

AS AMENDED ON SEPTEMBER 25, 2017

ORDINANCE NO. 2436

AN ORDINANCE OF THE CITY OF SALISBURY AMENDING TITLE 5, BUSINESS LICENSES AND REGULATIONS OF THE SALISBURY MUNICIPAL CODE TO RETITLE CHAPTER 5.32, HAWKERS, PEDDLERS AND TRANSIENT MERCHANTS AS “MOBILE VENDORS,” TO REFER TO ALL ACTIVITIES OF SELLING FOOD OR MERCHANDISE FROM A MOBILE VEHICLE, VAN, WAGON, CART, BOAT OR MOVABLE STRUCTURE AS MOBILE VENDING, TO MOVE THE ENFORCEMENT RESPONSIBILITIES OF MOBILE VENDORS FROM THE CITY CLERK TO THE BUSINESS DEVELOPMENT DIRECTOR AND TO CREATE A NEW CHAPTER TITLED “DOOR – TO – DOOR SOLICITORS.”

WHEREAS, Chapter 5.32 - Hawkers, Peddlers and Transient Merchants shall be re-titled “Chapter 5.32 - Mobile Vendors” to update the Chapter and refer to all such activities as mobile vending; and

WHEREAS, all references to “City Clerk” shall be removed and replaced with Business Development Director in Chapter 5.32 – Mobile Vendors; and

WHEREAS, all references to door – to –door soliciting shall be removed from Chapter 5.32 – Mobile Vendors and a new Chapter shall be added entitled “Door – To – Door Solicitors,” to be enforced by the City Clerk; and

WHEREAS, the Office of the City Clerk recommends approval of the proposed code changes.

NOW, THEREFORE, be it enacted and ordained by the Council of the City of Salisbury, Maryland, that Chapter 5.32 Hawkers, Peddlers and Transient Merchants of the Salisbury Municipal Code is hereby amended and Chapter 5.34 – Door – To – Door Solicitors is added to the Salisbury Municipal Code as follows:

Chapter 5.32 – ~~HAWKERS, PEDDLERS AND TRANSIENT MERCHANTS~~ AND MOBILE VENDORS

Sections:

5.32.010 - Definitions.

For the purposes of this chapter, unless the context requires otherwise, the following words and phrases have the meanings given by this section:

“Clerk” means the city clerk of Salisbury, or his or her designee. “Business Development Director” means the Director of Business Development, or his or her designee

“Hawker” or “peddler” “Mobile Vendor” means any person, whether or not a city resident, who engages in the activities, respectively, of hawking or peddling of food, services or merchandise from a mobile vehicle, van, wagon, cart, boat, or other movable structure.

~~"Hawking" or "peddling"~~ "Mobile Vending" means the act of offering for sale and simultaneous delivery of goods, wares or merchandise, including, but not limited to, magazines, books, periodicals, foodstuffs and personal property of every nature, ~~from house to house or from place to place or~~ on the public streets or in any other public or private place; including offering any of the abovementioned items for sale and simultaneous delivery from any type of wagon, vehicle, boat or other movable structure.

"Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

"Temporary business" means any commercial activity that is not intended to be permanent or ongoing for a minimum of one year.

"Transient merchant" means any person who, whether or not a resident of the city, engages in a temporary business of selling or offering for sale goods, wares or merchandise, or who displays samples, models, goods, wares or merchandise for the purpose of taking orders for future delivery, within the city from any hotel or motel room, inn, rooming or boarding house, club, storehouse, house or other building, either residential or commercial in nature, that is not owned or leased for a period to exceed ninety (90) days, by the person who engages in such activities.

5.32.020 - Enforcement.

The provisions of this chapter shall be enforced by the ~~clerk~~, Business Development Director or his or her designee, and the City Police Department.

5.32.030 - License required.

All ~~hawkers, peddlers and mobile vendors~~ and transient merchants are required to obtain a license under this chapter prior to engaging in business as a ~~hawker, peddler~~ mobile vendor or transient merchant, unless specifically exempted by the provisions of this chapter. One license will be required in the case of a corporation, firm, partnership or association, which shall hold the person who procures the license responsible for all of the corporation's, firm's, partnership's or association's agents engaging in activities as a ~~hawker, peddler~~ mobile vendor or transient merchant in the city.

5.32.040 - Exemptions from licensing requirements.

Any person engaged in the following is exempt from the licensing requirements upon compliance with all other provisions of this chapter and submission of applicable identification and documentation to support the claim to exemption:

- A. Selling or offering for sale fruits and farm products grown by himself or herself, with or without the help of others;
- B. Engaging in the delivery of goods, wares or merchandise, ~~including, but not limited to, bread and bakery products, meat and meat products or milk and milk products, in the regular course of business to the premises of~~ to any person who had previously ordered the same or was entitled to receive the same by reason of a prior agreement;
- C. Calling on any residence or business for the purpose of ~~hawking or peddling~~ mobile vending at the request or invitation of the owner or occupant thereof;
- D. Selling or offering for sale any goods, wares or merchandise on behalf of any school, political or civic organization, benevolent society, service club or any not-for-profit organization which has been determined to be exempt from federal income taxation under the Internal Revenue Code of the United States of America;

- E. Selling or offering for sale personal property or any other commodities at wholesale to dealers in such articles;
- F. Conducting a bona fide auction sale pursuant to law or a sale required by statute or by order of any court;
- G. Conducting a yard, garage or attic sale at a person's residence, not more than four days within a twelve (12) month period; and
- H. Selling or offering for sale any goods, wares or merchandise from any booth in a bona fide fair, exposition, antique, collectible or trade show.

5.32.050 - License application.

Any person wishing to be a ~~hawker, peddler~~ mobile vendor or transient merchant shall file an application for a license with the ~~clerk~~ Business Development Director, giving the following information:

- A. The name, local and permanent address, telephone number, age, weight, height, color of hair and eyes and any other distinguishing physical characteristics of the person making the application;
- B. The name, local and permanent address, telephone number, age, weight, height, color of hair and eyes and any other distinguishing physical characteristics of the person to be licensed;
- C. The name and address of the person to receive notification provided for in this chapter;
- D. If the person making the application is not going to be managing or supervising the person to be licensed, the names, addresses and telephone numbers of all individuals who will be conducting, managing, supervising or administering the business on behalf of the person;
- E. A brief description of the nature of the person's business and goods or services to be sold or offered for sale;
- F. The name and address of the person's employer, if any, including the name and address of the company and the person's immediate supervisor;
- G. A description of the vehicle, if any, that is to be used in connection with licensed activities, including the state license tag and number and the vehicle identification number;
- H. A statement as to whether the person making the application or any person conducting, managing, supervising or administering the business on behalf of the person has ever been convicted of a felony or misdemeanor and, if so, the nature of the offense, when and where convicted and the penalty or punishment assessed therefor;
- I. The place where the goods to be sold or orders to be taken for the sale thereof are manufactured or produced and the proposed method of delivery;
- J. The names of at least two reliable references unrelated to the person making the application who will certify as to the person's good character and reputation.

5.32.060 - Surety bond required.

Every ~~hawker, peddler~~ mobile vendor or transient merchant shall file with the ~~clerk~~ Business Development Director a surety bond, running to the city, in the amount of one thousand dollars (\$1,000.00), with a surety qualified to do business in Maryland and acceptable to and approved by the city and with conditions that the ~~hawker, peddler~~ mobile vendor or transient merchant comply fully with all of the provisions of the laws and ordinances of the city and such statutes of the state regulating and

concerning the business of hawkers, peddlers and transient merchants. Such bond shall continue in effect for one year after the license expiration date.

5.32.070 - License fee.

A nonrefundable fee of ~~twenty-five dollars (\$25.00)~~ fifty dollars (\$50.00) shall be paid to the ~~clerk~~ Business Development Director when the application is filed.

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

- A. The ~~clerk~~ Business Development Director shall contact the City Police Department 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 ~~clerk~~ Business Development Director finds that the person making the application has not complied with this chapter, or the ~~clerk~~ Business Development Director or Chief of Police determine that the person being licensed as a ~~hawker, peddler~~ 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 ~~clerk~~ 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 ~~clerk~~ Business Development Director by the Police 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.

5.32.090 - Duration, exhibition and surrender of license.

- A. ~~In the case of hawkers and peddlers,~~ a license issued under this chapter shall be good for one year from the date of issuance, unless earlier suspended or revoked as provided in this chapter.
- B. In the case of a transient merchant, a license issued under this chapter shall be of a duration as set by the Clerk after reviewing the application and intended business of the transient merchant; however, no license issued to a transient merchant shall be for a duration of more than ninety (90) days.
- C. Every ~~hawker, peddler~~ mobile vendor or transient merchant shall carry his or her license at any time he or she is engaged as a ~~hawker, peddler~~ mobile vendor or transient merchant. Additionally, he or she shall show his or her license to anyone who shall demand to see the same while he or she is so engaged. If a license is issued to a firm, partnership, association, corporation, company or organization, the original license shall be carried by the owner or supervisor and a copy of the license shall be carried by each agent engaged as a ~~hawker, peddler~~ mobile vendor or transient merchant under such license.
- D. Any license issued under the provisions of this chapter shall be surrendered to the ~~clerk~~ Business Development Director upon expiration, suspension or revocation.

5.32.100 - Renewal of license.

The holder of any license issued under this chapter who desires a new license to be effective on the expiration of the existing license shall, not less than thirty (30) nor more than sixty (60) days before the expiration of the existing license, file either a written an application for renewal with the Clerk, or confirm in writing that the information on the expiring application remains the same ~~is giving the~~

information set forth in Section 5.32.050. The fee shall be as set in Section 5.32.070. The provisions for approving or disapproving of an application, or written request for renewal, as set forth in Section 5.32.080 shall apply.

5.32.110 - Denial, revocation or suspension of license—Notice.

- A. The ~~elrk~~ Business Development Director may refuse to issue or renew a license or may summarily revoke and suspend any license which has been issued under this chapter if he or she finds that the person making the application withheld or falsified any information required for the license or has been convicted of any of the crimes described in Section 5.32.080 or is in any way in violation of this chapter.
- B. The ~~elrk~~ Business Development Director may suspend, revoke or refuse to renew any license upon a finding that the ~~hawker, peddler~~ mobile vendor or transient merchant engaged in fraud or willful misrepresentation, violated any provision of this chapter, committed any unlawful act or refused to leave any private property immediately when requested to do so by the owner or occupant.
- C. Upon revocation or suspension, the ~~hawker, peddler~~ mobile vendor or transient merchant shall immediately return his or her license to the ~~elrk~~ Business Development Director, and, upon failing to do so, the ~~elrk~~ Business Development Director may request and direct the license to be confiscated.
- D. Any denial, revocation, suspension or refusal of renewal shall be accompanied by written notice to the person identified in Section 5.32.050(C) by certified mail. The notice shall contain a reason for the action taken.

5.32.120 - Hours of operation.

No ~~hawking or peddling~~ mobile vending shall be conducted in the city except between the hours of nine a.m. and ~~nine six~~ p.m. each day, except that business may be conducted at a residence when the owner or occupant of such residence has agreed by previously arranged appointment for a time other than the prescribed hours: or by special permission from the Business Development Director.

5.32.130 - Prohibited areas.

No ~~hawker or peddler~~ mobile vending (regardless of whether such ~~hawker or peddler~~ transient merchant or mobile vendor is exempt from the licensing requirements of this chapter) shall engage in the activities of ~~hawking or peddling~~ mobile vending in the city park or any roads or walkways adjacent to or through the city park, or any other place as determined by the mayor and council by resolution of the council from time to time for the protection of the health, safety and welfare of the citizens of the city, except the mayor may grant exemptions ~~for the selling or offering for sale of goods, wares or merchandise as part of a festival, firemen's muster or other bona fide activity within the city park:~~ or by special permission.

5.32.140 - Violations—Penalties.

Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00) or imprisoned for not more than thirty (30) days, or both.

5.32.150 - Appeals.

Any appeal of action taken under this chapter shall be to the mayor. Said appeal shall be effective only if filed in writing in the mayor's office within fifteen (15) calendar days of the action appealed from.

Said appeal shall state with specificity the action appealed and relief requested. The appeal will be heard as soon as is practical and the mayor's decision shall be deemed a final administrative decision.

5.32.160 - Other governmental requirements.

This chapter does not relieve any person of the requirement to comply with any and all applicable statutes, including, but not limited to, state licensing laws, door to door sales laws, Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act and home improvement contractor laws. This chapter is not applicable to activities for which the state of Maryland has preempted regulation.

5.32.170 - Severability.

In the event that any portion of this chapter is held to be invalid, such invalidity shall not affect the other valid portions of this chapter.

5.34 DOOR – TO – DOOR SOLICITORS

5.34.010 - Definitions.

For the purposes of this chapter, unless the context requires otherwise, the following words and phrases have the meanings given by this section:

"Clerk" means the City Clerk of Salisbury, or his or her designee.

"Door – to – door solicitor" means any person, whether or not a city resident, who engages in the activities of door – to - door soliciting.

"Door – to – door soliciting" means the act of offering for sale and delivery of goods, wares or merchandise, including, but not limited to, magazines, books, periodicals, foodstuffs and personal property of every nature, from house to house.

"Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

5.34.020 - Enforcement.

The provisions of this chapter shall be enforced by the Clerk, or his or her designee, and the City Police Department.

5.34.030 - License required.

All door – to – door solicitors are required to obtain a license under this chapter prior to engaging in business as a door – to – door solicitor, unless specifically exempted by the provisions of this chapter. One license will be required in the case of a corporation, firm, partnership or association, which shall hold the person who procures the license responsible for all of the corporation's, firm's, partnership's or association's agents engaging in door – to – door soliciting activities in the City.

5.34.040 - Exemptions from licensing requirements.

Any person engaged in the following is exempt from the licensing requirements upon compliance with all other provisions of this chapter and submission of applicable identification and documentation to support the claim to exemption:

A. Engaging in the delivery of goods, wares or merchandise in the regular course of business to the premises of any person who had previously ordered the same or was entitled to receive the same by reason of a prior agreement;

B. Calling on any residence or business for the purpose of soliciting at the request or invitation of the owner or occupant thereof;

C. Selling or offering for sale any goods, wares or merchandise on behalf of any school, political or civic organization, benevolent society, service club or any not-for-profit organization which has been determined to be exempt from federal income taxation under the Internal Revenue Code of the United States of America;

D. Selling or offering for sale personal property or any other commodities at wholesale to dealers in such articles.

5.34.050 - License application.

Any person wishing to be a door – to – door solicitor shall file an application for a license with the Clerk, giving the following information:

A. The name, local and permanent address, telephone number, age, weight, height, color of hair and eyes and any other distinguishing physical characteristics of the person making the application;

B. The name, local and permanent address, telephone number, age, weight, height, color of hair and eyes and any other distinguishing physical characteristics of the person to be licensed;

C. The name and address of the person to receive notification provided for in this chapter;

D. If the person making the application is not going to be managing or supervising the person to be licensed, the names, addresses and telephone numbers of all individuals who will be conducting, managing, supervising or administering the business on behalf of the person;

E. A brief description of the nature of the person's business and goods or services to be sold or offered for sale;

F. The name and address of the person's employer, if any, including the name and address of the company and the person's immediate supervisor;

G. A description of the vehicle, if any, that is to be used in connection with licensed activities, including the state license tag and number and the vehicle identification number;

H. A statement as to whether the person making the application or any person conducting, managing, supervising or administering the business on behalf of the person has ever been convicted of a felony or misdemeanor and, if so, the nature of the offense, when and where convicted and the penalty or punishment assessed therefor;

I. The place where the goods to be sold or orders to be taken for the sale thereof are manufactured or produced and the proposed method of delivery;

J. The names of at least two reliable references unrelated to the person making the application who will certify as to the person's good character and reputation.

5.34.060 - Surety bond required.

Every door – to – door solicitor shall file with the Clerk a surety bond, running to the City, in the amount of one thousand dollars (\$1,000.00), with a surety qualified to do business in Maryland and acceptable to and approved by the City and with conditions that the door – to – door solicitor comply fully with all of the provisions of the laws and ordinances of the City and such statutes of the state regulating and concerning the business of door – to – door solicitors. Such bond shall continue in effect for one year after the license expiration date.

5.34.070 - License fee.

A nonrefundable fee of fifty dollars (\$50.00) shall be paid to the Clerk when the application is filed.

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

A. The Clerk shall contact the City Police Department 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 Clerk finds that the person making the application has not complied with this chapter, or the Clerk or Chief of Police determine that the person being licensed as a door – to – door solicitor 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 5.34.060. 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 Clerk 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 Clerk by the Police 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.

5.34.090 - Duration, exhibition and surrender of license.

A. In the case of door – to – door solicitors, a license issued under this chapter shall be good for one year from the date of issuance, unless earlier suspended or revoked as provided in this chapter.

B. Every door – to – door solicitor shall carry his or her license at any time he or she is engaged as a door- to – door solicitor. Additionally, he or she shall show his or her license to anyone who shall demand to see the same while he or she is so engaged. If a license is issued to a firm, partnership, association, corporation, company or organization, the original license shall be carried by the owner or supervisor and a copy of the license shall be carried by each agent engaged as a door – to – door solicitor under such license.

C. Any license issued under the provisions of this chapter shall be surrendered to the Clerk upon expiration, suspension or revocation.

5.34.100 - Renewal of license.

The holder of any license issued under this chapter who desires a new license to be effective on the expiration of the existing license shall, not less than thirty (30) nor more than sixty (60) days before the expiration of the existing license, file a written application for renewal with the Clerk, giving the information set forth in Section 5.34.050. The fee shall be as set in Section 5.34.070. The provisions for approving or disapproving of an application as set forth in Section 5.34.080 shall apply.

5.34.110 - Denial, revocation or suspension of license—Notice.

A. The Clerk may refuse to issue or renew a license or may summarily revoke and suspend any license which has been issued under this chapter if he or she finds that the person making the application withheld or falsified any information required for the license or has been convicted of any of the crimes described in Section 5.34.080 C. or is in any way in violation of this chapter.

B. The Clerk may suspend, revoke or refuse to renew any license upon a finding that the door – to – door solicitor engaged in fraud or willful misrepresentation, violated any provision of this chapter, committed any unlawful act or refused to leave any private property immediately when requested to do so by the owner or occupant.

C. Upon revocation or suspension, a door – to – door solicitor shall immediately return his or her license to the Clerk, and, upon failing to do so, the Clerk may request and direct the license to be confiscated.

D. Any denial, revocation, suspension or refusal of renewal shall be accompanied by written notice to the person identified in Section 5.34.080 by certified mail. The notice shall contain a reason for the action taken.

5.34.120 - Hours of operation.

No door – to – door soliciting shall be conducted in the City except between the hours of nine a.m. and six p.m. each day, except that business may be conducted at a residence when the owner or occupant of such residence has agreed by previously arranged appointment for a time other than the prescribed hours.

5.34.130 - Violations—Penalties.

Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00) or imprisoned for not more than thirty (30) days, or both.

5.34.140 - Appeals.

Any appeal of action taken under this chapter shall be to the Mayor. Said appeal shall be effective only if filed in writing in the Mayor's office within fifteen (15) calendar days of the action appealed from. Said appeal shall state with specificity the action appealed and relief requested. The appeal will be heard as soon as is practical and the Mayor's decision shall be deemed a final administrative decision.

5.34.150 - Other governmental requirements.

This chapter does not relieve any person of the requirement to comply with any and all applicable statutes, including, but not limited to, state licensing laws, door to door sales laws, Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act and home improvement contractor laws. This chapter is not applicable to activities for which the state of Maryland has preempted regulation.

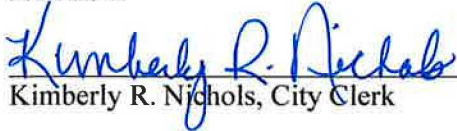
5.34.160 - Severability.

In the event that any portion of this chapter is held to be invalid, such invalidity shall not affect the other valid portions of this chapter.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY that the changes set forth in this Ordinance shall take effect from and after the day of its final passage.

THE ABOVE ORDINANCE was introduced at a meeting of the Council of the City of Salisbury on the 11th day of September, 2017, and having been published as required by law in the meantime, was finally passed at its meeting on the 25th day of September, 2017.

ATTEST:



Kimberly R. Nichols, City Clerk



John R. Heath, President
Salisbury City Council

APPROVED BY ME THIS 28th day of SEP, 2017.



Jacob R. Day, Mayor



City of
Salisbury
Jacob R. Day, Mayor

To: City Council
From: Kim Nichols
Subject: Proposed Amendments to Chapter 5.32 Hawkers, Peddlers & Transient Merchants
Date: September 22, 2017

The Clerk's Office issues licenses for *Hawkers, Peddlers & Transient Merchants* to mobile vendors selling clothes, food, ice cream, etc., and to door-to-door solicitors. The language in *Chapter 5.32 – Hawkers, Peddlers and Transient Merchants* needs to be updated and the chapter should be divided into two chapters, "Mobile Vendors" and "Door-To-Door Solicitors."

The attached draft legislation updates the language and terminology to refer to all activities of selling food or merchandise from a mobile structure as "Mobile Vending", moves enforcement and licensing responsibilities of mobile vendors from the City Clerk to the Business Development Director, and creates a new chapter titled "Door-To-Door Solicitors," enforced by the City Clerk.

Currently, the Code requires a background check be conducted on all applicants and their agent(s), if any, prior to issuing a *Hawkers, Peddlers & Transient Merchants* licenses. This process takes approximately two weeks and is conducted by the City Police Department. Applicants living outside of Maryland must provide their own state conducted background check.

All licensed vendors must file a surety bond with the City in the amount of \$1,000 to guarantee that they will comply with the laws and ordinances of the City and State regarding mobile vending.

If you have any questions, please let me know.