshal.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, as follows:

Section 1. Chapter 5.52 of the Salisbury City Code, entitled “Restaurant”, be and is hereby amended by repealing the crossed-out language and adding the bolded, italicized, and underlined language as follows:

Chapter 5.52 ~~RESTAURANTS~~ ***FOOD SERVICE FACILITY***

5.52.010 Definitions.

For the purpose of this chapter, the following words shall have the meanings indicated:

"~~Restaurant~~ ***Food Service Facility***" means any restaurant, cafe, public dining room, lunch counter, ***cafeteria, bar, tavern, coffee shop, sandwich stand, bakery, grocery store, retail market, and like food operations in industries, institutions, hospitals, clubs, catering kitchens, commissaries, or similar places in which food or drink is prepared for sale or for service on the premises or elsewhere, or any other operations where food or drink is served or provided for the public with or without charge*** ~~or other like place where food is sold for human consumption.~~ ***A Food Service Facility does not include any day care or educational occupancy as defined in NFPA 101: Life Safety Code, 2018 edition, or bona fide nonprofit civic or religious organizations that do not serve food or drink to the public more often than three days per week.***

5.52.020 License required.

No person shall operate a ~~restaurant~~ ***Food Service Facility*** within the city, unless such person shall first have procured a license therefor from the city clerk.

5.52.030 Application for license—Contents.

A. An application for a ~~restaurant~~ ***Food Service Facility*** 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~~ ***Food Service Facilities***, 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~~ ***Food Service Facility*** 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~~ ***Food Service Facilities***.

- B. Any person requesting a ~~restaurant~~ **Food Service Facility** 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~~ **Food Service Facility** 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.

5.52.040 Investigation of premises—Report.

Upon the filing of an application as referred to in Section 5.52.030, the city clerk shall notify the health officer or assistant health officer, who shall make an inspection of the premises in connection with which the ~~restaurant~~ **Food Service Facility** license is requested and shall report, in writing, to the council, within four days of receipt of the request from the city clerk so to do, the condition of the premises and whether such premises conform to the sanitary regulations required of ~~restaurants~~ **Food Service Facilities** in the city.

5.52.050 Operation of ~~restaurant~~ after revocation of **a Food Service Facility without a valid** license.

~~Any person who continues to operate a restaurant after the revocation of the restaurant license issued under this chapter in regard to such restaurant shall be deemed guilty of a misdemeanor.~~

- A. Misdemeanor. A person who operates a Food Service Facility without a valid license required under this chapter shall be guilty of a misdemeanor, and upon conviction thereof; shall be subject to a fine of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) for each offense, or imprisonment for not more than ninety (90) days, or both. The party aggrieved shall have the right of appeal as is provided under the general laws of the State. Where the act or omission is of a continuing nature, conviction for the one offense shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.**
- B. Municipal Infraction. A person who operates a Food Service Facility without a valid license or otherwise violates any provision of this chapter, shall be guilty of a municipal infraction and shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each offense. Each day a violation continues shall be considered a separate offense.**
- C. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation of the provisions of this chapter.**
- D. The City Fire Marshal is authorized and designated by Council to authorize the persons within his or her department to act as enforcement officers for the purpose of enforcing this chapter.**

5.52.060 License fee.

A license fee of fifty dollars (\$50.00) shall be charged and collected for each ~~restaurant~~ license issued under this chapter.

5.52.070 Refunding of license fee.

No refund of a license fee shall be made upon the surrender or cancellation of any ~~restaurant~~ license issued under the provisions of this chapter.

5.52.080 Expiration of license.

All ~~restaurant~~ licenses issued under this chapter shall expire on the 31st day of December next following the date of issue.

5.52.090 Nontransferability.

~~Restaurant~~ Licenses issued under this chapter shall be nontransferable.

BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, as follows:

Section 2. It is the intention of the Mayor and Council of the City of Salisbury that each provision of this Ordinance shall be deemed independent of all other provisions herein.

Section 3. It is further the intention of the Mayor and Council of the City of Salisbury that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged invalid, unconstitutional or otherwise unenforceable under applicable Maryland or federal law, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and all other provisions of this Ordinance shall remain and shall be deemed valid and enforceable.

Section 4. The recitals set forth hereinabove are incorporated into this section of the Ordinance as if such recitals were specifically set forth at length in this Section 4.

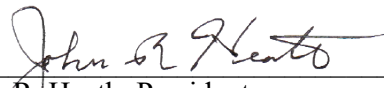
Section 5. This Ordinance shall take effect from and after the date of its final passage.

THIS ORDINANCE was introduced and read at a Meeting of the Mayor and Council of the City of Salisbury held on the 25th day of April, 2022 and thereafter, a statement of the substance of the Ordinance having been published as required by law, in the meantime, was finally passed by the Council of the City of Salisbury on the 9th day of May, 2022.

ATTEST:

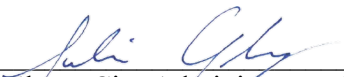


Kimberly R. Nichols, City Clerk



John R. Heath, President
Salisbury City Council

APPROVED BY ME THIS 12 day of May, 2022.



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: Chris O'Barsky, Deputy Fire Chief
Subject: Restaurant Ordinance
Date: 3/16/2022

Please review the attached memo from Fire Marshal Cramer that clarifies the definition of a restaurant.



City of
Salisbury
Jacob R. Day, Mayor

MEMORANDUM

To: John Tull, Fire Chief
From: Eric Cramer, Fire Marshal
Date: March 16, 2022
Re: **Updating City Code**

My office has had a number of inquiries by local businesses trying to determine if they would require a restaurant license from the City. As written, Chapter 5.52 of the municipal code is vague on the definition of a restaurant, making it difficult to determine the requirement. Additionally, staff, in the course of their work, have discovered a number of unlicensed establishments which clearly meet the definition of a restaurant, as stated in chapter 5.52 of the City code.

Please see the attached ordinance to amend chapter 5.52 of the City code clarifying the definition of a restaurant, as it applies to the chapter, and granting the authority to enforce the chapter to the City Fire Marshal.

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