



City of Rehoboth Beach

Outdoor Dining on Public Space

License Application

**Revised
February 2023**

Considerations When Applying

We look forward to working with you to offer an annual license for **Outdoor Dining on Public Space**. As you consider applying, please keep in mind the following:

1. Authority to utilize outdoor dining areas on public space is by license issued on an annual basis. The license year shall run from January 1 through December 31 of each year.
2. The City's Building and Licensing Department will review and approve or deny all applications seeking a license. The Building and Licensing Department will conduct a design review of the proposed outdoor dining area to verify the design meets all of the criteria contained within the [City of Rehoboth Beach Design Manual for Outdoor Dining on Public Space](#). Only approved license applications will be eligible for a license agreement.
3. License agreements are granted by the Board of Commissioners through this application process. The Office of Alcoholic Beverage Control Commissioner (OABCC) or the City of Rehoboth Beach may also revoke the license at any time, with due cause. An Outdoor dining area cannot be set up until you have received an outdoor dining on public space license from the Board of Commissioners. For restaurants serving alcohol, a license becomes effective upon a subsequent approval by the OABCC.
4. The City Manager may revoke a permit for failure to maintain compliance with the policy criteria or failure of an establishment to observe City ordinances.
5. A non-refundable fee of \$150.00 shall accompany any new application or reapplication seeking a license for outdoor dining on public space. Upon granting of the license, the applicant shall pay an additional non-refundable annual fee of \$325. Fees will not be pro-rated.

Other Considerations

1. Restaurants using dining areas on public space must meet and abide by all codes and regulations of all City, State, and Federal Agencies, including but not limited to City of Rehoboth Beach Code, State Fire Code, State Department of Public Health, Office of Alcohol Board Control Commission, and the American with Disabilities Act.
2. If possessing a valid Delaware OABBC license, the restaurant must abide by all existing rules and regulations for the service of alcohol as directed by the Delaware Office of the Alcohol Beverage Control Commissioner (OABBC).
3. All applications for outdoor dining areas on public space received from establishments with liquor licenses, once given the approved by the City and granted a license by the Board of Commissioners, will then be provided to the Delaware Office of Alcohol Beverage Control for their approval.

License Application Checklist:

To be approved, the following items **must accompany an application** for Outdoor Dining on Public Space:

1. A current City-issued business license.
2. A completed Outdoor Dining on Public Space License Application (next page)
3. An approved or pending Permit of Compliance for indoor food service operation, if serving alcohol.
4. An approved or pending Supplemental Permit of Compliance for outdoor dining on public space.
5. A two-dimensional drawing to scale depicting the outdoor dining proposed, including the details of construction, table layout, barrier details, and service isle, prepared by an architect or engineer. The outdoor dining proposed must meet all of the criteria contained within the [City of Rehoboth Beach Design Manual for Outdoor Dining on Public Space](#).
6. A certificate of liability insurance confirming that the applicant has procured a policy of commercial general liability insurance issued by an insurance company authorized to do business in the state of Delaware. The policy shall provide in substance that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the City, its officers, agents, or employees. The insurance shall provide coverage in an amount of not less than \$1,000,000.00 for each single occurrence. The policy of insurance shall name both the applicant and the City of Rehoboth Beach as insured parties to the full amount of the policy limits. If the policy is not kept in full force and effect throughout the term of this sidewalk dining license, the license may be terminated by the City upon providing written notice of termination to applicant.
7. A complete and valid waiver of indemnification agreement (form attached).

Each of the above items must accompany, or be present in, the plan submitted with the application for approval to be granted.

Restaurant Information

Restaurant Name:

Date:

Restaurant Address:

Address Line 2:

City:

State:

Zip:

Manager Contact Information

First:

Last:

Phone:

After hours contact number:

Email:

Owner Contact Information

First:

Last:

Phone:

After hours contact number:

Email:

Property Information

Do you own the property, or do you lease it?

Own

Lease

If you lease the property, do you have permission from the property owner to provide outdoor seating?

Yes (Please provide a copy of landlord/property owner approval with this application)

No

If applicable, do you presently have a liquor license?

Yes

No

If applicable, do you plan to serve alcohol in the outdoor dining area requested?

Yes

No

Describe below and provide attached a two-dimensional drawing to scale depicting the outdoor dining proposed, including the details of construction, table layout, barrier details, and service isle, prepared by an architect or engineer:

Please explain how ADA compliance will continue:

Acknowledgement

By checking "I UNDERSTAND", I hereby acknowledge:

- I will comply with all conditions as specified in the City of Rehoboth Beach Design Manual for Outdoor Dining on Public Space.
- That any approvals received, and a license issued to operate Outdoor Dining on Public Space are conditional and can be revoked or amended by the City of Rehoboth Beach at any time.
- That there may be additional approvals required from other agencies, such as the Delaware Division of Public Health and the Office of the Alcoholic Beverage Control Commissioner, and that, if necessary, I will obtain those approvals before operating.
- The risks involved in providing Outdoor Dining on Public Space and I will obey all required safety precautions.
- That by signing below, I waive all rights to bring any legal action against the City of Rehoboth Beach for any injury or accident associated with providing Outdoor Dining on Public Space.

I UNDERSTAND

Printed Name: _____

Signature: _____

Restaurant Name: _____

Restaurant Address: _____

Date: _____

Please provide a copy of your completed application to the Building and Licensing Department at code.enforcement@cityofrehoboth.com

WAIVER AND INDEMNIFICATION AGREEMENT

THIS WAIVER AND INDEMNIFICATION AGREEMENT (hereinafter referred to as the "Agreement") is made and entered into this day of __, 202__, by and among THE CITY OF REHOBOTH BEACH, a municipal corporation of the State of Delaware (hereinafter referred to as the "Indemnitee") and (entity), doing business as, __ (business name) located at _____ (business address) (hereinafter referred to as the "Indemnitor").

WHEREAS, the Indemnitee is the owner of public lands in the City of Rehoboth Beach (hereinafter referred to as the "Public Property"); and

WHEREAS, Indemnitor desires to expand its business operations onto the Public Property; and

WHEREAS, the Indemnitee is willing to allow the Indemnitor to expand its business operations onto the Public Property in accordance with all applicable laws, and licensing regulations, subject to the terms and conditions of this Agreement for a limited period of time to be terminated at the sole discretion of the Indemnitee;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties to this Agreement do hereby agree as follows:

1. Consent to Expand Business Operations on the Public Property.

The Indemnitee does hereby grant consent and permission to the Indemnitor to enter onto the Public Property, beginning on January 1 and terminating on a date to be determined in the sole discretion of the Indemnitee for the purpose of expanding the Indemnitor's business operations on the Public Property, subject to the following terms and conditions:

- a. The Indemnitor shall at all times perform its business operations in accordance with all applicable laws, and licensing regulations.
- b. The Indemnitor shall be responsible for securing comprehensive general liability insurance to insure against any and all foreseeable risks of injury to person(s) or property. At minimum, said insurance must meet the applicable requirements provided in the Municipal Code of the City of Rehoboth Beach, Delaware.

2. Waiver and Indemnification.

The Indemnitor does hereby waive and release any and all claims and/or causes of action whatsoever which the Indemnitor may have had, may now have, or may in the future have against the Indemnitee, arising out of, related to, or in connection with the Indemnitor's performance of its business operations upon the Public Property, or other use of the Public Property, and further, the Indemnitor agrees to indemnify, defend, and hold the Indemnitee harmless, to the fullest extent permitted by law, from and against any and all claims, causes of action, costs, expenses, judgments, damages, liabilities, fines, penalties, or attorneys' fees incurred, arising out of or in connection with the Indemnitor's performance of its business operations on the Public Property, or other use of the Public Property. Nothing in this Agreement shall create or be interpreted as a waiver of the immunity granted to Indemnitee under any

state or local law.

3. Amendments.

No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by all of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

4. Binding Effect.

This Agreement shall be binding upon and inure to the benefit of, and be enforceable by, the parties hereto and their respective agents, representatives, successors, heirs, and assigns.

5. Severability.

The provisions of this Agreement shall be severable in the event that any of the provisions hereof are held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law. Furthermore, to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of this Agreement containing any provision held to be invalid, void, or otherwise unenforceable, that is not itself invalid, void, or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, void, or unenforceable.

6. Governing Law.

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware applicable to contracts made and to be performed in such state without giving effect to the principles of conflicts of laws.

7. Authority.

By their signatures below, each of the parties to this Agreement represents that they have read the Agreement, understand the legal significance of this Agreement, and voluntarily enter into this Agreement. They further warrant that they have the legal authority to bind the entity for which they are signing.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Agreement as of the _____ day of __, 202__.

The Indemnitor:

Authorized Representative

The Indemnitee
THE CITY OF REHOBOTH BEACH:

BY: _____
City Manager