



MARYLAND

**SALISBURY CITY COUNCIL  
WORK SESSION AGENDA**

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**MARCH 2, 2015  
COUNCIL CHAMBERS  
GOVERNMENT OFFICE BUILDING**

- 2:00 p.m. Adult Entertainment Ordinance – Mark Tilghman/Jack Lenox
- 2:30 p.m. Defining Weekday as Monday thru Friday - Council discussion -William Holland
- 3:00 p.m. Proposed Charter Changes – Articles III, IV and V – Tom Stevenson
- 3:30 p.m. To adopt “Revised” Departmental Directive Over Occupancy of Rental Property – Susan Phillips
- 4:00 p.m. Ordinance No. 2313 – amending Sections 15.24.280 General, 15.24.1640 Violation of Occupancy Provisions, and 15.26.110 Denial, Nonrenewal, Revocation or Suspension of License or Registration of the Salisbury Municipal Code (Over Occupancy of Rental Property) Council discussion – Susan Phillips
- 4:30 p.m. Draft legislation to eliminate Primary Elections and Change the Number of Councilmanic Districts in the City – Mark Tilghman
- 4:45 p.m. Tri-County Council Annexation agreement – William Holland/Chris Jakubiak
- 5:15 p.m. Main Street Masterplan – Continued discussion
- 5:45 p.m. Maryland SUN presentation
- 6:15 p.m. Plumbing Permit Fee increase recommendations – William Holland
- 6:30 p.m. 2003 CDA Bond Reallocation – Keith Cordrey
- 6:45 p.m. Council discussion
- 7:00 p.m. Adjournment

*Times shown are approximate. Council reserves the right to adjust the agenda as circumstances warrant.  
The Council reserves the right to convene in Closed Session as permitted under the Annotated Code of Maryland 10-508(a).*



# City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT

P.O. BOX 870

125 NORTH DIVISION STREET, ROOMS 203 & 201

SALISBURY, MARYLAND 21803-4860

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JAMES IRETON, JR.  
MAYOR

BOB CULVER  
COUNTY EXECUTIVE

TOM STEVENSON  
CITY ADMINISTRATOR

R. WAYNE STRAUSBURG  
DIRECTOR OF ADMINISTRATION

To: Mayor and City Council

From: John F. Lenox  
Planning Director

Re: Adult Entertainment Businesses

Date: February 11, 2015

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At the Work Session of January 5, 2015, the Council discussed with the City Attorney the Administration's initiative to modify the Adult Entertainment provisions of the City Zoning Code. A follow-up discussion has been scheduled, and a Draft Ordinance prepared.

The change in the Adult Entertainment Ordinance would more closely regulate the type and location of such businesses in Salisbury. Existing Adult Entertainment businesses would not be grandfathered and would need to be brought into compliance with the new ordinance, within the specified 2-year amortization period. New businesses would have to meet the stricter criteria and locate in areas designated as acceptable for such operations. Under current provisions, a business is considered Adult Entertainment if at least 20% of their square footage is devoted to merchandise relating to Adult Entertainment. Businesses could circumvent this by hanging merchandise on the walls and keeping it off of the floor. Under the proposed Ordinance, registration as an Adult Entertainment Business would be required if the significant amount of space devoted to adult merchandise is at least 15%. The determination would include not only floor space, but also wall space and any areas where merchandise is displayed. The new ordinance would further reduce the percentage of gross revenue received or expected to be received from the adult entertainment merchandise from 20 to 15.

As requested, the Planning & Zoning staff has updated the 2008 analysis regarding the potential siting of Adult Entertainment businesses. It has been confirmed that approximately 6.2% of the land area within the City may be eligible. This exceeds the 5% minimum generally established by case law.

These changes would permit the City to regulate the existence and location of Adult Entertainment businesses for the benefit of its citizens. It is recommended that the Draft Ordinance be forwarded to the Planning and Zoning Commission for Public Hearing.

CITY OF SALISBURY  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SALISBURY TO AMEND SALISBURY MUNICIPAL CODE SECTION 5.08.010 DEFINITIONS FOR THE PURPOSE OF AMENDING THE DEFINITION OF SIGNIFICANT AMOUNT; STATING CERTAIN FINDINGS; PROVIDING FOR THE APPLICATION OF THE ORDINANCE; AND GENERALLY RELATING TO ADULT ENTERTAINMENT BUSINESS.

WHEREAS, the City previously passed ordinances to regulate the conduct and location of adult entertainment businesses; and

WHEREAS, at that time, the City found that, in order to protect the health, safety and welfare of the City’s citizens, it was necessary to allow suitable locations for adult entertainment businesses while limiting their adverse secondary effects on the community; and

WHEREAS, the City further found that adult entertainment businesses are associated with increased crime and decreased property values, and adversely impact the quality of life in surrounding areas; and

WHEREAS, many land use studies have documented the adverse secondary effects of adult entertainment businesses; and

WHEREAS, in order to lessen and control these effects and to limit exposure of these businesses to children, the City found that it was necessary to place certain restrictions on the conduct and the location and arrangement of adult entertainment businesses; and

WHEREAS, similar ordinances have withstood legal challenge; and

WHEREAS, the City now finds that certain refinements are needed to that portion of the Code relating to adult entertainment businesses in order to more effectively regulate the such businesses and prevent the subversion of the Code’s purposes.

NOW, THEREFORE, be it enacted and ordained by the City of Salisbury that the definition of “Significant amount” in Chapter 5.08.010 of the Salisbury Municipal Code be Amended as follows, and that all other definitions in that section remain unchanged:

5.08.010 – Definitions

35 “Significant amount” means the following:

36 1. At least ~~twenty-five~~ (2015) percent of the stock in the establishment or on  
37 display consists of adult entertainment or material;

38 2. At least ~~twenty-five~~ (2015) percent of the ~~usable floor~~ area used for the  
39 display or storage of merchandise on the floor, walls, or vertical display area of  
40 the cabinets, shelves or racks which rise from the floor (or any combination  
41 thereof which is at least fifteen (15) percent of the area used for display or  
42 storage) is used for the display or storage of adult entertainment or material or  
43 houses or contains devices depicting, describing, or relating to adult  
44 entertainment or material; or

45 3. At least ~~twenty-five~~ (2015) percent of the gross revenue is, or may  
46 reasonably be expected to be, derived from the provision of adult  
47 entertainment or material.  
48

49 AND BE IT FURTHER ENACTED, that this ordinance does not immediately apply  
50 to an adult entertainment business lawfully established prior to the effective date of this  
51 Ordinance. An adult entertainment business may continue to operate until two years from  
52 the effective date of this ordinance. On or after that date, all adult entertainment businesses  
53 shall conform to the requirements of this ordinance.  
54

55 AND BE IT FURTHER ENACTED, that a business establishment that is not in  
56 compliance with Chapter 5.08 may continue to operate until two years from the effective  
57 date of this ordinance. On or after that date, all such business establishments shall comply  
58 with Chapter 5.08.  
59

60 AND BE IT FURTHER ENACTED AND ORDAINED BY THE CITY OF  
61 SALISBURY, that this ordinance shall take effect upon final passage.  
62

63 THIS ORDINANCE was introduced and read at a meeting of the Council of the City  
64 of Salisbury held on the \_\_\_ day of \_\_\_\_\_, 201\_, and having been published as  
65 required by law, in the meantime, was finally passed by the Council on the \_\_\_ day of  
66 \_\_\_\_\_, 201\_.

67 ATTEST:

68 \_\_\_\_\_  
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71 Kimberly R. Nichols, City Clerk

\_\_\_\_\_   
Jacob R. Day, City Council President

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74 Approved by me, this \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

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76 \_\_\_\_\_

77 James Ireton, Jr.,

78 Mayor

CITY OF SALISBURY  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SALISBURY TO AMEND SALISBURY MUNICIPAL CODE SECTION 17.04.120 DEFINITIONS FOR THE PURPOSE OF AMENDING THE DEFINITION OF SIGNIFICANT AMOUNT, AND TO ADD SECTIONS 17.166.090 AND 17.166.100 FOR THE PURPOSE OF ALLOWING INSPECTIONS AND ADMINISTRATIVE SEARCH WARRANTS BY THE CITY, AND; STATING CERTAIN FINDINGS; PROVIDING FOR THE APPLICATION OF THE ORDINANCE; AND GENERALLY RELATING TO ADULT ENTERTAINMENT BUSINESS.

WHEREAS, the City previously passed ordinances to regulate the location of adult entertainment businesses; and

WHEREAS, at that time, the City found that, in order to protect the health, safety and welfare of the City's citizens, it was necessary to allow suitable locations for certain adult entertainment businesses while limiting their adverse secondary effects on the community; and

WHEREAS, the City further found that adult entertainment businesses are associated with increased crime and decreased property values, and adversely impact the quality of life in surrounding areas; and

WHEREAS, many land use studies have documented the adverse secondary effects of certain adult entertainment businesses; and

WHEREAS, in order to lessen and control these effects and to limit exposure of these businesses to children, the City found that it was necessary to place certain restrictions on the location and arrangement of adult entertainment businesses; and

WHEREAS, similar ordinances have withstood legal challenge; and

WHEREAS, the City now finds that certain refinements are needed to that portion of the Code relating to adult entertainment businesses in order to more effectively regulate the location of such businesses and prevent the subversion of the Code's purposes.

NOW, THEREFORE, be it enacted and ordained by the City of Salisbury that Chapter 17.04.120 of the Salisbury Municipal Code be Amended and that Chapters 17.166.090 and 17.166.100 be added as follows:

36 17.04.020 – Definitions

37  
38 “Significant amount” means the following:

- 39
- 40 1. At least ~~twenty-five~~ (2015) percent of the stock in the establishment or on  
41 display consists of adult entertainment or material;
  - 42 2. At least ~~twenty-five~~ (2015) percent of the ~~usable floor~~ area used for the  
43 display or storage of merchandise on the floor, walls, or vertical display area of  
44 the cabinets, shelves or racks which rise from the floor (or any combination  
45 thereof which is at least fifteen (15) percent of the area used for display or  
46 storage) is used for the display or storage of adult entertainment or material or  
47 houses or contains devices depicting, describing, or relating to adult  
48 entertainment or material; or
  - 49 3. At least ~~twenty-five~~ (2015) percent of the gross revenue is, or may  
50 reasonably be expected to be, derived from the provision of adult  
51 entertainment or material.

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55 17.166.090 – Inspection of premises.

56  
57 After the city receives a complaint about a business alleged to be in violation of the  
58 code regarding adult entertainment business, the city may inspect the place of business and  
59 financial records of such business. Inspections may also be initiated as a result of the  
60 observations of city inspectors or as a result of a routine audit. The inspection shall occur  
61 after notice has been furnished to the owner and occupants of the place of business.

62  
63 The notice shall be sent by mail or by affixing the notice to the place of business in a  
64 conspicuous location. If the city’s inspector shall be denied access to the financial records or  
65 place of business or any part thereof that is appropriate for inspection, the inspector may  
66 obtain an administrative search warrant to gain access.

67  
68 17.166.100 – Administrative search warrant.

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70 A. An inspector authorized by the city to inspect any place of business or financial  
71 records may apply to a judge of the District Court of Maryland or the Wicomico  
72 County Circuit Court for an administrative search warrant to enter and inspect such  
73 premises and records. The application shall be in writing, signed and sworn to by the  
74 inspector, and shall state or identify: (i) the business location to be inspected by street  
75 address and general description, (ii) the nature, scope and purpose of the inspection  
76 (i.e. business premises and/or records), and (iii) one or more dates and approximate  
77 times when the inspector proposes to conduct the inspection. In addition, the

application shall specify the statutory authority for such inspection and the effort of the inspector to schedule or conduct the inspection and/or to locate the owner(s), tenant(s), or other person(s) in charge of the business and any other grounds for issuance of the search warrant.

B. A judge of a court referred to in this section shall issue the search warrant upon finding that: (i) the inspector is authorized to make the inspection, (ii) a reasonable effort has been made to obtain access to the business to make the inspection, (iii) the owner(s), tenant(s) or other person(s) in charge of the business have denied or otherwise failed or refused to furnish access to the business premises and/or records at a reasonable time or for a reasonable period to conduct the inspection, or the inspector (or others) have been unable to locate any such person(s) after making a reasonable effort to do so, and (iv) if conducted in a reasonable manner, the inspection will not intrude unnecessarily on the operation of such business.

C. An administrative search warrant issued under this section shall be executed and returned to the issuing judge or, in his or her absence, to the clerk of the issuing court within: (i) the time specified in the warrant, not to exceed thirty (30) days, or (ii) if no time is specified therein, fifteen (15) days from its date of issuance.

D. This section shall not preclude or affect the power to make prompt inspection without a warrant in emergency situations.

AND BE IT FURTHER ENACTED, that this ordinance does not immediately apply to an adult entertainment business lawfully established prior to the effective date of this Ordinance. An adult entertainment business may continue to operate until two years from the effective date of this ordinance. On or after that date, all adult entertainment businesses shall conform to the requirements of this ordinance.

AND BE IT FURTHER ENACTED, that a business establishment that is not in compliance with Chapter 17.166 may continue to operate until two years from the effective date of this ordinance. On or after that date, all such business establishments shall comply with Chapter 17.166.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE CITY OF SALISBURY, that this ordinance shall take effect upon final passage.

THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the \_\_\_ day of \_\_\_\_\_, 201\_, and having been published as required by law, in the meantime, was finally passed by the Council on the \_\_\_ day of \_\_\_\_\_, 201\_.

120

121 ATTEST:

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124 \_\_\_\_\_  
Kimberly R. Nichols, City Clerk

\_\_\_\_\_  
Jacob R. Day, City Council President

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127 Approved by me, this \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

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\_\_\_\_\_  
James Ireton, Jr.,

131 Mayor

# Memorandum

**To:** Tom Stevenson, City Administrator  
**From:** William T. Holland  
**Date:** 2/27/2015  
**Re:** Noise/Construction & Repair of Buildings

Tom, recently the City has received noise complaints as a result of construction being conducted on Saturdays. Section 8.20.020(I) permits construction activities between the hours of seven a.m. and six p.m. on “weekdays.” I’ve received two legal interpretations, most recently from Mr. Tilghman’s office defining a “weekday” as being Monday via Saturday.

The current legal definition we’ve received via the legal department apparently has drawn some confusion from the public as to the definition of a “weekday.” I would like the City Council to consider an amendment to Section 8.20.020(I) that would define a “weekday” as Monday via Saturday and to further protect ones peaceful enjoyment by limiting the available hours on Saturday that work could begin.

For your convenience I’ve attached the code section below.

- I. Construction or Repairing of Buildings. The erection (including excavation), demolition, alteration or repair of any building other than between the hours of seven a.m. and six p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the department of neighborhood services and code compliance which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the department of neighborhood services and code compliance should determine that the public health and safety will not be impaired by the erection, excavation, demolition, alteration or repair of any building within the hours of six p.m. and seven a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of six p.m. and seven a.m., upon application being made at the time that the permit for work is awarded or during the progress of the work.

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OFFICE

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MEMO

## Office of the Mayor

**To:** City Council  
**From:** Tom Stevenson  
**Subject:** Charter/Code Changes  
**Date:** February 27, 2015

From time to time it is necessary to review, amend and improve the Charter and Code of the City of Salisbury, Maryland. At my request, each department head reviewed the City Charter and Code to identify inconsistencies, errors, omissions, etc. The attached includes the areas of the City Charter that require consideration.

The recommended changes include:

- Correcting spelling and punctuation errors;
- Eliminating and/or replacing outdated language;
- Amending inconsistencies or contradictions; and/or
- Other improvements as identified

These proposals have been compiled and organized numerically by their charter or code section number. The suggestions which we would consider substantive have been indicated with an asterisk (\*). The Department Head or the Department submitting the suggestion has been identified in **Bold**. Due to the number of changes, we anticipate that Council will want to schedule this review and discussion over several work sessions. This initial review only focuses on the City Charter.

Following Council review, it will be necessary to format those changes that you wish to pursue into ordinance or resolution form as appropriate for legislative action.

If you have any questions, please let me know.

cc: Mayor Ireton  
All Department Heads  
Mark Tilghman  
Kim Nichols

## ARTICLE III - The Mayor

### § SC3-1. - Term.

The Mayor shall be elected as hereinafter provided and shall hold office for a term of four (4) years or until his successor is elected and qualified, except that the term of the Mayor elected on the first Tuesday of April 2013 shall expire on the second Monday after the first Tuesday of November 2015. The regular term of the Mayor shall expire on the second Monday after the election of his successor.

[1959 Code, sec. 301. 1951, ch. 534, sec. 20][Amended 6-11-12 by Res. No. 2170]

*Delete outdated info –*

*“The Mayor holding office on January 1, 1952, shall continue to hold office for the term for which he has been elected.” City Clerk*

### § SC3-2. - Qualifications.

The Mayor must have resided in Salisbury for at least one (1) year immediately preceding his election, must be at least twenty-one (21) years of age and must be a qualified voter of the city.

[1959 Code, sec. 302. 1951, ch. 534, sec. 2] [Amended 2-14-72 by Res. No. 154]

### § SC3-3. - Salary.

The Mayor shall receive a salary. A Salary Review Committee comprised of five (5) members to be appointed by the Mayor is hereby created to review the salary of the Mayor. The Committee shall make a written recommendation to the City Council six months prior to the next election for Mayor, with the Mayor's salary to be effective in the fiscal year after the Mayor's current term expires. Salary recommendations shall be considered by the City Council and salary shall be set forth and adopted in an Ordinance passed by the City Council. Thereafter, a Salary Review Committee shall be appointed by the Mayor every four (4) years to perform the task set forth herein, with salary to be established by the City Council by Ordinance. The Mayor may also be eligible to participate in benefit programs by paying the full cost of participation in the employee benefit programs. Nothing herein shall permit the Mayor's salary or benefits to be changed to be effective during the term for which the Mayor is then serving. The Committee established herein shall be the same Committee established for a similar review of the salary of the Councilmembers.

[1959 Code, sec. 303. 1951, ch. 534, sec. 22] [Amended 7-12-65 by Res. No. 594\*; 11-12-73 by Res. No. 172\*\*; 12-14-81 by Res. No. 231; 11-8-93 by Res. No. 439; 2-22-10 by Res. No. 1890; 2-25-11 by Res. No. 2036]

\* Editor's Note: For the preamble to Res. No. 594, adopted 7-12-65, see Art. II, § SC2-3.

\*\* Editor's Note: For the preamble to Res. No. 172, adopted 11-12-73, see Art. II, § SC2-3.

### § SC3-4. - Powers.

A. Ordinances. The Mayor shall see that the ordinances of the city are faithfully executed and shall be the chief executive officer and the head of the administrative branch of the city government. In these capacities, the Mayor shall be assisted by a City Administrator as

provided in §§ SC4-1 and SC4-2 of this Charter. The Mayor is responsible for the administration of the city's affairs.

- B. Report. The Mayor shall prepare or cause to be prepared annually a report in the name of the government of the City of Salisbury. This report shall deal not only with the financial condition of the city, but also with the accomplishments of the various agencies and the city. This report shall be printed for general distribution.
- C. Appointments. The Mayor with the advice and consent of a majority of the full Council shall appoint the heads of all offices, departments and agencies of the government of the City of Salisbury as established by this Charter or by ordinance of the Council, with the exception of the City Clerk and the City Solicitor, who shall be appointed as provided in § SC8-1 and § SC9-1, respectively. The City Clerk and City Solicitor shall serve at the pleasure of a majority of the full Council, the City Administrator shall serve at the pleasure of the Mayor and a majority of the full Council, and all other department heads shall serve continuously unless terminated pursuant to § SC2-10. All subordinate officers and employees of the offices, departments and agencies, excepting those serving under the City Clerk and the City Solicitor, shall be appointed by the Mayor on the recommendation of the head of the office, department or agency concerned subject to budgetary appropriations. Except as may be modified by the adoption of a merit system, all subordinate officers and employees may be removed by the Mayor on the recommendation of the appropriate office, department or agency head, excepting those serving under the City Clerk and the City Solicitor.
- D. Vetoes. The Mayor shall have the power to veto ordinances passed by the Council as provided in § SC2-12.
- E. Recommendations. The Mayor each year shall report to the Council the condition of municipal affairs and make such recommendations as he deems proper for the public good and welfare of the city.
- F. Budget. The Mayor annually shall prepare or have prepared a budget and submit it to the Council. He shall be responsible for the administration of the budget as adopted by the Council.

[1959 Code, sec. 304. 1951, ch. 534, sec. 23] [Amended 5-23-05 by Res. No. 1247; 10-10-11 by Res. No. 2109]

***A (Ordinances) and D (Vetoes) – be consistent when revising language in Article II (§SC2-12, §SC2-15, §SC2-16) City Clerk***

#### ARTICLE IV - City Administrator

##### § SC4-1. - City Administrator.

There shall be a City Administrator in the Office of the Mayor who shall be the Chief Administrative Officer of the city. The City Administrator shall be the direct subordinate of the Mayor and the immediate supervisor of each department head. The City Administrator shall

serve as the supervising authority of the Office of the Mayor and shall be the Mayor's Chief of Staff.

[Repealed and replaced 9-13-04 by Res. No. 1141]

§ SC4-2. - Appointment.

The City Administrator shall be appointed by the Mayor with the advice and consent of the Council. The City Administrator shall have had, prior to appointment, an advanced degree in business or public administration from an accredited college or university and at least five years' experience in public administration or private business; or an equivalent combination of education and experience. At the time of appointment or within one year thereafter, the City Administrator shall be a member in good standing of the International City and County Management Association.

[Repealed and replaced 9-13-04 by Res. No. 1141]

§ SC4-3. - Duties full time.

The City Administrator shall devote his or her full time to the duties of the office and shall serve at the pleasure of the Mayor and Council.

[Added 9-13-04 by Res. No. 1141]

§ SC4-4. - Compensation.

The compensation of the City Administrator shall be determined by the Council.

[Added 9-13-04 by Res. No. 1141]

§ SC4-5. - Duties.

The duties of the City Administrator shall be determined and assigned by the Mayor and shall include:

- (1) To serve as Chief of Staff of the department heads, excepting the City Clerk and City Solicitor;
- (2) To exercise supervisory authority over department heads, excepting the City Clerk and City Solicitor;
- (3) To direct the operations of the city government;
- (4) To supervise the Office of Mayor at the direction of the Mayor and to be responsible for the execution of the duties and responsibilities of the Office of the Mayor;
- (5) To supervise the preparation of the city budget;
- (6) To recommend candidates to the Mayor for appointment as department heads, excepting the City Clerk and City Solicitor;
- (7) When necessary, to recommend disciplinary actions against department heads to the Mayor, excepting the City Clerk and City Solicitor;
- (8) To assist the Mayor in the formation of policy and the implementation of plans to address demands for municipal services, enhance the quality of life and strengthen the economic vitality of the city; and
- (9) To perform such duties not inconsistent with the Charter as may be delegated by the Mayor from time to time.

[Added 9-13-04 by Res. No. 1141; amended 10-10-11 by Res. No. 2109]

*Add a new section as follows:*

*§SC4-6 Assistant City Administrator \**

*The City Administrator shall be authorized to appoint an Assistant City Administrator, subject to the confirmation of the Mayor. His compensation shall be determined by the City Council. The Assistant City Administrator shall perform such duties as the City Administrator shall require and shall act as the City Administrator in the City Administrator's absence.*

## ARTICLE V - General Powers

### § SC5-1. - Enumeration.

#### A. The City of Salisbury shall have the power:

- (1) Aisles. To regulate and prevent the obstruction of aisles in public halls, churches and places of amusement.
- (2) Amusements. To provide for the restraining of theatrical or other public amusements of an immoral or indecent nature within the city.
- (3) Auctioneers. To regulate and license auctioneers who cry any public sales within the corporate limits of the city.
- (4) Bawdy houses. To suppress streetwalkers and to prohibit or restrain the keeping of bawdy houses or houses of ill fame within the limits of the city.
- (5) Buildings. To make reasonable regulations in regard to buildings to be erected in the city and to grant building permits for the same; to formulate a building code and a plumbing code and to appoint a building inspector and a plumbing inspector and to require reasonable charges for permits and inspections; to regulate and restrict the height, number of stories, and size of buildings and other structures, the size of yards, courts and open spaces; and the location and use of buildings, structures and land for trade, industry or residence or tanks, pumps or other fixtures; to establish the distance buildings or any part thereof, fences or walls shall be erected from inner curb of street line; to direct in what part of the city wooden buildings shall not be erected or constructed; to authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof in whole or in part when dangerous or insecure and to require that such buildings and structures be made safe or taken down.
- (6) Contracts. To contract with any corporation, firm or person for the lighting of the city or a part thereof, either with electricity or gas or by such means as may be deemed proper; and to contract for water for use at fires or for other city purposes, provided that no contract so entered into shall be for a longer period than three (3) years.

- (7) Codification. To provide for the codification of all ordinances which have been or may hereafter be passed.
- (8) Disorder. To restrain all disorder, disturbances, annoyances, disorderly conduct and drunkenness.
- (9) Dogs. To regulate the keeping of dogs in the city and to provide for the licensing and taxing of the same; to provide for disposition of homeless dogs and dogs on which no license or taxes are paid.
- (10) Exits. To regulate the construction and maintenance of exits from places of amusements and all public buildings.
- (11) Explosives. To prevent and regulate the storage of gunpowder, oil or other combustible matter in such quantities and in such places as may be deemed proper; to prevent firing of guns, cannons, pistols, rifles, slingshots, firecrackers or other fireworks or other explosives within the city.
- (12) Fire. To suppress fires and prevent the dangers thereof and to establish and maintain a Fire Department; to inspect buildings for the purpose of reducing fire hazards, to issue regulations concerning fire hazards and to forbid and prohibit the use of fire-hazardous buildings and structures permanently or until the conditions of city fire hazard regulations are met; and to take all other measures necessary to control and prevent fires in the city.
- (13) Food. To inspect and require the condemnation, if unwholesome, and to regulate the sale of meats, poultry, fish, butter, oleomargarine, cheese, lard, vegetables and all other food products.
- (14) Franchises. To grant franchises to electric, gas, telephone, telegraph, street railway, taxicab, bus, water, heating, sewer or drain companies and to any others which may be deemed advantageous and beneficial to the city, and the city, notwithstanding anything that may be set out in any such franchise, shall not have the power to divest itself of its police power to regulate and control the use of the streets, alleys, highways and other public places of the city under any franchise that may be so granted by it; all franchises so granted by the city under this Charter power shall be for a definite term of years, not exceeding twenty-five, and shall be renewable at the discretion of the city, and such franchises shall specifically set out the nature, right and duration of the same, and no power or right not expressed in such franchises shall pass thereunder; and for any franchises hereafter granted by the city under this Charter power the city may make an original, and thereafter an annual charge for using the streets, alleys, highways and other public places of the city; provided, however, that none of the terms and provisions of this Subsection A(14) shall be applicable or affect any franchises, rights and privileges heretofore or hereafter originating under any public general or public local law of this state, or to any franchises, rights and privileges heretofore granted by the city or otherwise existing on the date of enactment hereof, for the use of the streets, highways, alleys and other public places of the city.
- (15) Gambling. To prevent gambling and games of chance.
- (16) Garbage. To provide for the collection and removal of filth, garbage or any matter or thing that is or may become injurious to the health or comfort of the inhabitants of

Salisbury and to contract for the collection and removal of same or to have same removed or any nuisance abated by the city; to provide whether the expense, if any, shall be borne by individual property owners or tenants or shall be paid for in whole or in part by the city.

- (17) Grants-in-aid. To accept gifts and grants of federal or state funds from the federal or state governments or any agency thereof, and to expend the same for any lawful public purpose, agreeable to the conditions under which the gift or grant was made.
- (18) Hawkers. To regulate and provide for the issuing of licenses or permits for hawking, peddling and vending of wares and merchandise of every description upon the public ways of the city and to regulate and provide for the issuing of licenses or permits to all persons who may go from house to house to vend or sell any wares or merchandise; to regulate and provide for the issuing of licenses to all traveling persons who dispense medicines or medical advice.
- (19) House numbers. To regulate the numbering of houses and lots and to compel owners to renumber the same, or in default thereof, to authorize and require the same to be done by the city, at the owner's expense, such expense to constitute a lien upon the property and to be enforceable as provided in the ordinance.
- (20) Jail. To establish and regulate a station house or lockup for temporary confinement of violators of the laws and ordinances of the city.
- (21) Licenses. To issue licenses to any and all persons entering into or beginning transient business in the city for the sale of any goods, wares or merchandise; to regulate and license all restaurants, barbershops, pawnbrokers, junk dealers, fire and slaughter sales and auction sales; to regulate and license all nine- and ten-pin alleys, skating rinks, pool and billiard tables, theaters, moving-picture shows, boxing and sparring matches and wrestling contests and also exhibitions of every kind; to license or regulate any other business or calling.
- (22) Merit system. To establish and maintain a merit and pension system; all city employees, except heads of offices, departments and agencies, and members of boards and commissions shall be included in the classified service under such merit and pension system.
- (23) Minor privileges. To regulate or prevent the use of streets, sidewalks and public places for signs, awnings, posts, steps, railings, entrances, racks, posting handbills and advertisements and display of goods, wares and merchandise.
- (24) Nuisances. To regulate, restrain or prohibit the running at large of all animals and fowl on any of the public ways of the city; to regulate all stockyards, cattle pens, hog pens and slaughterhouses within the city or provide for their removal from the corporate limits thereof; to regulate and control all offensive trades, manufacture and traffic in offensive fertilizer or other commodities within the city limits; to regulate or suppress slaughterhouses and smokehouses within the city and to regulate canning houses within the corporate limits; to abate by appropriate ordinance all nuisances in the city which are so defined at common law, by this Charter or by the laws of the State of Maryland, whether the same be herein specifically named or not; to prevent, remove and abate all nuisances or obstructions in or upon the public ways, drains or watercourses, or in or

upon any lot adjacent thereto, or any other place within the limits of the city; to remove or cause to be removed houses or other structures that may be dangerous to persons passing along or over any of the public ways of the city.

- (25) Parking lots. To license, regulate, establish, operate, acquire, own and maintain parking lots.
- (26) Parks and playgrounds. To establish and maintain public parks and playgrounds.
- (27) Public property. To control and protect the public grounds and property of the city; to provide for protection of all public property, cemeteries and property of all public service companies or corporations.
- (28) Public utilities. To establish, own, control, operate, maintain and manage a wharf for the use of the city, a public market and a plant or plants and system or systems for supplying water to and for the city and the inhabitants thereof, and adjacent thereto, or any one (1) or more of them, and to exercise police power to regulate and control the use of the streets, alleys and highways and other public places of the city by electric, gas, telephone, telegraph, street railway, taxicab, bus, water, heating, sewer and drain companies, and to purchase or condemn, as hereafter provided, any property whatsoever, in fee simple or otherwise, for the purpose of establishing, owning, controlling, operating, maintaining or managing any such wharf or market or plant or plants and system or systems for water supply.
- (29) Railroads; safety appliances at and maintenance of grade crossings. To regulate the erection and maintenance of proper safety appliances by railroads at street crossings and to regulate the installation, repair and maintenance of all crossings by planking or otherwise for all public ways so that such crossing is adequate for traffic.
- (30) Rent control. To regulate and control the increase in rental fees charged by certain landlords and to regulate and define the legal rights, remedies, obligations and penalties of parties to any rental agreement and to provide both civil and criminal enforcement procedures for any violations.
- (31) Sewers. To grant franchises and regulate the putting of sewers or drains on or under its public ways and the charges for entering same.
- (32) Sidewalks. To regulate the use of sidewalks and all structures on, under or above same and to require the owner or occupant of the premises to keep the sidewalks in front of the premises and the gutters thereof free from snow and other obstructions and to prescribe hours for cleaning same.
- (33) Sweepings. To regulate and prevent the throwing of sweepings, dust, ashes, offal, garbage, paper, handbills, dirty liquids or other materials into any public way or on any vacant lot in the city.
- (34) Transit system. To acquire, by purchase or lease, operate and maintain motor buses or other vehicles for the purpose of transporting persons for hire, both within the city and between the city and points located outside the corporate limits of the city.
- (35) Vagrants. To punish and suppress tramps and vagrants.

(36) Vehicles. To regulate, license and tax carts, wagons, carriages, automobiles and other vehicles used in the city for transporting goods or persons for hire; to regulate the speed of horses, wheeled vehicles, bicycles, motorcycles, automobiles and locomotives in the city limits.

(37) Voting machines. To purchase, rent, install and maintain voting machines for use in elections.

(38) Enforcement of ordinances.

(a) The Council has the power, pursuant to Article 23A, § 3(a) of the Annotated Code of Maryland, to provide that violations of ordinances and resolutions of the city shall be punishable as misdemeanors, unless otherwise specified as an infraction. No penalty for such violation shall exceed a fine of one thousand dollars (\$1000.) and imprisonment for six (6) months or such other limits as may be established by subsequent amendments to Article 23A, § 3(a). Any person subject to any fine, forfeiture or penalty has the right of appeal as is provided under the general laws of the State. The Council may provide that, if the violation is of a continuing nature and is persisted in, a conviction for one (1) violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding violation.

(b) Municipal infractions.

[1] The Council may provide that violations of any municipal ordinance shall be a municipal infraction unless that violation is declared to be a felony or misdemeanor\* by the laws of the state of\*\* other ordinance. For purposes of this section, a municipal infraction is a civil offense.

[2] A fine not to exceed one thousand dollars (\$1000.) may be imposed for each conviction of a municipal infraction. The fine is payable by the offender to the municipality within twenty (20) calendar days of receipt of a citation. Repeat offenders may be assessed a fine not to exceed one thousand dollars (\$1000.) for each repeat offense, and each day a violation continues shall constitute a separate offense.

[3] Any person receiving a citation for an infraction may elect to stand trial for the offense by notifying the city in writing of this intention at least five (5) days prior to the date set for payment of the fine. Failure to pay the fine or give notice of intent to stand trial may result in an additional fine or adjudication by the court.

[4] Adjudication of a municipal infraction is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

[1959 Code, sec. 310. 1951, ch. 534, sec. 29] [Amended 10-24-72 by Res. No. 161; 6-9-75 by Res. No. 187; 1-19-83 by Res. No. 247; 9-8-85 by Ord. No. 781; 2-26-96 by Res. No. 522; 2-26-96 by Res. No. 523]

\* Editor's Note: So in original. Probably should read "misdemeanor."

\*\* Editor's Note: So in original. Probably should read "or."

*in these sections, we are authorized to “own” water systems and to “franchise” sewer systems but we are not authorized to own a sewer system. This should be changed to authorize us to own a sewer system as well. City Administrator*

*(14) Franchises – typo on 8<sup>th</sup> line – “fight” should be “right” City Clerk*

§ SC5-2. - Saving clause.

The enumeration contained in § SC5-1 is not to be construed as limiting the powers of the city to the several subjects mentioned.

[1959 Code, sec. 311. 1951, ch. 534, sec. 30]

§ SC5-3. - Enforcement.

For the purpose of carrying out the powers enumerated in § SC5-1 of this Charter, for the preservation of the cleanliness, health, peace and good order of the community, for the protection of the lives and property of the citizens and to suppress, abate and discontinue, or cause to be suppressed abated or discontinued, all nuisances within the corporate and sanitary limits of the city, the Council may pass all ordinances or bylaws from time to time necessary. To ensure the observance of these ordinances, in addition to the usual action of debt or such other civil remedies as may exist in such cases by law for the recovery of the penalties thereto affixed, the Council may affix thereto reasonable fines and, in default of the payment of any fine imposed, it may provide for the imprisonment of the offender in the city lockup or county jail.

[1959 Code, sec. 312. 1951, ch. 534, sec. 31]

*Be consistent with language concerning ordinances or bylaws. City Clerk*

§ SC5-4. - Exercise of powers.

All the powers of the city shall be exercised in the manner prescribed by this Charter or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

[1959 Code, sec. 313. 1951, ch. 534, sec. 32]

# Memo

To: Tom Stevenson  
From: Susan Phillips  
Date: December 22, 2014  
Re: Occupancy Enforcement Policy Outline

---

Per our request, the below information outlines the occupancy enforcement that would take place if the proposed over-occupancy legislation goes into effect. This content will be placed in the NSCC Directives.

1. If an over-occupancy violation is identified, a citation for a municipal infraction is issued.
2. At the same time, an Investigation of Excessive Occupancy letter is issued requiring the property owner to contact the City Department of Neighborhood Services & Code Compliance regarding this matter within ten (10) days.
3. Immediately following the ten-day time period, if the structure remains over-occupied and the landlord has not taken action to evict the persons who over-occupy the property, the following will occur:
  - An Order to Vacate the unit will be issued and sixty (60) days will be given for occupants to vacate the premises. This notice must be mailed via certified mail to both the current owner of record as identified by the State of Maryland and the listed property agent as required in the City of Salisbury Housing Code Rental Registration requirements. This notice will also be posted on the subject property.
  - Rental unit registration will be suspended once an inspection has confirmed that the unit has been vacated.
    - 1<sup>st</sup> offense will be a three (3) month suspension
    - 2<sup>nd</sup> offense will be a six (6) month suspension
    - 3<sup>rd</sup> offense will be a twelve (12) month suspension
  - Neighborhood Services & Code Compliance reserves the right to issue continuing municipal infractions during this time.
  - Additionally, if an exemption for 3 or 4 unrelated was granted, this non-conforming use will be lost permanently.
4. Following the suspension of the rental unit registration, a comprehensive inspection will be completed. If the unit is found to be in compliance, a certificate of occupancy will be issued and the unit may resume as a rental use.

In addition to the above the directives, the proposed changes made to Chapter 15.24 & 15.26 are as follows:

15.24.280 E. Removing “two (2) unrelated” since not all zoning districts permit a minimum occupancy of two unrelated. This change will cause more consistency and accuracy throughout the code.

15.24.1640 Similar language as stated above in 15.24.280 will be added to 15.24.1640. to maintain consistency.

15.26 Denial, Nonrenewal or Suspension of License and/or Registration – If the occupancy limitations are violated and if the requirements of the licensing and registration standards of this code are not satisfied, the license and registration may be denied, not renewed or suspended.

Please let me know if you have any questions.

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**RESOLUTION NO.**

A RESOLUTION OF THE CITY OF SALISBURY, MARYLAND APPROVING A POLICY  
ON ENFORCEMENT OF OVER-OCCUPANCY PROVISIONS CHAPTER 15.24

WHEREAS, the City’s Policy provides guidance to City Employees regarding the enforcement of the occupancy provisions in chapter 15.24 of the Property Maintenance Code;

WHEREAS, it is in the best interest of the City that a clear policy regarding the occupancy provisions be available for the execution of the enforcement of this code section;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Salisbury hereby approves the attached policy

THE ABOVE RESOLUTION was introduced and read and passed at the regular meeting of the Council of the City of Salisbury, Maryland held on this \_\_\_\_\_ day of \_\_\_\_\_ 2015 and is to become effective immediately upon adoption.

ATTEST:

\_\_\_\_\_  
Kimberly R. Nichols  
City Clerk

\_\_\_\_\_  
Jacob R. Day  
Salisbury City Council President

Approved by me this \_\_\_\_\_  
Day of \_\_\_\_\_ 2015

\_\_\_\_\_  
James Ireton, Jr.  
MAYOR, City of Salisbury

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52 **Policy:**

53 The purpose of this policy is to directly link any violation of the occupancy provisions, as  
54 referenced in the (*Property Maintenance Code, Chapter 15.24*) to the Housing Officials  
55 authority to **deny, revoke, suspend or not renew** a landlord's, Rental Unit Owner License or  
56 Rental Unit Registration as is required by (*Chapter 15.26, Rental of Residential Property*). The  
57 policy will ensure proper execution of the occupancy provisions set forth in this code by the  
58 housing official and all enforcement staff.

59

60 1. If an over-occupancy violation is identified, a citation for a municipal  
61 infraction is issued.

62 2. At the same time, an Identification of Excessive Occupancy letter is issued  
63 requiring the property owner to contact the City Department of  
64 Neighborhood Services & Code Compliance regarding this matter within ten  
65 (10) days.

66 3. Immediately following the ten-day time period, if the structure remains over-  
67 occupied and the landlord has not taken action to evict the persons who over-  
68 occupy the property, the following will occur:

69 ➤ An Order to Vacate the unit will be issued and sixty (60) days will be  
70 given for occupants to vacate the premises. This notice must be  
71 mailed via certified mail to both the current owner of record as  
72 identified by the State of Maryland and the listed property agent as  
73 required in the City of Salisbury Housing Code Rental Registration  
74 requirements. This notice will also be posted on the subject property.

75 ➤ Rental unit registration will be suspended once an inspection has  
76 confirmed that the unit has been vacated.

77 • 1<sup>st</sup> offense will be a three (3) month suspension

78 • 2<sup>nd</sup> offense will be a six (6) month suspension

79 • 3<sup>rd</sup> offense will be a twelve (12) month suspension

80 ➤ Neighborhood Services & Code Compliance reserves the right to  
81 issue continuing municipal infractions during this time.

82 ➤ Additionally, if an exemption for 3 or 4 unrelated was granted, this  
83 non-conforming use will be lost permanently.

84 4. Following the suspension of the rental unit registration, a comprehensive  
85 inspection will be completed. If the unit is found to be in compliance, a  
86 certificate of occupancy will be issued and the unit may resume as a rental  
87 use.

88 In addition to the above the directives, the proposed changes made to Chapter 15.24  
89 & 15.26 are as follows:

90 15.24.280 E. Removing “two (2) unrelated” since not all zoning districts permit a  
91 minimum occupancy of two unrelated. This change will cause more consistency and  
92 accuracy throughout the code.

93 15.24.1640 Similar language as stated above in 15.24.280 will be added to  
94 15.24.1640. to maintain consistency.

95 15.26 Denial, Nonrenewal or Suspension of License and/or Registration – If the  
96 occupancy limitations are violated and if the requirements of the licensing and  
97 registration standards of this code are not satisfied, the license and registration may  
98 be denied, not renewed or suspended.

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**CITY OF SALISBURY**  
**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE of the Mayor and Council of the City of Salisbury amending Sections 15.24.280 General, 15.24.1640 Violation of occupancy provisions, and 15.26.110 Denial, nonrenewal, revocation or suspension of license or registration of the Salisbury Municipal Code.

**WHEREAS**, the Department of Neighborhood Services and Code Compliance is experiencing a rise in over-occupancy violations; and

**WHEREAS**, due to this rise in over occupancy, there is a need to strengthen the enforcement for occupancy violations; and

**WHEREAS**, a reduction in the allowed occupancy of nonconforming uses where over-occupancy has occurred is desirable; and

**WHEREAS**, the addition of denial, nonrenewal, revocation or suspension of a license or registration will make enforcement more effective; and

**WHEREAS**, the Department of Neighborhood Services and Code Compliance recommends approval of these proposed code changes.

**NOW, THEREFORE**, be it enacted and ordained by the Council of the City of Salisbury, Maryland, that Chapters 15.24 and 15.26 of the Salisbury Municipal Code, be amended as follows:

**15.24.280 General**

When a structure or equipment is found by the housing official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provision of this code and declared a public nuisance.

A. **Unsafe Structure.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is likely.

B. **Unsafe Equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public occupants of the premises or structure.

47 C. Structures Unfit for Human Occupancy. A structure is unfit for human occupancy  
48 whenever the building official finds that such structure is unsafe, unlawful or, is in disrepair or  
49 lacks required maintenance, is unsanitary, vermin or rat infested, contains filth and  
50 contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential  
51 equipment required by this code.

52  
53 D. Unlawful Structure. An unlawful structure is one found in whole or in part to be  
54 occupied by more persons than permitted under this code, or was erected, altered or occupied  
55 contrary to law.

56  
57 E. An unlawful structure which is ordered to be “vacated or condemned” shall, ~~in the~~  
58 ~~appropriate zones~~ in the case of a dwelling, be permanently reduced to ~~an~~ the maximum  
59 ~~occupancy of two unrelated persons, not including the children of either of them~~ allowed for the  
60 applicable conforming use, with no additional occupants permitted pursuant to the dwelling’s  
61 status as a nonconforming use.

#### 62 63 **15.24.1640 Violation of occupancy provisions.**

64  
65 If the department of neighborhood services and code compliance determines that the  
66 number of unrelated occupants in a dwelling violates the occupancy provisions established by  
67 this code, ~~then~~ the number of unrelated occupants, not including the children of either of them,  
68 shall be permanently reduced to ~~comply with city code~~ the maximum allowed for the applicable  
69 conforming use, with no additional occupants permitted pursuant to the dwelling’s status as a  
70 nonconforming use.

#### 71 72 **15.26.110 Denial, nonrenewal, revocation or suspension of license or registration.**

73  
74 If after any period for compliance with this chapter has expired, the NSCC determines that a  
75 rental dwelling unit or a rental dwelling unit owner fails to comply with any of the licensing or  
76 registration standards set forth herein or with the occupancy provisions of this code, ~~and the~~  
77 NSCC ~~has~~ shall initiated ~~d~~ an action to deny, revoke, suspend, or not renew a registration or  
78 license, ~~NSCC shall~~ and mail the owner a notice of denial, nonrenewal, revocation, or suspension  
79 of the license or registration. The notice shall state:

80 A. That NSCC has determined that the rental dwelling unit fails to comply with the  
81 ~~registration~~ standards for rental dwelling units in this chapter, and/or the owner has failed to  
82 comply with the Maryland Department of Environment lead abatement reporting  
83 requirements;

84 B. The specific reasons why the rental dwelling unit fails to meet ~~licensing or~~  
85 ~~registration~~ the required standards, including copies of applicable inspection reports, or  
86 notices sent to a licensee about the rental dwelling unit;

87 C. That the director will deny, refuse to renew, revoke, or suspend the license or  
88 registration unless the owner appeals the determination within twenty-one (21) days after  
89 receipt of the notice, in the manner provided in Section 15.26.120 of this chapter;

90 D. That after denial, nonrenewal, revocation or suspension, the rental dwelling unit  
91 shall be vacated within sixty (60) days, and shall not be reoccupied until all violations are  
92 corrected and a license and/or registration is granted by NSCC pursuant to provisions of  
93 Annotated Code of Maryland, Real Property Article, Title 8;

94 E. The notice shall describe how an appeal may be filed under Section 15.26.120 of  
95 this chapter;

96 F. The director shall cause a notice to tenants to be mailed or delivered to each  
97 registered rental dwelling unit and prominently posted on the building. The notice shall  
98 indicate that the rental dwelling unit registration or owner license for the rental dwelling unit  
99 has been denied, revoked, not renewed or suspended, whichever is applicable; that the action  
100 will become final on a specific date unless the rental dwelling unit owner appeals and  
101 requests a hearing; that tenants may be required to vacate the building when the action  
102 becomes final; that further information can be obtained from NSCC.

103  
104 AND BE IT FURTHER ENACTED AND ORDAINED BY THE CITY OF  
105 SALISBURY, MARYLAND, that the Ordinance shall take effect upon final passage.  
106

107 THIS ORDINANCE was introduced and read at a meeting of the Council of the City of  
108 Salisbury held on the \_\_\_\_\_ day of \_\_\_\_\_, 201\_ and thereafter, a statement of the  
109 substance of the ordinance having been published as required by law, in the meantime, was  
110 finally passed by the Council on the \_\_\_ day of \_\_\_\_\_, 201\_\_, and shall take effect  
111 \_\_\_\_\_.

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114 ATTEST:

115  
116 \_\_\_\_\_  
117 Kimberly R. Nichols, City Clerk

116 \_\_\_\_\_  
117 Jake Day, City Council President

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120  
121 Approved by me, this \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

122  
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124 \_\_\_\_\_  
125 James Ireton, Jr.,  
126 Mayor  
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128

# City of Salisbury



MARYLAND



125 NORTH DIVISION STREET  
SALISBURY, MARYLAND 21801  
Tel: 410-548-3170  
Fax: 410-548-3107

KIMBERLY R. NICHOLS  
CITY CLERK

JACOB R. DAY  
COUNCIL PRESIDENT  
LAURA MITCHELL  
COUNCIL VICE PRESIDENT  
JOHN "JACK" R. HEATH  
COUNCIL MEMBER  
EUGENIE P. SHIELDS  
COUNCIL MEMBER  
TIMOTHY K. SPIES  
COUNCIL MEMBER

TO: City Council Members  
FROM: Kim Nichols, City Clerk  
DATE: February 25, 2015  
SUBJECT: Eliminating Primary Elections

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At its December 15, 2014 Work Session Council discussed eliminating primary elections in the City.

Upon your unanimous consensus in favor, City Attorney Mark Tilghman prepared the attached charter amendment and ordinance needed to accomplish eliminating the primary elections.

1  
2 **CITY OF SALISBURY**

3  
4 **CHARTER AMENDMENT NO. \_\_\_\_\_**

5  
6 **A RESOLUTION TO AMEND ARTICLE IV BY ELIMINATING SECTION SC 6-**  
7 **7 PRIMARY ELECTIONS AND BY AMENDING SECTIONS SC 6-11**  
8 **CHALLENGERS AND WATCHERS AND SC 6-15 TIE ELECTIONS , OF THE**  
9 **CHARTER OF THE CITY OF SALISBURY, MARYLAND TO ELIMINATE THE**  
10 **PRIMARY ELECTIONS FOR CITY OF SALISBURY ELECTED OFFICIALS.**

11  
12 WHEREAS, the Charter of the City of Salisbury may be amended as outlined in § SC21-  
13 1and § SC21-2 and in § 4, Subtitle 3 of the Local Government Article of the Annotated  
14 Code of Maryland; and

15  
16 WHEREAS, the City of Salisbury has decided it is in the best interest of the City to  
17 eliminate primary elections for elected City positions; and

18  
19 WHEREAS, the Charter of the City of Salisbury refers to the primary elections in Article  
20 VI, Elections; and

21  
22 WHEREAS, the City desires to amend the Charter to reflect the elimination of primary  
23 elections.

24  
25 NOW, THEREFORE, be it resolved by the City Council of the City of Salisbury, that  
26 Article VI of the Charter be amended as follows:

27  
28 **ARTICLE VI Elections**

29  
30 § SC6-1. Voters.

31  
32 § SC6-2. City of Salisbury Election Board.

33  
34 § SC6-3. Duties of board.

35  
36 § SC6-4. Registration of voters.

37  
38 § SC6-5. Conduct of elections.

39  
40 § SC6-6. Nomination.

41  
42 ~~§ SC6-7. [Primary elections.] [Revoked]~~

43  
44 § SC6-8. Filing fee.

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46 § SC6-9. Election of Mayor and Council.

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§ SC6-10. Notice of elections.

§ SC6-11. Challengers and watchers.

§ SC6-12. Vacancies.

§ SC6-13. Recall of elected officials.

§ SC6-14. Nonpartisan elections.

§ SC6-15. Tie elections.

~~§ SC6-7. [Primary Elections.] - [Revoked]~~

~~———— [Any required primary election shall be held on the fifth Tuesday prior to the date for the general election. The City Clerk shall give at least two (2) weeks notice by publication in some newspaper of general circulation in the City of Salisbury of the time and place or places of holding the primary election.]~~

~~———— In years in which the Mayor and five (5) Councilmembers are to be elected, a primary election shall be held for the office of Mayor when more than two (2) persons file certificates of nomination. If certificates of nomination are filed by a number of persons greater than two (2) times the number of available Councilmember positions in a district, a primary election shall be held. A voter may vote for no more than one (1) candidate per available position from the candidates on the primary election ballot. Of the candidates participating in such a primary election, a number of candidates equal to two (2) times the available positions in a district who receive the most votes in that district shall be named and considered as candidates for the available positions in the following general election. If not more than two (2) persons file certificates of nomination for each available position in a district, no primary shall be held and those persons who do file certificates of nomination shall be named and considered for the available positions at the next general election.~~

~~———— In the year in which the Mayor and one (1) Councilmen from each District are to be elected, a primary election shall be held for any available office for which more than two (2) persons file certificates of nomination. A voter may vote for no more than one (1) candidate per available position from the candidates on the primary election ballot. Of the candidates participating in such a primary, the two (2) candidates who receive the most votes shall be named and considered as the candidates for that office in the following general election.]~~

§ SC6-11. Challengers and watchers.

93 Challengers and watchers representing the candidates in any ~~primary or~~  
94 city election shall be allowed to be present at the several voting places during the voting  
95 and counting of the ballots as provided by law with respect to general elections.

96  
97 § SC6-15. Tie elections.

98  
99 ~~A. Primary Election.~~

100  
101 ~~1. In an election year in which the Mayor and/or council members are to be~~  
102 ~~elected, if the candidates for the second position on the ballot for any~~  
103 ~~office have an equal number of votes, then all such candidates shall be~~  
104 ~~listed on the General Election ballot.~~

105  
106 ~~[B.]~~ General Election.

107  
108  
109 AND BE IT FURTHER RESOLVED by the City Council of the City of Salisbury that  
110 this Resolution take effect fifty (50) days from and after the date of its final passage,  
111 subject to  
112 the right of referendum, and that its provisions shall be implemented on the \_\_\_\_ day of  
113 \_\_\_\_\_, 2015. The Mayor shall therefore proceed with the posting and  
114 publication of  
115 this Resolution pursuant to the requirements of Local Government Article § 4-304 of the  
116 Annotated Code of Maryland.

117  
118 This Resolution was introduced, read, and passed at a meeting of the Salisbury City  
119 Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

120  
121 ATTEST:

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123 \_\_\_\_\_  
124 Kimberly R. Nichols, City Clerk

\_\_\_\_\_   
Jacob R. Day, City Council President

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**CITY OF SALISBURY**  
**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE of the City of Salisbury amending Sections 1.08.020 Duties of the Election Board, 1.12.030 Campaign Contributions, and 1.12.040 Financial Disclosure Statements to be Filed by the Candidate or Treasurer, of the Salisbury Municipal Code to eliminate primary elections.

**WHEREAS**, the City of Salisbury has decided it is in the best interest of the City to eliminate primary elections for elected City positions; and

**WHEREAS**, the Salisbury Municipal Code refers to the primary elections in Title 1, General Provisions; and

**WHEREAS**, the City desires to amend the Code to reflect the elimination of primary elections.

**NOW, THEREFORE**, be it enacted and ordained by the Council of the City of Salisbury, Maryland, that Sections 1.08.020, 1.12.030 and 1.12.040 of the Salisbury Municipal Code, be amended as follows:

**1.08.020 Duties of the Election Board**

The city board shall generally supervise the conduct of the system of appointment and registration, nomination by petition, and general, ~~primary~~ and special elections in accordance with the provisions of the City Charter and ordinances of the council; specifically including the following duties:

- A. Observe polls;
- B. Observe opening of absentee ballots;
- C. Hear contests concerning voting and the validity of any ballot.

**1.12.030 Campaign contributions.**

- A. No candidate for mayor or for member of the city council shall receive campaign contributions in excess of two hundred fifty dollars (\$250.00) per individual or entity per campaign in cash and/or for in-kind services of a commercial nature. ~~The two hundred fifty dollar (\$250.00) amount is a total for both the primary and general election.~~
- B. The contributions or loans of a candidate or the candidate's spouse to the candidate's own campaign are not subject to the limitations of Subsections A and C of this section, but must pass through the hands of the candidate's treasurer and be reported as required in other provisions of this chapter. Personal expenses of the candidate for filing fees, telegrams, telephoning, travel and board, shall not be considered contributions if paid for by the candidate or the candidate's spouse.

- 46 C. No loan may be made to the campaign of a candidate or accepted on behalf of the  
47 campaign, without express written consent of the candidate. Written consent constitutes  
48 the personal guaranty of the candidate for repayment of the loan, only if it expressly so  
49 provides. The aggregate amount of all outstanding loans to the campaign of a candidate  
50 shall not exceed five hundred dollars (\$500.00) per campaign. ~~for both the primary and~~  
51 ~~general election.~~ A loan shall not be forgiven in an amount in excess of two hundred fifty  
52 dollars (\$250.00). Subsection B of this section is an exclusion to the requirements of this  
53 subsection.
- 54 D. Contributions of ~~such~~ in-kind services of a commercial nature shall be valued at a rate  
55 commensurate with the cost of purchasing similar materials or services.
- 56 E. All campaign contributions shall be received by the date of the general election. Any  
57 campaign contributions received after the date of the general election shall be returned to  
58 the contributor.  
59

60 **1.12.040 Financial disclosure statements to be filed by the candidate or treasurer.**  
61

- 62 A. The candidate and/or treasurer shall file a complete and accurate financial disclosure  
63 statement detailing the contents of the account books no later than ~~seven days prior to the~~  
64 ~~primary election and~~ seven days prior to the general election. The financial disclosure  
65 statement shall include, but not be limited to, the name, address, amount of contribution  
66 and the date all contributions were received. Contributions of in-kind materials or  
67 services shall be valued as stated in Section 1.12.020(B). Each financial disclosure  
68 statement filed shall also contain a full and complete record of expenses and list any  
69 expenses incurred by not yet paid.
- 70 B. A final disclosure statement shall be filed no later than forty-five (45) days after the date  
71 of the general election. After payment of all campaign expenditures, any surplus funds  
72 shall be paid by the treasurer to either: (1) the city of Salisbury to help defray the  
73 expenses of the election; (2) a charitable organization as defined in the Annotated Code  
74 of Maryland, Business Regulation Article, Title 6 as amended from time-to-time; or (3) a  
75 political club, committee, or party of the candidate's choice.
- 76 C. No financial disclosure statements shall be required if the contributions received total less  
77 than six hundred dollars (\$600.00) for the ~~primary and general~~ elections; however, a  
78 statement under oath shall be filed by the candidate and treasurer that no financial  
79 disclosure statement is required pursuant to this section. Such statement, if applicable,  
80 shall be filed seven days prior to the ~~primary elections and seven days prior to the~~ general  
81 election.
- 82 D. Each financial disclosure statement shall include a representation certifying under oath  
83 that the contents of the statement are true and correct and shall be signed by the candidate  
84 and treasurer.
- 85 E. The foregoing provisions shall also apply to unsuccessful candidates.  
86

87 AND BE IT FURTHER ENACTED AND ORDAINED BY THE CITY OF  
88 SALISBURY, MARYLAND, that the Ordinance shall take effect upon final passage.  
89

90 THIS ORDINANCE was introduced and read at a meeting of the Council of the City of  
91 Salisbury held on the \_\_\_\_ day of \_\_\_\_\_, 2015 and thereafter, a statement of the

92 substance of the ordinance having been published as required by law, in the meantime, was  
93 finally passed by the Council on the \_\_\_ day of \_\_\_\_\_, 2015, and shall take effect  
94 \_\_\_\_\_.

95

96

97 ATTEST:

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99

100 \_\_\_\_\_  
101 Kimberly R. Nichols, City Clerk

\_\_\_\_\_   
Jacob R. Day, City Council President

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105 Approved by me, this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

106

107

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109 \_\_\_\_\_  
110 James Ireton, Jr.,

111 Mayor

CITY OF SALISBURY  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SALISBURY TO AMEND  
CHAPTER 1.08.300 OF THE SALISBURY MUNICIPAL CODE TO CHANGE  
THE NUMBER OF COUNCILMANIC DISTRICTS IN THE CITY TO  
CORRESPOND WITH THE CHARTER.

WHEREAS, the Mayor and Council passed Resolution 2443 on September 8, 2014,  
amending the City of Salisbury Charter Sections SC1-20, SC2-2 and SC6-15 to create five  
election district; and

WHEREAS, the City of Salisbury Municipal Code Chapter 1.08.300 refers to two  
election districts; and

WHEREAS, the City desires to amend the Code to be consistent with the Charter.

NOW, THEREFORE, be it enacted and ordained by the City of Salisbury, in regular  
session that Chapter 1.08.300 of the Salisbury Municipal Code be Amended as follows:

1.08.300

The city shall have ~~two~~ one councilmanic districts per councilmember, and there shall  
be one precinct corresponding to each councilmanic district. Voting records shall be kept  
pursuant to divisional lines as established by the county board.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE CITY OF  
SALISBURY, that this ordinance shall take effect upon final passage.

THIS ORDINANCE was introduced and read at a meeting of the Council of the City  
of Salisbury held on the \_\_\_ day of \_\_\_\_\_, 2014, and having been published as  
required by law, in the meantime, was finally passed by the Council on the \_\_\_ day of  
\_\_\_\_\_, 2014.

ATTEST:

\_\_\_\_\_  
Kimberly R. Nichols, City Clerk

\_\_\_\_\_  
Jacob R. Day, City Council President

37 Approved by me, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

38

39 \_\_\_\_\_

40 James Ireton, Jr.,

41 Mayor

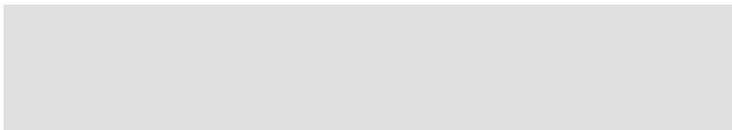
# Memorandum

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**To:** Tom Stevenson, City Administrator  
**From:** William T. Holland  
**Date:** 2/27/2015  
**Re:** TCCLES Annexation Agreement

---

Attached is the annexation plan and annexation agreement for the Tri County Council of the Lower Eastern Shore which is scheduled for the City Council work session on February 17, 2015. Let me know if you have any questions.



Walston Switch Road - Tri-County Council Annexation

ANNEXATION AGREEMENT

**THIS AGREEMENT** is made this \_\_\_ day of \_\_\_\_\_, 2015, by and between the City of Salisbury, a municipal corporation of the State of Maryland (hereinafter, “the City”), and Tri-County Council for the Lower Eastern Shore of Maryland (hereinafter, “the Owner”) with the principal address at 31901 Tri-County Way, Suite 203, Salisbury, Maryland 21804.

**RECITALS**

**WHEREAS**, the Owner is the record owner of certain real property, of 27.6 acres in size, located in Wicomico County, Maryland, (hereinafter, “the Property”), and more particularly described in Attachment “A-1” attached hereto and made a part hereof; and

**WHEREAS**, the Owner desires to obtain a connection to the City of Salisbury public water and sewer systems principally to comply with water quality standards related to a proposed bus washing facility on the site and City Code Section 13.02.060 requires annexation in order to connect to such systems;

**WHEREAS**, as a secondary reason for seeking annexation, the Owner desires to facilitate the sale and/or development, for commercial use, of parcel 0740 which is part of the Property, though no such development plans are contemplated at this time; and

**WHEREAS**, the Property is not presently within the corporate boundaries of the City and is therefore ineligible to receive certain municipal services, including the municipal water and wastewater services, that the Owner desires to obtain for the Property; and

**WHEREAS**, the Owner desires that the City annex the Property and the City desires to annex the Property, provided that certain conditions are satisfied; and

**WHEREAS**, pursuant to the authority contained in the Local Government Article, subtitle 4-400 of the Annotated Code of Maryland, the Owner and the City have agreed that the following conditions and circumstances will apply to the annexation proceedings and to the Property.

**WITNESSETH:**

**1. WARRANTIES AND REPRESENTATIONS OF CITY:**

- A. The City of Salisbury, the Salisbury-Wicomico County Planning Commission and staff will be guided by this Agreement throughout the review of any development plans submitted for the Property to ensure that the provisions of this Agreement are specifically implemented Any approval granted to a development plan by any commission, board, body, or agent of the City shall be in substantial compliance with the terms and conditions of this Agreement.
  
- B. The parties understand and agree that the City's herein provided covenant of support is not intended, nor could it be construed, to legally prohibit the City from enacting such future ordinances or charter provisions or engineering standards or amendments deemed necessary to protect the public health, safety and welfare of the residents of the City, nor from applying such ordinances or charter provisions to the development of the Property, provided such application does not operate to divest prior approvals, nor interfere with the Owner's vested rights to any greater extent than the impact of such ordinances and charter resolutions upon other similarly-situated properties within the City's boundaries.

**2. WARRANTIES AND REPRESENTATIONS OF THE OWNER:**

A. This Agreement constitutes the formal written consent to annexation by the Owner as required by the Local Government Article of the Maryland Code, Section 4-403 (b)(1) and (2). The Owner acknowledges that it will receive a benefit from annexation and agrees, as a bargained-for condition and circumstances applicable to the annexation, that it waives and completely relinquishes any right to withdraw its consent to annexation from the date of execution of this Agreement by all parties. The Owner further agrees that it will not petition the Annexation Resolution to referendum and that, in the event of a referendum in which it is permitted to vote, that it shall vote in favor of the Annexation Resolution.

B. The Owner warrants and represents that it have the full authority to sign this Agreement and is in fact the sole owner of the real property encompassed in the annexation area and more particularly described in Attachment "A-1", and that there is no action pending against it involving it that would in any way affect its right and authority to execute this Agreement.

C. The Owner warrants and represents that it has the full power and authority to sign this Agreement and Consent and is, in fact, collectively the sole owner of not less than Twenty-five Percent (25%) of the assessed valuation of the real property within the annexation area.

**3. APPLICATION OF CITY CODE AND CHARTER**

From and after the effective date of the Annexation Resolution implementing this Agreement, all provisions of the Charter and Code of the City shall have full force and effect within the Property except as otherwise specifically provided herein.

**4. MUNICIPAL ZONING**

Upon the effective date of the Annexation Resolution implementing this Agreement and Approval by the Mayor and City Council, the Property will be zoned Mixed-Use Non Residential.

**5. MUNICIPAL SERVICES**

Upon the effective date of the Annexation Resolution implementing this Agreement, the City will make the Property eligible to receive all applicable municipal services to the extent that the necessary public facilities exist to provide such services. Any allocation of capacity and/or services will be made by the City according to adopted allocation plans which may be in effect at the time the Owner makes request for such capacity and/or services.

**6. STANDARDS AND CRITERIA**

Should any environmental, engineering, or other similar standard or criteria specifically noted in this Agreement be exceeded by any local, State, or Federal standard, criteria or regulation, which may be adopted subsequent to the execution of this Agreement, the newer stricter standard, criteria or regulation shall apply.

**7. CITY BOUNDARY MARKERS**

The Owner will fund and install City Boundary Markers at the boundary lines to the newly enlarged City boundaries resulting from this annexation and will provide receipt of such work completed to the City within 90 days of expiration of the 45-day referendum period. The Owner agrees that failure to comply with this provision will subject the Owner to payment of a fee to the City of Salisbury made payable at end of the 90-day period in amount of \$10,000.00 or the cost for the City's surveyor to complete the work, whichever is more.

8. **DEVELOPMENT CONSIDERATIONS**

A. **Costs and Fees:** The Owner agrees that it will pay the costs of annexation to the City, including but not limited to the City's costs for legal fees, planning, and other consulting fees in connection with the preparation of this Agreement and/or the necessary annexation resolution and related documents, for publication of any required notices, and for any other cost or expense reasonably related, in the City's sole judgment, to the annexation.

B. The Owner and City agree that the Property will be developed consistent with the regulations of the zoning district classification referenced in the Annexation Resolution.

C. **Contribution to Area Improvement:** In order to maintain the woodland buffer along US Route 50, to preserve woodlands and wildlife habitat and protect area water quality along Beaver Run, which forms the western edge of the Property, the Owner has previously recorded a Forest Conservation Easement on the property in accordance with State of Maryland Forest Conservation laws. This easement currently includes all wooded areas on the site. The agreement is recorded in Liber 3275 Folio 484 in the records of the Recorder of Deeds Office for Wicomico County. The owner agrees to maintain the existing 50' +/- wooded buffer along U.S. Route 50 as it exists at this time and as shown on the exhibit referenced in the recorded document. The City of Salisbury acknowledges that the Forest Conservation laws permit revisions to the recorded easement and agrees not to unreasonably withhold its approval of amendments to the easement from time to time as may be necessary for the owner's needs except for the 50' buffer adjacent to U.S. Route 50. Said revisions must be done in accordance with Wicomico County code and State Forest Conservation law. The Owner agrees that any site plan for parcel 0740 shall contain a plan for a planted landscape buffer designed to provide filtered views of the site and building(s) from U.S. Route 50.

D. **Contributions to the Re-investment in Existing Neighborhoods and Housing Affordability:** The Owner agrees to pay a development assessment in the amount of \$13,000.00 to the City prior to the issuance of a building permit for construction on Lot 0740 of the Property. In the event that construction on parcel 0740 is for a municipal, county, state or federally owned building and use, or a private non-profit owned building and use whose purpose and mission is aligned with and/or in furtherance of the mission of the Tri-County Council for the Lower Eastern Shore of Maryland, such assessment shall be waived. Such development assessment is understood by the parties to be intended for use by the City in its sole discretion for beautification, restoration, and revitalization improvements to existing neighborhoods in the City and which development assessment is understood by the parties to be in addition to and independent of the City's water and sewer comprehensive connection charges, any impact fees imposed by Wicomico County or the City, and any assessments that may be required to be paid elsewhere in this Agreement.

E. **Escalation of Development Assessment:** The lot assessment set forth in paragraph D above, is subject to adjustment to reflect inflation. Beginning January 1, 2016 the assessment shall be adjusted for inflation and this adjustment shall take place annually thereafter on the first day of January, for any assessment that remains unpaid. The assessment shall be adjusted by the percent change in the CPI during the previous 12-month period. The CPI to be used is the Consumer Price Index-U, All City Average, Unadjusted, published by the Bureau of Labor Statistics.

F. Community / Environmental Design: The Owner agrees to achieve LEED credit points in collaboration with the Salisbury/Wicomico Planning Commission for any development of parcel 740 using the rating system established by the United States Green Building Council's LEED Standards for Building Design New Construction, as Updated from time to time. The City and Owner/Assignee acknowledge that certain points under the rating system are unattainable because of the project's location and existing available services. Understanding this, and in order to establish a baseline, the City and Owner/Assignee will first agree to the total sum of LEED points unattainable due to these factors that are beyond the control of the Owner. The sum of these points will then be deducted from the total points possible; the difference then divided by the total points possible to arrive at a baseline quotient. Prior to development approval, the Owner shall submit specific findings, accepted by the Director of Planning, to demonstrate to the satisfaction of the Salisbury/Wicomico Planning Commission that the project has achieved, or would achieve upon development, the credit points needed for LEED Silver Certification when multiplied by the baseline quotient. In keeping with this provision, the Owner/Assignee agrees specifically to adhere to the following energy and environmental performance standards:

- Site lighting fixtures shall be energy efficient and, where possible, shall utilize LED lamps for energy efficiency and long lamp life. Streetlights if used shall also be selected for highest efficiency but recognizing that streetlights may ultimately be owned and maintained by the City of Salisbury, the selection of streetlights shall be made in conjunction with the City of Salisbury Department of Public Works.
- Roadway and parking lot construction shall be accomplished mainly using recycled aggregates and base materials in addition to conventional aggregates and paving materials when acceptable recycled materials meeting the required physical properties of the design engineer are locally available.
- The HVAC systems in all building(s) on the Property shall be high-efficiency units. Air conditioning compressors will be 17 SEER, minimum unless and until higher federal, state, or local standards are required.
- Water-saving plumbing fixtures shall be used in all buildings on the Property.
- Building roofing materials on the Property shall be selected for energy efficiency and to minimize the heat island effect of dark roof coverings.
- Building finish materials that have high-recycled content shall be selected where possible. Low VOC (Volatile Organic Compound) paints and finishes shall be used.

G. The Owner, at its sole expense, agrees to extend public water and sewer services to the Property governed by the alignment, specification, sizing, and area wide coordination and system requirements and guidance provided by the City Department of Public Works recognizing that such facilities shall be sized larger than that required by the Property alone; such work to undertaken though a Public Works Agreement approved by the City.

H. The parties acknowledge and agree that the obligations set forth herein on the part of both parties pertain to the Property, unless otherwise expressly stated herein.

9. **RECORD PLAT:**

The Owner will provide the City with a copy of the final record plat for any development of the Property.

10. **MISCELLANEOUS:**

A. The obligations of the parties hereto set forth herein are contingent upon the adoption of an Annexation Resolution effecting the annexation of the Property by the Mayor and City Council of the City of Salisbury and shall be void in the event the City fails to effect such annexation or such annexation is invalidated by referendum or otherwise.

B. The use of singular verb, noun and pronoun forms in this Agreement shall also include the plural forms where such usage is appropriate; the use of the pronoun "it" shall also include, where appropriate "he" or "she" and the possessive pronoun "its" shall also include, where appropriate, "his" "hers" and "theirs."

C. From time to time after the date of this Annexation Agreement, the parties, without charge to each other, will perform such other acts, and will execute, acknowledge and will furnish to the other such instruments, documents, materials and information which either party reasonably may request, in order to effect the consummation of the transactions provided for in this Agreement.

D. This Agreement, which includes all exhibits, schedules and addenda hereto, each of which is incorporated in this Agreement by this reference, shall be recorded among the Land Records of Wicomico County and shall run with the land and be binding upon and inure to the benefit of the parties, their heirs, successors and assigns, and embodies and constitutes the entire understanding, representations, and statements, whether oral or written, are merged in this Annexation Agreement. The parties may renegotiate the terms hereof by mutual agreement, subsequent to the effective date of any Annexation Resolution adopted by the City pursuant hereto, provided that neither this Agreement nor any provisions hereof may be waived, modified or amended unless such modification is in writing and is signed by the party against whom the enforcement of such waiver, modification or amendment is sought, and then only to the extent set forth in such instrument.

E. The parties hereto acknowledge that, in entering into this Agreement, neither party has been induced by, nor has relied upon, nor included as part of the basis of the bargain herein, any representations or statement, whether express or implied, made by any agent, representative or employee, which representation or statement is not expressly set forth in this Agreement.

F. This Agreement shall be construed according to its plain meaning without giving regard to any inference or implication arising from the fact that it may have been drafted in whole or in part by or for any one of the parties hereto.

G. This Agreement, its benefit and burden, shall be assignable, in whole or in part, by the Owner without the consent of the City or of its elected officials, employees or agents, to any purchasers or contract purchasers of the property or any party thereof. However, the Owner will not transfer or pledge as security for any debt or obligation, any interest in all or part of the Annexation Area, without first obtaining the written consent and acknowledgement of the transferee or pledgee to the Annexation Agreement and to the complete observance hereof. The Owner shall provide the City with copies of all documents of transfer or assignment, including exhibits when the documents are fully executed, regardless of recordation.

H. The captions in any Agreement are inserted for convenience only, and in no way define, describe or limit the scope of intent of this Agreement or any of the provisions hereof.

I. The laws of the State of Maryland shall govern the interpretation, validity, and construction of the terms and provisions of this Agreement. If any term or provision of this Agreement is declared illegal or invalid for any reason by a court of competent jurisdiction, the remaining terms and provisions of this Agreement shall, nevertheless, remain in full force and effect. Any suit to enforce the terms hereof or for damages or other remedy for the breach or alleged breach hereof shall be brought exclusively in the Courts of the State of Maryland in Wicomico County and the parties expressly consent to the jurisdiction thereof and waive any right that they might otherwise have to bring such action in or transfer or remove such action to the courts of any other jurisdiction.

J. All notices and other communications under this Agreement shall be in writing and shall be sent either by first class mail, postage prepaid, or by personal delivery, addressed to the parties as provided below. Notice shall be deemed given on the date delivered or attempted to be delivered during normal working hours on business days.

K.

- |                         |  |
|-------------------------|--|
| <b>IF TO THE CITY:</b>  | Thomas Stevenson, City Administrator<br>125 North Division Street<br>Salisbury, Maryland 21801   |
| <b>WITH A COPY TO:</b>  | S. Mark Tilghman, City Attorney<br>1185 Broad Street, P.O. Box 910<br>Salisbury, Maryland 21803  |
| <b>IF TO THE OWNER:</b> | Michael P. Pennington, Executive Director<br>Tri-County Council for the Lower Eastern<br>Shore of Maryland<br>31901 Tri-County Way, Suite 203<br>Salisbury, Maryland 21804 |
| <b>WITH A COPY TO:</b>  | Jeffrey A. Harman, P.E.<br>Becker Morgan Group, Inc.<br>312 W Main Street<br>Salisbury, Maryland 21801   |

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first written above.

**WITNESS:**

**THE CITY OF SALSIBURY, MARYLAND**

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

**WITNESS/ATTEST:**

**OWNER:**

\_\_\_\_\_

By: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_

S. Mark Tilghman, City Attorney

STATE OF MARYLAND  
COUNTY OF \_\_\_\_\_, to wit:

I HEREBY CERTIFY, that on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, a Notary Public in and for the State aforesaid, personally appeared \_\_\_\_\_, who has been satisfactorily proven to be the person whose name is subscribed to the within instrument, who acknowledged himself to be a duly elected official of the City of Salisbury, a municipal corporation of the State of Maryland, and that said official, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the municipal corporation as such official.

WITNESS my hand and notarial seal.

\_\_\_\_\_(SEAL)  
Notary Public

My Commission Expires: \_\_\_\_\_

I HEREBY CERTIFY, that on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, a Notary Public in and for the State aforesaid, personally appeared \_\_\_\_\_, who has been satisfactorily proven to be the person whose name is subscribed to the within instrument, who acknowledged himself to be Member of Tri-County Council for the Lower Eastern Shore of Maryland., and that, being duly authorized so to do, he executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation as a Member.

WITNESS my hand and notarial seal.

\_\_\_\_\_(SEAL)  
Notary Public

My Commission Expires: \_\_\_\_\_

I HEREBY CERTIFY that the foregoing instrument was prepared by or under the supervision of an attorney duly admitted to practice before the Court of Appeals of Maryland.

\_\_\_\_\_  
\_\_\_\_\_, City Attorney

Attachment 1  
*(annexation survey plat to be inserted)*

**DRAFT**

## REPORT OF ANNEXATION PLAN

*for the*

### WALSTON SWITCH ROAD – TRI-COUNTY COUNCIL FOR THE LOWER EASTERN SHORE OF MARYLAND ANNEXATION TO THE CITY OF SALISBURY

January 28, 2015

This Annexation Plan was prepared pursuant to the year 2006 changes to State law governing municipal annexation and planning (House Bill 1141)<sup>1</sup>. It is consistent with the Municipal Growth Element of the City of Salisbury Comprehensive Plan. The following are milestones in the public review and consideration of the proposed Annexation.

- At a work session on August 18, 2014, the Salisbury City Council reviewed the proposed annexation.
- On October 16, 2014 the City of Salisbury / Wicomico County Planning Commission reviewed the proposed annexation and forwarded a favorable recommendation to the Salisbury City Council for the proposed zoning of the Property.
- At a Salisbury City Council work session on February 17, 2015, the City Council formally reviewed the annexation agreement and the draft version of this Annexation Plan and directed that an Annexation Resolution be drafted for review.
- A City County meeting held on *(date to be inserted)* the City Council formally reviewed this Annexation Plan and the Annexation Resolution and directed that a date for a public hearing be established. The Council further directed that the Annexation Plan be forwarded to the Maryland Department of Planning and the Wicomico County Council for comment within 30 days of the public hearing as provided for by State law.

---

<sup>1</sup> HB 1141, passed by the 2006 General Assembly and made into law, revised sections of Articles 66B and 23A of the Annotated Code of Maryland.

## 1.0

## GENERAL INFORMATION AND DESCRIPTION

### 1.1 Petitioners

The petitioner is Tri-County Council for the Lower Eastern Shore of Maryland, at 31901 Tri-County Way, Suite 203 Salisbury, Maryland 21804.

### 1.2 Location

The Property is located in the northwest quadrant of the intersection of U.S. Route 50 and Walston Switch Road: Tax Map 0039, Grid 0005 and Parcels 0266 and 0740. The image below is an aerial photograph of the area.

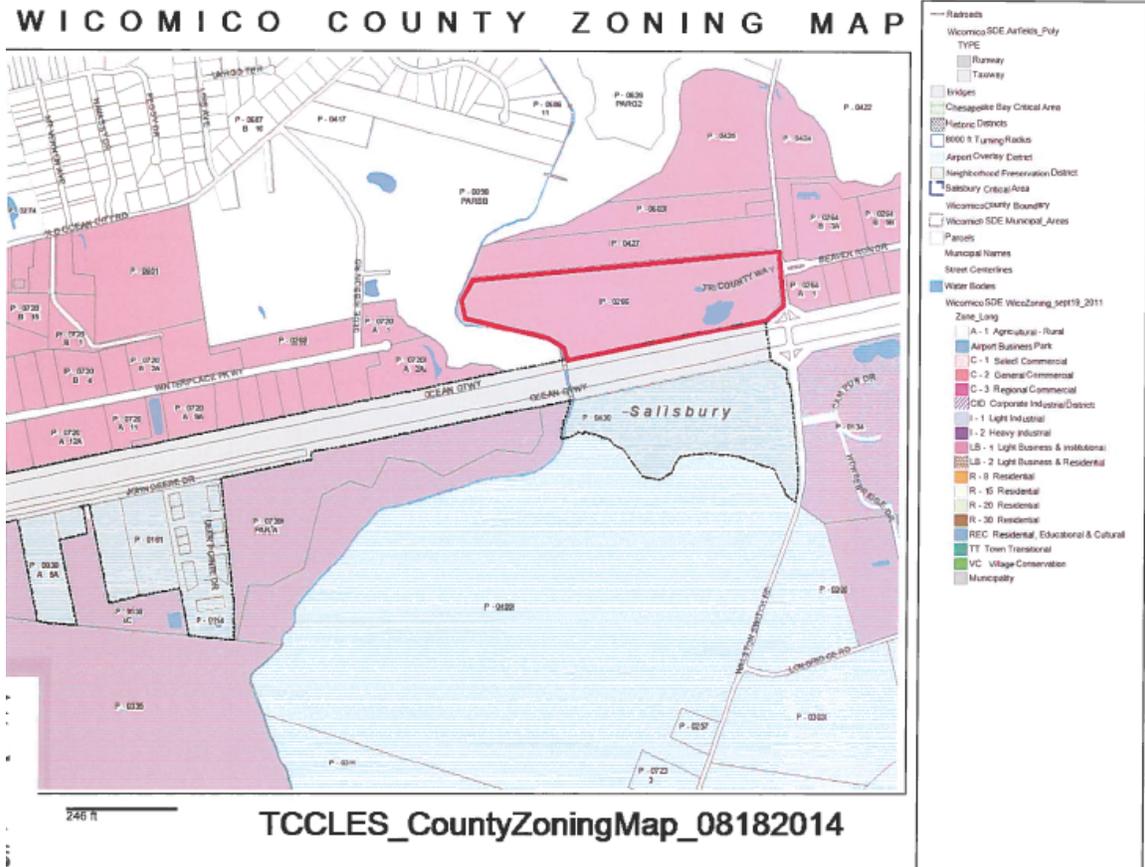


### 1.3 Property Description

Attachment 1 shows the survey of the Property. The Annexation Property is presently tax-exempt and consists of two parcels totaling 27.59 acres of land. Parcel 0266 is 26.27 acres and is developed with the 72,000 square foot two-story Tri-County Council office building, the 12,000 square foot maintenance facility, and related facilities. The western edge of this parcel is forested and is largely protected by a forest conservation easement that was platted when the Property previously obtained development approval. As shown on the survey in Attachment 1, the eastern most corner of the property nearest the intersection of Walston Switch and U.S. Route 50 is parcel 0740. It is 1.32 acres in size and has future development potential.

### 1.4 Existing Zoning

The Property is zoned LB-1, Light Business and Institutional. The existing zoning is shown in the excerpt from the zoning map below. The land which adjoins the Property is zoned LB-1 to the north and east and A-1, Agriculture on the west.



### 2.0

### LAND USE PATTERN PROPOSED FOR THE AREA TO BE ANNEXED

### 2.1 Comprehensive Plan

The City of Salisbury adopted its current Comprehensive Plan in 2010. The Property is located within the City's designated municipal growth area with a recommended land use of "Mixed Use".

The Comprehensive Plan's goal as it pertains to annexations is as follows: "To encourage the orderly growth and expansion of the City of Salisbury by annexing selected areas and by providing public services to newly developing areas without overburdening these facilities while continuing to maintain a high level of services to existing developments and residents of the City".

The current official Wicomico County Comprehensive Plan (adopted 1998) designates the Property as "Urban Corridor". The draft new County Comprehensive Plan designates the area as Mixed Use Non-Residential. The Wicomico County / Salisbury Planning Commission determined that the proposed City Zoning of the property (see below) is consistent with the County's "Urban Corridor" land use plan designation and the County's current zoning of the Property.

## 2.2 Proposed Zoning

Upon annexation, the Property is proposed to be zoned Mixed Use Non-Residential. Per Section 17.46.010 of the City Zoning Ordinance, the purpose of the District is "to provide areas for well-designed functional and attractive development with indoor retail, office, services, and institutional uses. Land uses are envisioned that promote the best possible building designs, development of public streets and utilities, and conservation of environmentally sensitive areas."

## 2.3 Proposed Land Use

The petitioners propose to continue to use the property as they have and to add a bus washing facility on an already developed portion of the property. The use of Parcel 0740 is not yet determined as there are no plans to develop the parcel, though it is for sale. The use of the parcel would need to comply with the City's Mixed Use Non-Residential zone which allows for a broad set of commercial office, service, retail, institutional, and governmental uses, but not residential or industrial uses.

## 3.0

### **THE PUBLIC FACILITIES AND SERVICES NEEDED BY THE DEVELOPMENT AND THE METHODS TO PROVIDE SUCH FACILITIES AND SERVICES TO THE ANNEXED PARCEL**

#### 3.1 Roads

The Property will be served by the existing Tri-County Way, a private street that connects directly to Walston Switch Road. No further or alternative access to the public street system is required.

### 3.2 Water and Wastewater Treatment

The Property, with no further development, would generate a municipal water and wastewater treatment demand of approximately 9,030 to 12,160 gallons per day<sup>2</sup>. This range assumes a demand of 2,500 gallons per day for the proposed bus washing facility. Development of parcel 0740 would create an additional demand of 600 to 2,500 gallons per day based on the ultimate land use activity. The petitioners would extend public water and sewerage facilities via a connection under U.S. Route 50 and will be required by the City to oversize distribution facilities to accommodate future connections in the area.

There is adequate capacity to serve the Property. The City's allocation of water and sewer taps will be dictated by the City's allocation plan.

### 3.3 Schools

As a non-residential use, the Property would not generate pupil enrollment and have no impact of school capacity.

### 3.4 Parks and Rec.

As a non-residential use in this case, the Property would have no impact on park and recreational facilities or generate a demand for them.

### 3.5 Fire, E.M., and Rescue Services

The Salisbury Fire Department provides fire suppression, technical rescue, special operations, and advanced life support (ALS-EMS) emergency medical treatment and transport services to residents of the Salisbury Fire District. It would provide services to the Property.

### 3.6 Police

The City of Salisbury Police Department would provide services to the Property.

### 3.7 Stormwater Management:

Stormwater management is governed by the Maryland Stormwater Management regulations administered locally. As an existing developed site, the stormwater management system has been designed and constructed and it takes into consideration the future improvement of parcel 0740. Any revisions to the previously approved stormwater management plan for the Property would require Salisbury Public Works review and approval.

### 3.8 Waste Collection

Commercial development in the City is served by independent waste haulers.

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<sup>2</sup> The lower number is based on an estimate of existing flows made by the petitioner's civil engineer and the higher number is based on this reviewer's use of the Flow Calculation Tables in the Maryland Department of the Environment's guidance document on Wastewater Capacity Management Plans.

#### 4.0

#### **HOW DEVELOPMENT OF THE ANNEXED PARCEL WOULD RELATE TO EXISTING/PLANNED LAND USE DEVELOPMENT, STREETS, PUBLIC FACILITIES AND SERVICES, OPEN SPACES AND NATURAL AREAS.**

The Property is largely developed already. Much of the forested land on the site is protected through a forest conservation easement. A provision in the annexation agreement would ensure protection of this forested area and retention of a forested buffer along the U.S. Route 50 frontage. The presence of the stream, which forms the western property boundary, is a main rationale for protecting this forest stand.

There are no planned streets in the vicinity and direct road access from the Property to U.S. Route 50 is precluded by the State Highway Administration's access management policies.

The petitioners for annexation would extend water and sewer facilities from the south side of U.S. Route 50 under the highway connecting the property to municipal services. The facilities then would be available to other properties in the vicinity on the north side of the highway should additional connections be warranted and be found to advance the City's interests.

The Property is in the designated municipal growth area and is eligible for annexation. The existing uses of the annexation area are compatible with the land use pattern in the neighborhood. The possible future development of the 1.32-acre parcel 0740, nearest Walston Switch Road, would be regulated by City zoning.



JAKUBIAK & ASSOCIATES INCORPORATED

To: Thomas Stevenson City Administrator  
From: Christopher Jakubiak, AICP  
Date: January 29, 2015  
Re: Fiscal Impact, Walston Switch – Tri-County Council Annexation

---

The Walston Switch Road – Tri-County Council Annexation would add 27.6 acres to the City. Included in this acreage are two parcels of land. Parcel 0266 is already improved with a 72,000 square foot office building and a 12,000 square foot maintenance facility building. This parcel, its land and buildings have an estimated 2014 assessed value \$5.09 million. However it is tax-exempt. The other parcel, 0740, is 1.32 acres in size with an assessed value of \$75,200. It is unimproved at this time though available for development. It too, at present, is tax-exempt.

The fiscal impact evaluations that accompany annexations typically compute and compare the costs and revenues associated with an annexation and its prospective development. In this case, the Property is entirely tax-exempt being owned by Tri-County Council for the Lower Eastern Shore of Maryland. The annexation would not therefore directly contribute property tax revenues to the City. While the organization provides public services that benefit residents of Salisbury and the community at large, from a purely fiscal standpoint, the annexation would not result in a positive fiscal impact. The City would extend services including fire and police services but receive no real property tax revenues as long as the property is tax-exempt.

It is possible that parcel 0740 will develop privately and thus lose its tax-exempt status. However, because of the relatively small size of this parcel, the tax property revenues generated would not be sufficient to cover the full costs of providing municipal governmental services to the Annexation Property as a whole. Parcel 0740 on its own may be expected to have an annual fiscal impact ranging from a positive \$3,600 to a negative \$4,800; depending on the nature of its future land use and development program.

In summary, because the vast majority of the Annexation Property is a public service use and is tax exempt, the Walston Switch Road – Tri-County Council annexation will not generate a net positive fiscal impact for the City.

# City of Salisbury



MARYLAND



125 NORTH DIVISION STREET  
SALISBURY, MARYLAND 21801  
Tel: 410-548-3170  
Fax: 410-548-3107

JAMES IRETON, JR.  
MAYOR

M. THOMAS STEVENSON, JR.  
CITY ADMINISTRATOR

TERENCE ARRINGTON  
ASSISTANT CITY ADMINISTRATOR

MICHAEL S. MOULDS, P.E.  
DIRECTOR OF PUBLIC WORKS

TO: Tom Stevenson, City Administrator  
FROM: Michael S. Moulds, P.E., Director of Public Works  
Paul B. Mauser, E.I., Project Engineer  
DATE: January 30, 2015  
SUBJECT: February 17<sup>th</sup> Council Work Session  
Contract No. RFP 04-14  
Main Street Masterplan: Water, Sewer, Stormwater and Streetscape Improvements

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Please find attached to this memo a design package from AMT for the February 17<sup>th</sup> Council Work Session. The design package includes landscape plans and streetscape amenities for the Main Street Masterplan project. SPW has worked with AMT to develop the plans to the 65% level, including the establishment of curb lines, limits of disturbance, phase limits, utility redesign, typical road sections, locations of street trees and street lights, striping plans, traffic control plans, demolition plans, and other technical design items and considerations.

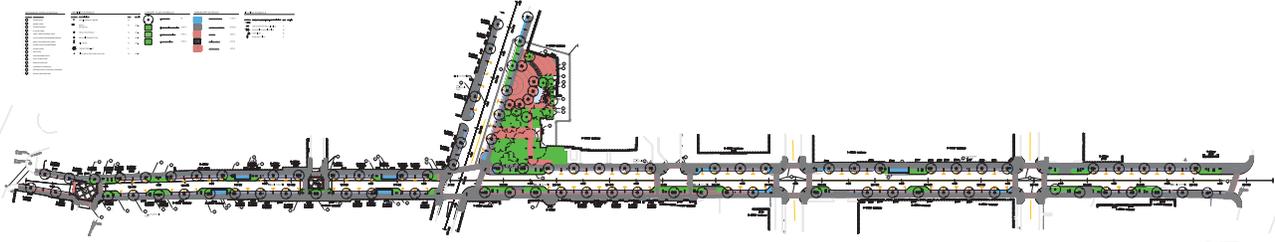
The 65% design was received by SPW on January 15<sup>th</sup> and the 95% design is planned to be received on March 26<sup>th</sup>. During this interim, SPW will be working with AMT to finalize streetscape amenities and all visual treatments for the project which can be more of a qualitative nature. For this reason, SPW is reaching out to City Council to receive input and feedback on selection of streetscape amenities, including:

- Location of outdoor eateries
- Benches
- Bike Racks
- Trash Receptacles
- Wayfinding
- Seat Wall
- Species of Street Trees
- Crosswalk Materials
- Street Lights
- Water Feature
- Raised Table Intersection Materials
- Planters
- Fencing at outdoor eateries
- Brick Pavers

The goal of the Main Street Masterplan is to set the standard for future City projects and development, so it is important to consider how these streetscape selections will synergize with the other areas of the City.

Unless you or the Mayor have further questions, please forward a copy of this memo to the City Council.

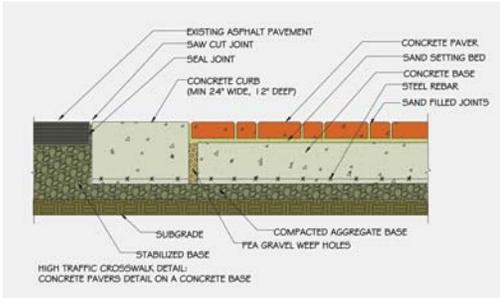
Legend	
Green	Green Area
Red	Red Area
Blue	Blue Area
Yellow	Yellow Area
Grey	Grey Area
Black	Black Area
White	White Area
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Square	Square
Triangle	Triangle
Star	Star
Circle with cross	Circle with cross
Square with cross	Square with cross
Triangle with cross	Triangle with cross
Star with cross	Star with cross
Circle with dot	Circle with dot
Square with dot	Square with dot
Triangle with dot	Triangle with dot
Star with dot	Star with dot
Circle with cross and dot	Circle with cross and dot
Square with cross and dot	Square with cross and dot
Triangle with cross and dot	Triangle with cross and dot
Star with cross and dot	Star with cross and dot











CROSSWALK - PRECAST CONCRETE BRICK PAVERS SET ON A CONCRETE BASE WITH A CONCRETE HEADER CURB  
PAVERS ON CONCRETE SUB-BASE



**CITY OF SALISBURY**  
**PUBLIC WORKS**

121 NORTH DEVENSON ST RM 202  
SALISBURY, MD 21804-0402  
TEL (410) 548-3170  
FAX (410) 548-3100

PRELIMINARY  
NOT FOR CONSTRUCTION

PROJECT TITLE  
**Main Street  
Masterplan  
RFP 04-14**

SHEET TITLE  
**CROSSWALK  
DETAILS**

SCALE: NTS  
DRAWING FILE:  
LAST REVISION DATE:  
DATE: 01/14/15  
DRAWN BY: AMR

LD5.6  
Sheet 71 of 118



DESIGNER: CANTY & ASSOCIATES, INC. 1000 W. BROADWAY, SUITE 100, SALISBURY, MD 21804  
DATE: 01/14/15

CITY OF SALISBURY  
DEPARTMENT OF PUBLIC WORKS  
TOMAS A. BOSSER, P.E., DIRECTOR OF PUBLIC WORKS  
DATE: 01/14/15



**CITY OF SALISBURY**  
**PUBLIC WORKS**

121 NORTH DIVISION ST RM 202  
SALISBURY, MD 21804-4942  
PH: (410) 548-3170  
FAX: (410) 548-3100

PRELIMINARY  
NOT FOR CONSTRUCTION

PROJECT TITLE  
**Main Street  
Masterplan  
RFP 04-14**

SHEET TITLE  
**RAISED  
INTERSECTION  
DETAILS**

SCALE: NTS  
DRAWING FILE:  
LAST REVISION DATE:  
DATE: 01/21/15  
DRAWN BY: AMR

**LS5.8**  
Sheet 65 of 80

RAISED INTERSECTIONS



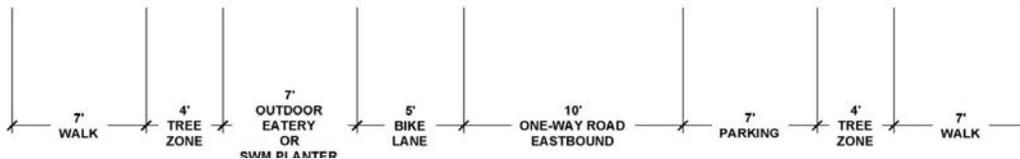
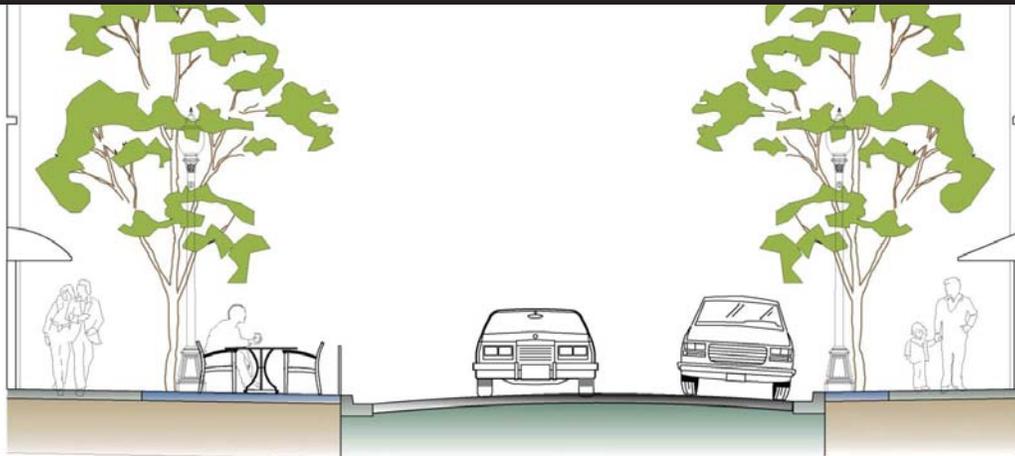
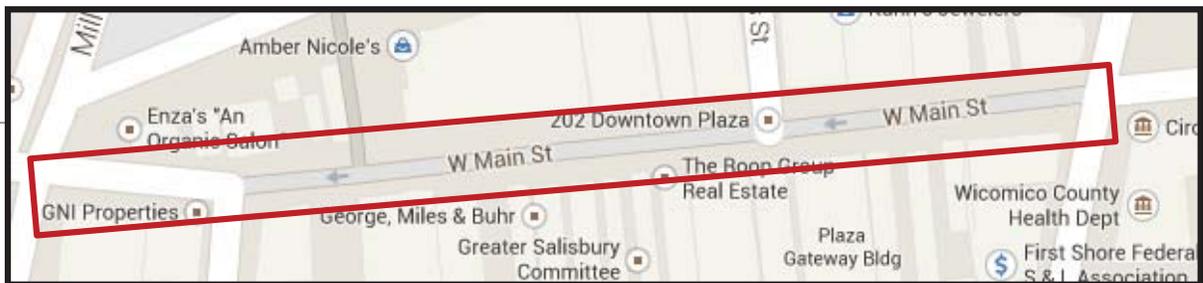
DESIGNER: AMT  
DATE: 01/21/15

CITY OF SALISBURY  
DEPARTMENT OF PUBLIC WORKS  
THOMAS J. GOSSEL, MANAGER  
DATE: 01/21/15  
TERESA A. BOSSER, P.E., DIRECTOR OF PUBLIC WORKS

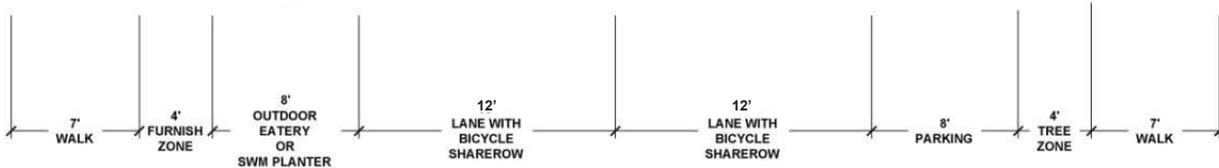
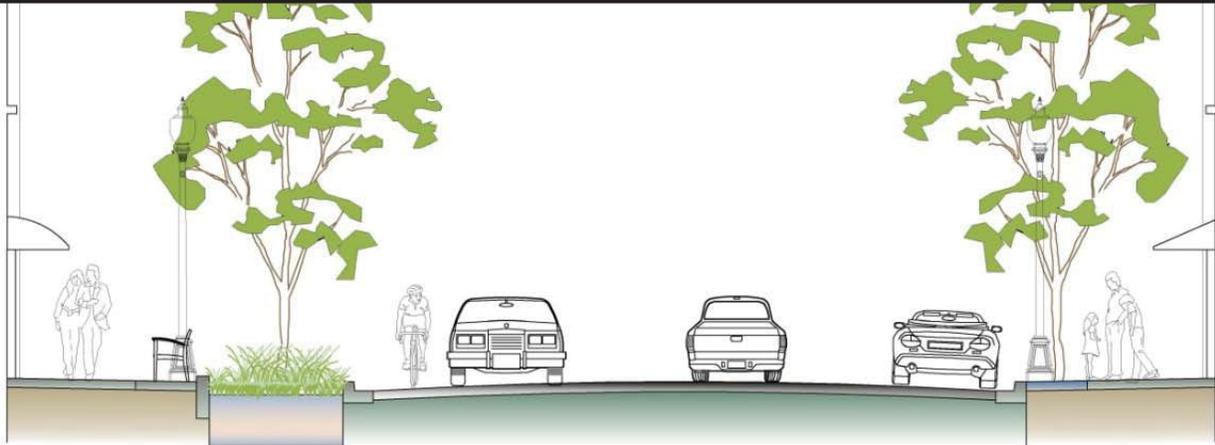
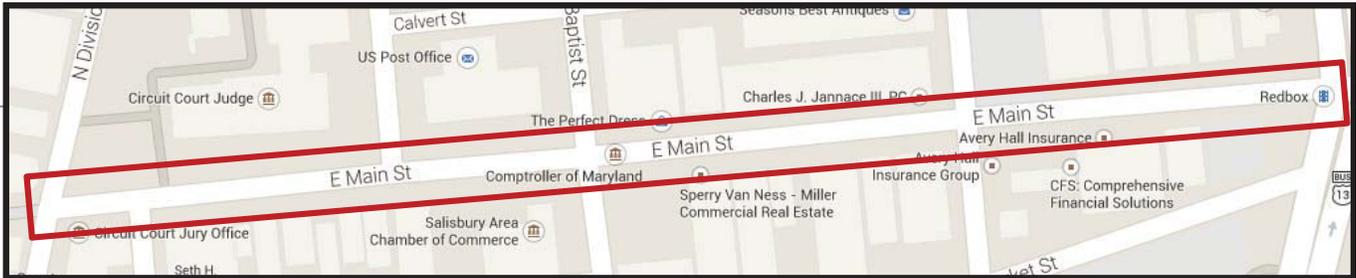
# Parking #



# West Main Street



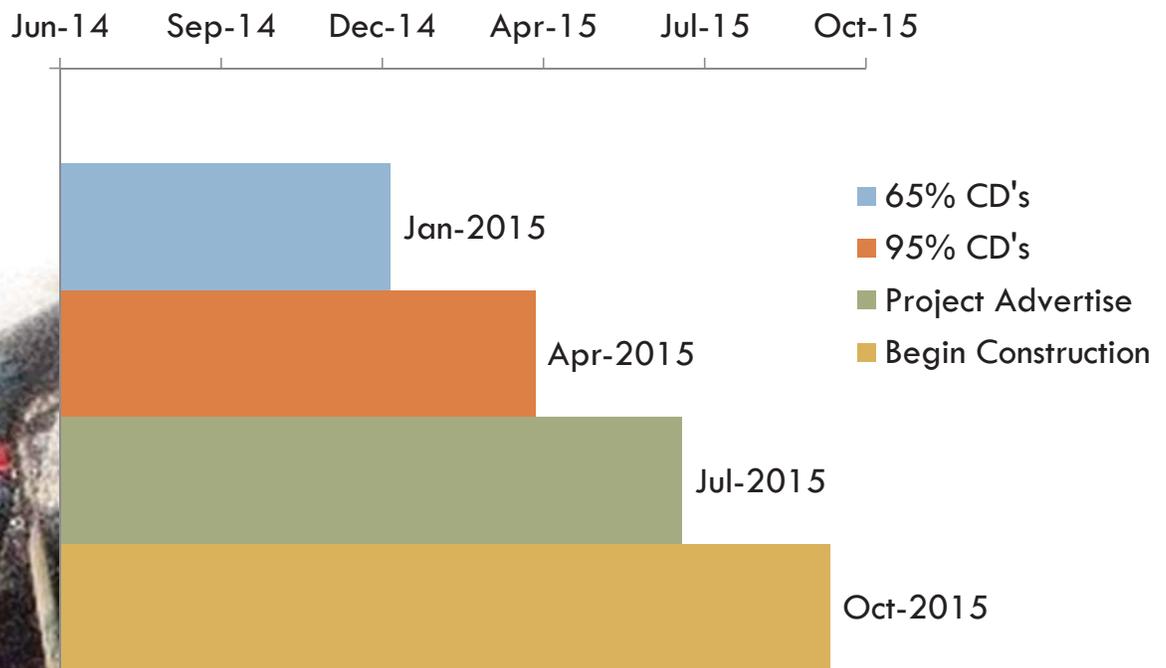
# East Main Street



# Phasing



# Design Schedule



# Memo

**To:** Tom Stevenson, City Administrator

**CC:** Terence Arrington, Assistant City Administrator

**From:** William T. Holland

**Date:** December 17, 2014

**Re:** Plumbing and Gas Permit Fees

Recently, I've been reviewing the city's permit fees and have concluded that both plumbing and gas permit fees need adjusting to reflect the "true" cost of processing, permitting and conducting the required inspections. The last time plumbing permit fees were adjusted was in 2006. Gas permits have been a flat fee of \$20 for at least the last twenty years. I'm recommending of increasing plumbing permit fees by \$2/fixture, or raising the cost per fixture from \$8/fixture to \$10/fixture. On a standard two-in-a-half bathroom dwelling, the plumbing permit fee would increase by \$60, or \$210 to \$270. The permit fee includes processing and issuing the permit along with a minimum of three required inspections, and in some case four or more inspections. Additionally, I recommend a small increase in the water distributing pipe and building drainage pipe from \$10 to \$15, increase the water service pipe and building sewer pipe from \$20 to \$30, and increasing a well permit from \$25 to \$50.

On a final note, I'm proposing a "change of use" fee of \$50. The 2015 Maryland Building Performance Standards has incorporated requirements for the issuance of a new certificate of occupancy for the change in a buildings use, or portion of a buildings use even with no change in its occupancy classification. This is a tool that building officials utilize to control uses and occupancies of the various buildings and structures within the jurisdiction. For many years the city has been performing/issuing change of use certificate of occupancy free of charge. The proposed fee would include the processing and entering the required data, at a minimum of one inspection to determine compliance with the proposed use and issuing the certificate of occupancy.

To re-enforce the proposed increases, the following municipalities were selected to compare their plumbing/gas permit fees to what I'm proposing to the City Council:

City of Annapolis – Residential plumbing permit fee \$40 + \$12/fixture  
Commercial plumbing permit fee \$70 +\$12/fixture  
Gas permit fee \$35 + \$12/fixture

City of Hagerstown – Residential plumbing permit fee \$50+\$5/fixture  
Commercial plumbing permit fee \$100+\$5/fixture  
Gas permit fee \$20+\$10/fixture

City of Rockville – Plumbing permit fee \$55+12/fixture

	Gas permit fee \$55+\$15/fixture
Town of Ocean City-	Residential plumbing permit fee \$45+\$15/fixture Commercial plumbing permit fee \$90+\$15/fixture Gas permit fee \$90+\$15/fixture
Town of Easton-	Residential plumbing permit fee \$75 Residential gas permit fee \$40 Commercial plumbing/gas permit fee permit multiplier .0010
City of Greensboro, NC-	Plumbing permit fee \$70+\$7/fixture Gas permit fee \$75+\$10/fixture
City of Salisbury, MD -	Plumbing permit fee \$30+\$8/fixture Gas permit \$20 Well permit \$20

The following is a break-down of our current plumbing permit fees and the proposed fees:

<b>Current Plumbing Permit Fees</b>		<b>Proposed Plumbing Permit Fees</b>	
Water Closet	\$8	Water Closet	\$10
Bath Tub	\$8	Bath Tub	\$10
Shower	\$8	Shower	\$10
Wash Basin Lavatory	\$8	Wash Basin Lavatory	\$10
Kitchen Sink	\$8	Kitchen Sink	\$10
Laundry Tray	\$8	Laundry Tray	\$10
Automatic Washer	\$8	Automatic Washer	\$10
Hot Water Heater	\$8	Hot Water Heater	\$10
Urinal	\$8	Urinal	\$10
Mop Sink	\$8	Mop Sink	\$10
Automatic Dish Washer	\$8	Automatic Dish Washer	\$10
Two/Three Compartment Sink	\$8	Two/Three Compartment Sink	\$10
Fixture Not Listed	\$8	Fixture Not Listed	\$10
Outside Faucet	\$8	Outside Faucet	\$10
Water Distributing Pipe	\$10	Water Distributing Pipe	\$15
Building Drainage	\$10	Building Drainage	\$15
Water Service Pipe	\$20	Water Service Pipe	\$30
Building Sewer Pipe	\$20	Building Sewer Pipe	\$30
Interceptor-Grease-Oil-Sand	\$50	Interceptor-Grease-Oil-Sand	\$75
Black-flow Prevention Device	\$10	Non-Testable Backflow Device	\$10
Backflow Prevention Assembly	\$70	Testable Backflow Assembly	\$100
Catch Basin or Manhole	\$10	<b>REMOVE</b>	
Replace Water/Sewer	\$10	<b>REMOVE</b>	
Sewage Pump	\$20	Pump/Back Water Valve	\$20
On-Site Sewer	\$100	On-Site Sewer	\$100
Fire Water Service Pipe	\$50	Fire Water Service	\$50
Gas	\$20	<b>REMOVE SEPARATE PERMIT</b>	
PERMIT FEE	\$30	PERMIT FEE	\$30
Well Permit Fee	\$25	<b>Well Permit Fee</b>	<b>\$50</b>

# City of Salisbury



MARYLAND

Salisbury



2010

125 NORTH DIVISION STREET  
SALISBURY, MARYLAND 21801  
Tel: 410-334-3028  
Fax: 410-548-3192

JAMES IRETON, JR.  
MAYOR

TOM STEVENSON  
CITY ADMINISTRATOR

KEITH A. CORDREY  
DIRECTOR OF INTERNAL SERVICES

**To:** Tom Stevenson, City Administrator  
**From:** Keith Cordrey, Director of Internal Services  
**Date:** Feb 24 2015  
**Re:** 2003 CDA Bond Reallocation

---

Please find attached an Ordinance which reallocates proceeds from the 2003 CDA Bond proceeds for the purpose of the following projects: (i) City Park Tennis Lighting Improvements and (ii) Marina Signage and Fence Improvements.

If you have no additional questions, please forward this ordinance to Council.

Ordinance No. \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SALISBURY (THE "COUNCIL") ENTITLED AN ORDINANCE AMENDING AND SUPPLEMENTING ORDINANCE NO. 1870, PASSED BY THE COUNCIL ON JANUARY 27, 2003, APPROVED BY THE MAYOR ON FEBRUARY 3, 2003 AND EFFECTIVE ON FEBRUARY 3, 2003, AS AMENDED BY ORDINANCE NO. 1888, PASSED BY THE COUNCIL ON DECEMBER 22, 2003, APPROVED BY THE MAYOR ON JANUARY 5, 2004 AND EFFECTIVE ON JANUARY 5, 2004, AND AS FURTHER AMENDED BY ORDINANCE NO. 2081, PASSED BY THE COUNCIL ON AUGUST 10, 2009, APPROVED BY THE MAYOR ON AUGUST 10, 2009 AND EFFECTIVE ON AUGUST 10, 2009, IN ORDER TO AUTHORIZE AND EMPOWER CITY OF SALISBURY (THE "CITY") TO USE AND APPLY A PORTION OF THE PROCEEDS OF THE \$5,614,000 THE CITY OF SALISBURY INFRASTRUCTURE BOND, 2003 SERIES A ISSUED ON JUNE 18, 2003 (THE "2003 BOND") AND HELD BY THE TRUSTEE FOR CERTAIN BONDS OF THE COMMUNITY DEVELOPMENT ADMINISTRATION IDENTIFIED HEREIN FOR THE PUBLIC PURPOSE OF FUNDING COSTS OF CERTAIN PROJECTS IDENTIFIED AS FOLLOWS: (I) CITY PARK TENNIS COURT LIGHTING IMPROVEMENTS AND (II) MARINA SIGNAGE AND FENCE IMPROVEMENTS, IN ADDITION TO THE PROJECTS IDENTIFIED IN ORDINANCE NO. 1870, AS AMENDED BY ORDINANCE NO. 1888 AND ORDINANCE NO. 2081; AUTHORIZING AND DIRECTING OFFICIALS OF THE CITY TO APPROVE, EXECUTE AND DELIVER AMENDMENTS, MODIFICATIONS OR SUPPLEMENTS TO CERTAIN DOCUMENTS, AGREEMENTS, CERTIFICATES AND INSTRUMENTS EXECUTED AND DELIVERED IN CONNECTION WITH THE ISSUANCE OF THE 2003 BOND OR THE \$4,828,000 CITY OF SALISBURY PUBLIC IMPROVEMENTS REFUNDING BOND, SERIES 2011B BOND (THE "2011B BOND"), PROCEEDS OF WHICH WERE APPLIED TO REFUND AND REDEEM THE 2003 BOND, AND SUCH ADDITIONAL DOCUMENTS, AGREEMENTS, CERTIFICATES OR INSTRUMENTS AS MAY BE NECESSARY OR DESIRABLE IN ORDER TO REFLECT OR EFFECTUATE MATTERS PROVIDED FOR IN THIS ORDINANCE; PROVIDING THAT THE PROVISIONS OF THIS ORDINANCE SHALL BE LIBERALLY CONSTRUED; PROVIDING THAT THIS TITLE IS A FAIR STATEMENT OF THE SUBSTANCE OF THIS ORDINANCE; AND OTHERWISE GENERALLY RELATING TO THE USE OF PROCEEDS OF THE 2003 BOND AND THE 2011B BOND.

#### RECITALS

WHEREAS, City of Salisbury (the "Issuer" or the "City") is a municipal corporation of the State of Maryland organized and operating under a charter (the "Charter") adopted in accordance with Article XI-E of the Constitution of Maryland and Article 23A of the Annotated Code of Maryland, as amended (now codified in the Local Government Article of the Annotated Code of Maryland, as amended); and

WHEREAS, pursuant to Ordinance No. 1870, passed by the Council of the Issuer (the "Council") on January 27, 2003, approved by the Mayor of the Issuer (the "Mayor") on February 3, 2003 and effective on February 3, 2003 ("Ordinance No. 1870") and the authority of Subtitle 2 of Title 2 of Article 83B of the Annotated Code of Maryland (now codified at Subtitle 2 of Title 4 of

the Housing and Community Development Article of the Maryland Code, and as amended, the “Act”), the Issuer on June 18, 2003 issued its The City of Salisbury Infrastructure Bond, 2003 Series A in the aggregate principal amount of \$5,614,000 (the “2003 Bond”) in order to provide a portion of funds needed for costs of certain projects identified in Ordinance No. 1870, issuance costs, bond insurance premiums and other related costs (collectively, the “Original Project”); and

WHEREAS, the 2003 Bond constitutes the “Bonds” as identified in Ordinance No. 1870 and was sold to the Community Development Administration, an agency in the Division of Development Finance of the Department of Housing and Community Development, a principal department of the government of the State of Maryland (the “Administration”), in connection with the Local Government Infrastructure Financing Program of the Administration (the “Program”) in order to evidence a loan from the Administration to the Issuer to finance Development Costs of the Original Project (which is referred to in the Original Repayment Agreement identified below as the “Project”); and

WHEREAS, the 2003 Bond, together with certain obligations of other borrowers issued to the Administration pursuant to the Program, secures the repayment of the \$14,560,000 Community Development Administration Local Government Infrastructure Bonds (Ambac Insured), 2003 Series A (the “2003 Administration Bonds”); and

WHEREAS, in connection with the issuance of the 2003 Bond to the Administration, (i) the Issuer and the Administration entered into a Repayment Agreement dated as of March 1, 2003 (the “Original Repayment Agreement”) and a Pledge Agreement dated as of March 1, 2003 (the “Original Pledge Agreement”), and (ii) the Issuer executed and delivered certain additional documents, agreements, certificates or instruments (collectively with the Original Pledge Agreement and the Original Repayment Agreement, the “Original Program Documents”), including, without limitation, a Local Government General Certificate dated June 18, 2003 (the “Original General Certificate”), which Original General Certificate, among other matters, contains certain representations and covenants of the Issuer as to the use of the proceeds of the 2003 Bond and the Original Project and as to compliance with the provisions of the Internal Revenue Code of 1986, as amended and the Income Tax Regulations promulgated thereunder (collectively, the “Code”); and

WHEREAS, pursuant to Ordinance No. 1888, passed by the Council on December 22, 2003, approved by the Mayor on January 5, 2004 and effective on January 5, 2004 (“Ordinance No. 1888” and, together with Ordinance No. 1870, the “2004 Amended Ordinance”), the Issuer amended Ordinance No. 1870 in order to allow proceeds of the 2003 Bond to be applied to an additional project described in Ordinance No. 1888 as the Northeast Collector Road Project (the “2004 Additional Project” and, together with the Original Project, the “2004 Modified Project”); and

WHEREAS, although the Issuer enacted Ordinance No. 1888 to modify the definition of the Project as set forth in Ordinance No. 1870 to include the 2004 Additional Project, and proceeds of the 2003 Bond were subsequently applied to fund Development Costs of the 2004 Additional Project, the Issuer and the Administration, as applicable, did not execute and deliver amendments,

modifications or supplements to the 2003 Bond or the Original Program Documents in 2004 to reflect use of the 2003 Bond for such purpose; and

WHEREAS, due to achieved costs savings with respect to 2004 Modified Project, pursuant to Ordinance No. 2081, passed by the Council on August 10, 2009, approved by the Mayor on August 10, 2009 and effective on August 10, 2009 (“Ordinance No. 2081” and, together with the 2004 Amended Ordinance, the “Existing Ordinance”), the Issuer amended the 2004 Amended Ordinance in order to allow proceeds of the 2003 Bond to be applied to additional projects identified in Ordinance No. 2081 as (i) Mill Street Storm Drain Upgrade Engineering, (ii) South Baptist Street Storm Drain Construction, (iii) Northeast Collector Road Hike and Bike Trail, (iv) Circle Avenue Bridge Repair, and (v) Springfield Circle Storm Drain Repair Construction (collectively, the “2009 Additional Project” and, together with the 2004 Modified Project, the “2009 Modified Project”); and

WHEREAS, in order to allow for application of proceeds of the 2003 Bond to the 2009 Additional Project, the Issuer (i) executed and delivered a Supplemental Local Government General Certificate dated August 20, 2009, supplementing the Original General Certificate (the “2009 Supplemental General Certificate” and, together with the Original General Certificate, the “2009 Modified General Certificate”), (ii) entered into a First Amendment and Supplement to Repayment Agreement dated as of August 1, 2009 with the Administration, amending and supplementing the Original Repayment Agreement (the “2009 Repayment Agreement Amendment” and, together with the Original Repayment Agreement, the “2009 Modified Repayment Agreement”), and (iii) entered into an Agreement to Amend The City of Salisbury Infrastructure Bond, 2003 Series A dated as of August 1, 2009 with the Administration in order to add the 2004 Additional Project and the 2009 Additional Project to the list of projects set forth in the third paragraph of the bond certificate for the 2003 Bond; and

WHEREAS, the 2009 Supplemental General Certificate and the 2009 Repayment Agreement Amendment contain certain covenants, representations, certifications and agreements of the Issuer with respect to the 2004 Additional Project in addition to the 2009 Additional Project; and

WHEREAS, on December 13, 2011, the Issuer issued its \$4,828,000 City of Salisbury Public Improvements Refunding Bond, Series 2011B (the “2011B Bond”), proceeds of which were applied, in part, to advance refund the then-outstanding principal amount of the 2003 Bond; and

WHEREAS, as of the date of issuance of the 2011B Bond, the Issuer expected to have fully expended proceeds of the 2003 Bond prior to June 1, 2013; and

WHEREAS, the 2003 Bond was fully redeemed and retired as of June 1, 2013 in accordance with the provisions thereof, but due to unforeseen circumstances, certain proceeds of the 2003 Bond remain unexpended and are held by the trustee for the 2003 Administration Bonds (the “2003 Trustee”); and

WHEREAS, pursuant to the provisions of the Code, the unexpended proceeds of the 2003 Bond are considered “transferred proceeds” of the 2011B Bond; and

WHEREAS, notwithstanding the prior redemption and retirement of the 2003 Bond, the Issuer has not satisfied all the Local Government Requirements as provided for and defined in the 2009 Modified Repayment Agreement, and, accordingly, the Issuer must obtain the Administration’s consent and approval with regard to application of the unexpended proceeds of the 2003 Bond; and

WHEREAS, the Issuer desires to amend and supplement the Existing Ordinance in order to allow unexpended proceeds of the 2003 Bond to be applied to fund costs of certain additional projects identified as follows: (i) City Park Tennis Lighting Improvements and (ii) Marina Signage and Fence Improvements; and

WHEREAS, accordingly, the Issuer desires to revise the description of the 2009 Modified Project as set forth in the Existing Ordinance and certain other documents, agreements, certificates and instruments executed and delivered by the Issuer in connection with the 2003 Bond or the 2011B Bond and to make or ratify certain covenants, agreements and representations with respect to the use of proceeds of the 2003 Bond, the 2003 Administration Bonds and the 2011B Bond as described herein and related matters.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SALISBURY, MARYLAND that (a) the Recitals to this Ordinance are incorporated by reference herein and deemed a substantive part of this Ordinance. Capitalized terms used in this Ordinance and defined in the Recitals shall have the meanings given to such terms in the Recitals except as otherwise provided in this Ordinance.

(b) References in this Ordinance to any official by title shall be deemed to refer (i) to any official authorized under the Charter of the City (the “Charter”) or other applicable law to act in such titled official’s stead during the absence or disability of such titled official, (ii) to any person who has been elected, appointed or designated to fill such position in an acting capacity under the Charter, the code of City ordinances (the “City Code”) or other applicable law, (iii) to any person who serves in a “Deputy” or “Assistant” capacity as such an official, provided that the applicable responsibilities, rights or duties referred to herein have been delegated to such deputy or assistant in accordance with applicable law or authority, and/or (iv) to the extent an identified official commonly uses another title not provided for in the Charter or the City Code, the official, however known, who is charged under the Charter, the City Code or other applicable law or authority with the applicable responsibilities, rights or duties referred to herein.

SECTION 2. BE IT FURTHER ORDAINED that (a) from and after the effective date of this Ordinance the projects identified as follows shall be added to the description of the 2009 Modified Project contained in the Existing Ordinance and proceeds of the 2003 Bond may be applied to fund Development Costs (as defined in the Original Repayment Agreement) of such additional projects in accordance with the Original Program Documents, as amended, modified or supplemented to date and as the same may be further amended, modified or supplemented as provided for herein: (i) City Park Tennis Lighting Improvements and (ii) Marina Signage and

Fence Improvements (collectively, the “2015 Additional Project” and, together with the 2009 Modified Project, the “2015 Modified Project”). It is the intention of the Issuer that proceeds of the 2003 Bond may be applied to fund any expenditures of the 2015 Additional Project that are contemplated by applicable City budgets and that are permitted by the Administration as Development Costs of the 2015 Additional Project. The Issuer, by enactment of this Ordinance, expressly acknowledges the Administration’s authority to approve expenditure of proceeds of the 2003 Bond.

(b) By undertaking the amendments to the Existing Ordinance provided for in subsection (a) of this Section 2, the Issuer is revising the definition of the “Project” as contained in Ordinance No. 1870 (referred to herein as the Original Project), as modified by the 2004 Additional Project identified in Ordinance No. 1888 and the 2009 Additional Project identified in Ordinance No. 2081, to include the 2015 Additional Project, and proceeds of the 2003 Bond may be applied to fund Development Costs of the 2015 Additional Project in addition to Development Costs of the Original Project, the 2004 Additional Project and the 2009 Additional Project as previously identified in the Existing Ordinance. From and after the effective date of this Ordinance, all references to the “Project” in the Existing Ordinance shall be deemed to include the 2015 Additional Project. From and after the effective date of this Ordinance, the provisions of this Section 2 shall amend the provisions of the Recitals of and Section 6 of Ordinance No. 1870, the provisions of Ordinance No. 1888 and the provisions of Section 2 of Ordinance No. 2081 with respect to the application of proceeds of the 2003 Bond, and it is intended that proceeds of the 2003 Bond may be applied to fund Development Costs of the 2015 Modified Project.

(c) References in this Ordinance to the application or use of proceeds of the 2003 Bond to fund Development Costs of the 2015 Modified Project shall be construed to mean (i) for purposes of the Act, the 2009 Modified Repayment Agreement and the 2009 Modified General Certificate, as the same may be amended, modified or supplemented as provided for herein, use of such proceeds held by the 2003 Trustee to finance or reimburse Development Costs of the 2015 Modified Project and (ii) to the extent applicable for purposes of the Code, expenditure or application of such proceeds as “transferred proceeds” of the 2011B Bond.

**SECTION 3.** BE IT FURTHER ORDAINED that (a) the Mayor is hereby authorized and directed to approve, execute and deliver, on behalf of the Issuer, any amendments, modifications or supplements to the 2009 Modified Repayment Agreement or the Original Pledge Agreement deemed necessary or desirable by the Administration in order to provide for or reflect the use of proceeds of the 2003 Bond to fund Development Costs of the 2015 Additional Project and related matters, including, without limitation, to modify the definition of “Project” contained therein to include the 2015 Additional Project. Any such amendments, modifications or supplements shall be in such form and shall contain such terms and conditions as shall be approved by the Mayor and acceptable to the Administration, and the execution thereof by the Mayor shall be conclusive evidence of his approval of the form and substance thereof.

(b) The appropriate official or officials of the Issuer are hereby authorized and directed to approve, execute and deliver, on behalf of the Issuer, any amendments, modifications or supplements to the Original Program Documents, as the same may have been amended, modified or supplemented to date (other than the 2009 Modified Repayment Agreement and the Original Pledge

Agreement) including, without limitation, the 2009 Modified General Certificate, deemed necessary or desirable by the Administration or its counsel in order to provide for or reflect the use of proceeds of the 2003 Bond to fund Development Costs of the 2015 Modified Project and related matters, including, without limitation, to modify the definition of "Project" contained therein to include the 2015 Additional Project or to provide for or ratify and confirm compliance with the provisions of the Code. Any such amendments, modifications or supplements shall be in such form and shall contain such terms and conditions as shall be approved by such appropriate official or officials and acceptable to the Administration, and the execution thereof by such appropriate official or officials shall be conclusive evidence of his, her or their approval of the form and substance thereof.

(c) In connection with the transactions contemplated by this Ordinance, the appropriate official or officials of the Issuer are hereby authorized and directed to approve, execute and deliver, on behalf of the Issuer, any amendments, modifications or supplements to any documents, certificates or instruments executed and delivered by the Issuer in connection with the issuance of the 2011B Bond deemed necessary or desirable by bond counsel to the City.

(d) The appropriate officials, officers and employees of the Issuer are hereby authorized and directed to do all acts and things required of them by the provisions of this Ordinance, for the full, punctual and complete performance of all of the terms, covenants and provisions of the 2009 Modified Repayment Agreement, the Original Pledge Agreement, the 2009 Modified General Certificate, the 2011B Bond and the agreements, documents, certificates or instruments respectively related thereto, as the same may have been to date, or as the same may be further, amended, modified or supplemented in accordance with the provisions of this Ordinance, and to do and perform all acts and to approve, execute, seal and deliver all additional documents, agreements, certificates or instruments which may be necessary or desirable to carry out the full intent and purposes of this Ordinance, the 2009 Modified Repayment Agreement, the Original Pledge Agreement, the 2009 Modified General Certificate, the 2011B Bond and such related agreements, documents, certificates or instruments, as so amended, modified or supplemented.

SECTION 4. BE IT FURTHER ORDAINED that the Issuer covenants with the Administration and for the benefit of the owners from time to time of the 2003 Administration Bonds and the 2011B Bond that so long as the 2003 Administration Bonds or the 2011B Bond remain outstanding and unpaid, the Issuer will not (i) make any use of the proceeds of the 2003 Bond or the 2011B Bond or any moneys, securities or other obligations on deposit to the credit of the Issuer or otherwise which may be deemed by the Internal Revenue Service to be proceeds of the 2003 Bond or the 2011B Bond pursuant to Section 148 of the Code which would cause the 2003 Bond, the 2003 Administration Bonds or the 2011B Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code, or (ii)(A) take any action, (B) fail to take any action, or (C) make any use of the proceeds of the 2003 Bond or the 2011B Bond which would cause the interest on the 2003 Bond, the 2003 Administration Bonds or the 2011B Bond to be or become includible in gross income for federal income tax purposes in the hands of the owners thereof.

SECTION 5. BE IT FURTHER ORDAINED that as required by the Administration, prior to the passage of this Ordinance, the Issuer shall publish in a newspaper of general circulation in the jurisdiction of the Issuer a notice of the nature of the 2015 Additional Project to be funded from proceeds of the 2003 Bond, the time and place of the public hearing, and the name and address

where written comments may be sent, and the Issuer shall hold a public hearing on the proposed use of proceeds of the 2003 Bond to fund Development Costs of the 2015 Additional Project.

SECTION 6. BE IT FURTHER ORDAINED that from and after the effective date of this Ordinance, the Existing Ordinance shall be deemed amended and supplemented as provided herein and all other terms and provisions of the Existing Ordinance shall remain in full force and effect.

SECTION 7. BE IT FURTHER ORDAINED that the provisions of this Ordinance shall be liberally construed to effectuate the transactions contemplated by this Ordinance.

SECTION 8. BE IT FURTHER ORDAINED that the title of this Ordinance shall be deemed to be, and is, a fair statement of the substance of this Ordinance for posting or publication and all other purposes.

SECTION 9. BE IT FURTHER ORDAINED that this Ordinance shall become effective following approval by the Mayor or subsequent passage by the Council in accordance with the provisions of Section SC2-12 of the Charter. Pursuant to Charter Section SC2-16, this Ordinance shall not be subject to petition to referendum.

THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, and thereafter, a statement of the substance of this Ordinance having been posted or published as required by law, was finally passed by the Council \_\_\_\_\_ [as introduced] \_\_\_\_\_ [as amended] [CHECK APPLICABLE LINE] on the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

ATTEST:

\_\_\_\_\_  
Kimberly R. Nichols, City Clerk

\_\_\_\_\_  
Jacob R. Day, City Council President

APPROVED BY ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015:

\_\_\_\_\_  
James Ireton, Jr., Mayor

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