

AN ORDINANCE AMENDING CHAPTER 22, STREETS AND SIDEWALKS, OF THE SALISBURY CITY CODE OF THE CITY OF SALISBURY, NORTH CAROLINA TO ALLOW FOR PUBLIC STREET FESTIVALS AND SPECIAL EVENTS WITHIN THE MUNICIPAL SERVICES DISTRICT BY ESTABLISHING DEFINITIONS, PERMIT REQUIREMENTS, AND REMEDIES FOR VIOLATIONS.

WHEREAS, the City Council held a duly-noticed public hearing on September 16, 2008 to receive public input on an amendment to the Salisbury City Code regarding public street festivals and special events in the Municipal Services District.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Salisbury, North Carolina:

SECTION 1. That Chapter 22, Streets and Sidewalks, of the Salisbury City Code be amended as follows:

**ARTICLE VI. PUBLIC STREET FESTIVALS AND SPECIAL EVENTS WITHIN THE MUNICIPAL SERVICE DISTRICT**

**Sec. 22-150. Definitions.**

For purposes of this section, the following terms shall have the meaning indicated:

**Malt Beverage:** Beer, lager, malt liquor, ale, porter, or any other brewed or fermented beverage containing at least one-half of one percent (.5%) and not more than fifteen percent (15%) alcohol by volume.

**Unfortified Wine:** Wine that has an alcoholic content produced only by natural fermentation by the addition of pure cane, beet, or dextrose sugar, and that has an alcoholic content of not more than seventeen percent (17%) alcohol by volume.

**Open Container:** A container whose seal has been broken or a container other than the manufacturer's unopened original container.

**Food Service Establishment** means an establishment engaged in the business of regularly selling food, customarily, but not exclusively, to be eaten on the premises, including businesses that are commonly referred to as restaurants, cafes, grills and other establishments that have a food counter where food is sold.

**Winery** means an establishment regularly engaged in the manufacture, sale or marketing of wine.

**Sec. 22-151. Allowance of Public Street Festival or Special Event Upon Issuance of a Permit.**

**Public Street Festivals.** Upon issuance of a permit by the Salisbury Police Department, community organizations, arts groups, and other non-profit organizations may hold a Public Street Festival within public rights of way and on city owned property within the Municipal Service District as designated in a "Public Street Festival Permit".

**Special Events.** Upon issuance of a permit by the Salisbury Police Department, restaurants, food service establishment, business, winery and any other for-profit organizations may hold a Special Event within public rights of way and on city owned property within the Municipal Service District as designated in a “Special Event Permit”.

Applications may be approved by the Salisbury Police Department upon meeting the following requirements:

(1) A written application for a Public Street Festival or Special Event permit, including street closures, must be submitted to the Salisbury Police Department at least thirty (30) days prior to the event. A detailed site map indicating, at a minimum, the stage area, concessions, tables and seating area, parking areas and locations where the road may be blocked off shall also be required. A copy of the application and permit shall be submitted and retained by the Office of the City Clerk.

(2) A statement of the Applicant’s intent whether to serve or to allow the consumption of beer and wine. If serving alcoholic beverages, a copy of the Applicant’s ABC permit demonstrating that the Applicant is properly licensed to allow the consumption of beer and wine within the plan-defined area, and a verified statement by the Applicant that (i) its ABC permit is in good standing and (ii) the Applicant has not been cited for any violation of its ABC permit for the premises within the previous three (3) year period. If the Applicant has been cited, the Applicant must provide a statement describing the circumstances for which it was cited and describing what, if any, penalty was imposed for the incident; and

(3) The Applicant’s plan must also indicate that festival area must be maintained, and all debris or refuse removed from the area, at regular intervals during the business day so as to maintain an orderly appearance and to prevent the attraction of vermin, insects, or other pests to the area. The plan must also indicate that the Applicant must maintain an unobstructed path for pedestrian travel on the sidewalk at least five (5) feet wide at all times and that the Applicant agrees to remove all obstructions and additions to the festival area immediately upon completion of the festival in order to open the streets to public use as soon as possible; and

(4) The Applicant agrees that at no time would anyone be allowed to block access to a fire hydrant in street festival area.

(5) The Applicant, or an authorized officer or member if the applicant is not an individual, must sign an agreement to indemnify and hold the City of Salisbury harmless from any and all claims of property damage, personal injury or death arising from or related to the provision of outdoor table service at the establishment; and

(6) Certificate of Insurance indicating that the applicant has, or will have, in place for the duration of the permit period, liability insurance with a minimum limit of one million dollars for the premises and all activities conducted thereon.

In the review of Street Festival Permit requests, the Police Department shall be guided by the following considerations:

(1) The number of permits issued and the area or areas for which such permits are issued in relation to crowd density, traffic control, the ability to protect persons and property, fire prevention and control, general safety and availability of City assets and resources to ensure the reasonable protection of the general public.

(2) In those instances in which the Police Chief, or designee, considers City resources to be insufficient to meet the above considerations, the Police Chief, or designee, may require the applicant for such permit to provide, at the applicant's expense, adequate and qualified security personnel for the duration of the permit.

(3) The Police Chief, or designee, shall have the authority to designate the boundaries of any Public Street Festival or Special Event area. To accommodate such an event, the Police Chief, or designee, is further authorized to temporarily close any public streets, sidewalks or other City owned areas within the boundaries of any proposed Public Street Festival or Special Event. Where such streets, sidewalks, or other City owned areas are temporarily closed, they shall be for the general use of the public.

**Sec. 22-152. Sale of Alcoholic Beverages Permitted at Public Street Festivals.**

It shall be lawful for a Public Street Festival Permittee to serve or sell malt beverages and unfortified wine where the boundaries of the area in which such beverages is clearly delineated, where access to such area is restricted to persons who shall be at least 21 years of age and where the following requirements are met:

All applicable health and ABC laws are complied with:

(1) The contents of beer bottles, cans, wine bottles or any other unopened container shall be poured into appropriate plastic cups or plastic glasses;

(2) One or more representative of the organization selling alcoholic beverages under an appropriately issued special one-time ABC Permit has been certified by the North Carolina ABC Board's "Be a Responsible Seller" Program

(3) All empty bottles and cans shall be handled in such a way as to not be broken or left on City property; and

(4) The Permittee shall be required to maintain proper decorum and order and leaving the area in a clean condition.

**Sec. 22-153. Sale of Alcoholic Beverages Permitted at Special Events.**

It shall be lawful for a Special Event Permittee to serve or sell malt beverages and unfortified wine where the boundaries of the area in which such beverages is clearly delineated, where access to such area is restricted to persons who shall be at least 21 years of age and where the following requirements are met:

All applicable health and ABC laws are complied with:

- (1) All malt beverages or unfortified wines must be sold in, and consumed from, its original container;
- (2) All empty bottles and cans shall be handled in such a way as to not be broken or left on City property; and
- (3) The Permittee shall be required to maintain proper decorum and order and leaving the area in a clean condition.

**Sec. 22-154. Firearms.**

Except for sworn certified law enforcement personnel, the possession of firearms in the Public Street Festival or Special Event area is prohibited.

**Sec. 22-155. Signs for Street Festivals.**

Promotional signage for Public Street Festivals or Special Events shall comply with the provisions of Chapter 12, Signs, of the Salisbury Land Development Ordinance.

**Sec. 22-156. Penalty - Conflict.**

Any violation of this article shall constitute a misdemeanor, punishable as provided in North Carolina General Statutes Section 14-4. A first violation of a Public Street Festival or Special Event Permit issued pursuant to this Ordinance shall result in the issuance of a written warning to the Permittee. A second violation within one year of the first shall result in an immediate revocation of the Permit and a sixty (60) day ban on future permits. Additionally, a violation of any of the provisions of this Ordinance shall subject the offender to a civil penalty of up to five hundred dollars (\$500). If a person fails to pay this penalty within ten (10) days after being cited for a violation, the City of Salisbury may seek to enforce this Section through any appropriate equitable action. Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense. The City of Salisbury may seek to enforce this Ordinance by using any one, or a combination, of the foregoing remedies.

In the event of a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control. The enactment of this Ordinance, however, shall not result in any change of the general applicability of any other City ordinance.

SECTION 2. That all ordinances or parts of ordinances, in conflict with this ORDINANCE are hereby repealed to the extent of such conflict.

SECTION 3. That this ORDINANCE shall be effective from and after its passage.

(Adopted September 16, 2008)