

CITY OF SALISBURY

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SALISBURY TO AMEND CHAPTER 17.16 TO ELIMINATE UNLAWFUL NONCONFORMING MULTIFAMILY DWELLINGS, CREATE AN AMORTIZATION PROVISION ELIMINATING LAWFUL NONCONFORMING USES THAT EXIST DUE TO THE CONVERSION OF SINGLE-FAMILY DWELLINGS TO MULTIFAMILY DWELLINGS, AND ALLOW PROPERTY OWNERS TO RECOUP THEIR INVESTMENTS.

WHEREAS, the Mayor and Council recognize that a fundamental principle of zoning under Maryland law is to reduce nonconformance;

WHEREAS, the Mayor and Council find that prior to 1936 certain single-family residential dwellings were converted to multifamily residential dwellings;

WHEREAS, the Mayor and Council find that since 1936, the year the first zoning ordinance was enacted in the City of Salisbury and continuing to date, there has existed within the City the practice of converting single-family residences located in single-family zones to use as multifamily residential uses;

WHEREAS, the Mayor and Council recognize that the City of Salisbury's records concerning zoning enforcement do not always provide sufficient data to determine the scope of conversions to unlawful multifamily uses and, in many cases, there exists no adequate means of determining which residences have been unlawfully converted to multifamily residential use subject to prosecution under the zoning ordinance;

WHEREAS, the Mayor and Council have determined that it is difficult for enforcement officials to ascertain which residences located in a single-family zone are lawful uses, unlawful uses, or lawful nonconforming uses and that attempting to enforce the zoning code on a case-by-case basis in this context would place an undue burden on the taxpayer;

WHEREAS, the Mayor and Council are concerned that a shortage of safe, code compliant, low and moderate income housing exists in the City of Salisbury and that the past conversions of single-family residences to multifamily residential use have provided and continue to provide, in many cases, unsafe and non-code compliant low and moderate income dwelling units in the City, which pose a threat to the health, safety, and welfare of the Citizens of Salisbury;

WHEREAS, the Mayor and Council are aware that some of the single-family residences converted to multifamily residential uses are owned by individuals and entities whose livelihood is largely dependent upon income from the rental units;

WHEREAS, the purpose of these amendments is to promote the goal of returning nonconformance to conformance by ending unlawful nonconforming uses, establishing uniform standards and criteria for remedying the problem of unlawful and, in some cases, lawful conversions from single-family to multifamily residential uses and, in so doing, incorporate the concepts of equity necessary to protect those who should be deemed faultless. The Council also recognizes that enactment of this amendment to the zoning code may create practical difficulties or unusual hardships. Nothing herein shall be construed to limit the rights of any person under the provisions of the Zoning Code.

NOW THEREFORE, be it enacted and ordained by the City Council of the City of Salisbury, in regular session, as follows:

1. That Chapter 17.16 is amended as follows:

### **Chapter 17.16**

#### **Nonconforming Lots, Structures and Uses**

##### **Sections:**

##### **Article I General Provisions**

- 17.16.010 Existing lots, structures and uses.**
- 17.16.020 Nonconforming lots.**
- 17.16.030 Nonconforming structures.**
- 17.16.040 Nonconforming uses.**
- 17.16.050 Nonconforming single-family dwellings.**
- 17.16.060 Special exceptions.**

## **Article II Continuation of Nonconforming Structures and Uses**

**17.16.070 Purpose.**

**17.16.080 Criteria for approval-Conditions.**

## **Article III Amortization of Multifamily Dwellings**

**17.16.090 Registration of multifamily dwellings.**

**17.16.100 Amortization of lawful nonconforming multifamily dwellings.**

**17.16.110 Violations.**

### **17.16.090 Registration of multifamily dwellings.**

A. Any building or structure located in a single-family residential zone which has been used or converted to use as a multifamily dwelling shall register with the Department of Building, Permits, and Inspections and meet the registration requirements for a lawful nonconforming use as provided for in section 17.16.100C no later than one year from the date this ordinance is enacted.

B. If not registered within one year of the effective date of the ordinance, the nonconforming use shall be presumed unlawful, shall be discontinued, and the number of dwelling units that may be used within the structure shall be reduced to the minimum number permitted in the zone in which the building or structure is located.

### **17.16.100 Amortization of lawful nonconforming multifamily dwellings.**

A. Any registered building or structure located in a single-family residential zone which has been converted from a single-family dwelling and used continuously as a multifamily dwelling may continue the use for a period not to exceed ten years from the effective date of this ordinance even though the buildings, structures or uses do not comply with the regulations applicable to the zone in which the building, structure or use is located, subject to this section. At the end of the of the ten-year period, the lawful nonconforming use shall become unlawful and the number of dwelling units that may be used within the structure shall be reduced to the minimum number permitted in the zone in which the building or structure is located. Buildings or structures located in a single-family residential zone which were originally constructed as

multifamily dwellings are exempt from the ten-year phase-out if they meet all other requirements of this Chapter.

B. For the purposes of this Chapter, the property owner bears the burden of proof by a preponderance of the evidence.

C. All nonconforming multifamily dwellings converted and used continuously shall be registered with the Department in accordance with the following procedure:

1. Applications for registration shall be filed on forms provided by the Department;

2. Each application for registration shall be accompanied by notarized affidavits and other evidence that may be necessary and appropriate to establish that the multifamily dwelling use existed prior to the version of the zoning code that would change its status from conforming to lawfully nonconforming and said use has existed continuously since then;

3. Each application for registration shall be accompanied by a use-and-occupancy certificate and a rental license, if required; and

4. Each application for registration shall be accompanied by a registration fee in the amount of \$100.

D. The Department shall publish, in a newspaper of local distribution and on its website, notice of all applications for registrations and allow thirty days after publication for the filing of comments by the public, other agencies, and concerned parties. The Director shall resolve all disputed registrations.

E. The Director and the Housing Official shall make an inspection of each property for which an application for registration has been submitted and each such property shall be brought into compliance with all applicable codes and regulations within 180 days after notification of the violations or deficiencies.

F. Structural alterations of a building or structure which do not conform to the provisions of the zoning district in which it is located may be made only if the building is being altered to conform to the provisions of this Chapter or to conform to other applicable codes or regulations.

G. A registered nonconforming multifamily dwelling may not be extended, expanded, or increased in intensity of use in any way. If an owner begins the process of converting a structure to a single-family use, the Department shall be notified.

H. Each registered multifamily dwelling shall be maintained in good condition and in compliance with all applicable federal, state, and municipal laws and regulations. The Director shall establish a regular schedule of inspections to be made of each registered multifamily dwelling, said inspection to coincide with the rental facility licensing inspection, where applicable. The owner of a registered structure or building shall notify the Department of any change to the use structure, or building during the ten-year amortization period.

I. The Director shall deny any application or revoke or suspend any registration upon failure to comply with the provisions of this section or upon conversion to other use. Any decision of the Director under section 17.16.100 may be appealed to the Board of Zoning Appeals.

#### **17.16.110 Violations**

A. The owner of an occupied unlawful nonconforming use shall be issued a municipal infraction citation and fined the maximum allowed under the law for each occupied dwelling unit. Each day a violation remains uncorrected is a separate violation subject to an additional citation and fine.

1. The Director shall order that all but one dwelling unit be vacated within a reasonable period of time to be determined by the Director. At the conclusion of the period of time in which all but one dwelling unit is to be vacated, the Director shall re-inspect the property to ensure compliance. There shall be a \$100 fee for re-inspection of one dwelling unit and an additional \$50 fee for each additional dwelling unit.

2. The owner of an occupied unlawful nonconforming use shall reimburse any occupant of an unlawful nonconforming dwelling unit for expenses incurred by the occupant for relocating. Expenses include, but are not limited to, moving costs, any difference in the occupant's rent at his or her new dwelling that is in excess of the rent paid at the unlawful

nonconforming dwelling, for a period not to exceed 60 days, and any attorney's fees incurred by the occupant to enforce this provision.

B. Upon enactment of this ordinance the employees of every city department or agency shall be required to identify every residential structure they encounter during the course of their duties as single-family or multifamily, the location of the dwelling unit, if there is more than one, and any information that might be available that would indicate occupancy. This information shall be forwarded to the Director on at least a monthly basis and be placed in a database that may only be used for enforcement of this Chapter.

C. Once a property is identified as an unlawful nonconforming multifamily dwelling, all City services to that property in excess of those necessary to support a single-family dwelling shall cease after reasonable notice. For the purposes of this section, reasonable notice shall mean posting each dwelling unit with a copy of this section, stating which services will be terminated, the date they will be terminated, which shall be no sooner than thirty days from the date the property is posted, the dwelling units that will be affected, and by mailing the same information to the owner by regular mail at the address listed in the Maryland State Department of Assessment and Taxation's database.

D. The submission of a false affidavit in support of an application for registration or may result in the owner's application being denied and subject the person signing the affidavit to the penalties of perjury.