



REHOBOTH BEACH BOARD OF COMMISSIONERS

Supporting Document Packet

WORKSHOP MEETING:

July 5, 2016

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PETITION TO END ORDINANCE 92-34 AS LAST
 AMENDED 3-8-1991 BY ORDINANCE NO 391-4
 NUMBER 26= ST LAWRENCE STREET

I THE UNDERSIGNED OWN PROPERTY ON THE
 OCEAN BLOCK OF ST LAWRENCE STREET

AND WOULD LIKE TO END THE RESTRICTIONS OF
 PARKING BETWEEN 12:01 am TO 6:00 am

NAME	ADDRESS	SIGNATURE
Allen Fielding Allen Fielding	12 St Lawrence	<i>Allen Fielding</i>
David K. Smith Ramsay C. Keebler Ann C. Coe	10 St. LAWRENCE ST 10 St. Lawrence St 10 So Lawrence St	<i>David K. Smith</i> <i>Ramsay C. Keebler</i> <i>Ann C. Coe</i>
CARSON B SMITH Karen Halverstadt (trustee)	10 St Lawrence St 13 St. Lawrence St	<i>Carson B. Smith</i> <i>Karen Halverstadt</i> (trustee)
Nancy Andrews	15 So Lawrence St	<i>Nancy Andrews</i>
GEORGE W CHRISTOPHER	9 ST LAWRENCE	<i>George W. Christopher</i>
EVELYN M CHRISTOPHER	9 ST LAWRENCE Evelyn M.	<i>Evelyn M. Christopher</i>

Version 2 changes

- Added wording to require digital submission of plans as well as paper versions.
- Removed the requirement for early closing of new restaurants larger than provided for in the code.

Below is my proposed rewrite of Chapter 215 of the City Code titled Restaurants. Some of the goals and highlights:

- Coordinate the definitions that are used here and in the zoning code by referencing the zoning code definition in this chapter.
- Create Supplemental Permits of Compliance for dining patios and brewery-pubs that are approved in conjunction with permits of compliance for a restaurant where appropriate.
- Add a bit more specificity to what is required on the plans submitted with an application for a permit of compliance.
- Introduce and make clear that a suspension or revocation could be applied to a supplemental certificate of compliance when the violation(s) is related to a dining patio or brew-pub operation.
- Specify that the fee to accompany each application is \$1,000 no matter what is requested.
- Bring two provisions that refer to the blocking of a public way by the use of a dining patio over from the zoning code.
- Set, consistent with state law and rules, the hours when alcohol can be served and consumed in existing restaurants and new restaurants of 2,500 or fewer square feet of combined seated dining and bar area.
- Require that new restaurants of more than 2,500 square feet of combined seated dining and bar area stop the service and consumption of alcohol two hours earlier.
- Require, consistent with state rules, that a restaurant make food available at all hours that alcohol is available.

1 Article I Definitions

2

3 215-1 Definitions

4

5 Unless the particular provision or the context otherwise requires, the definition provisions contained in
6 this section shall govern the construction, meaning and application of words and phrases used in this
7 chapter:

8

9 **BAR AREA**

10 ~~As found at §270-4. The floor space in any restaurant or dinner theater that is used primarily for the~~
11 ~~service or consumption of alcoholic liquor and not secondary to food consumption. It shall include~~
12 ~~but not be limited to the bar counter and the contiguous floor and seating area where alcoholic~~
13 ~~liquor is dispensed or consumed, together with all other areas of the restaurant, except the~~
14 ~~permanent seated dining area, whether contiguous to the bar or not where patrons are served or~~
15 ~~consume alcoholic liquor.~~

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17 **BREWERY-PUB**

18 As found at §270-4

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DINING PATIO

As found at §270-4

DINNER THEATER

As found at §270-4.

- ~~A.—A totally enclosed commercial establishment which has seating and tables for 35 or more persons and suitable kitchen facilities connected therewith for cooking an assortment of foods under the charge of a chef or cook which is regularly used and kept open for the purpose of presenting public performances featuring live actor(s) in dramatic or musical productions after and not simultaneously with the serving of complete meals. The establishment must close and all patrons must leave at 12:00 midnight. The service of only such food and victuals as sandwiches and salads shall not be deemed to be complete meals.~~
- ~~B.—Each dinner theater and related activities in a building shall be limited in area to not more than 5,000 square feet. There shall be not more than one dinner theater in any public building, and, except for motels and hotels, a dinner theater shall not share a building with any other commercial activity. The occupancy capacity must conform to the Fire Marshal's guidelines.~~
- ~~C.—A dinner theater must serve complete meals to at least 3/4 of the patrons at each performance and shall be served in the permanent seated dining area in front of or surrounding the stage. Seating at tables shall be provided for each patron.~~
- ~~D.—The establishment, when licensed to serve alcoholic beverages, shall not have a bar area where patrons consume alcoholic beverages but may have a service bar area where alcoholic beverages are stored and delivered to waiters for service to the patrons seated in the permanent seated dining area. Such establishment shall not serve alcoholic beverages more than one hour before the service of the complete meal begins or more than two hours before the live stage production begins, whichever is less. Alcoholic beverages may also be served during intermissions but not during or after the performance.~~
- ~~E.—The rules set forth herein apply to each and every performance. When repeated performances are to be given, all patrons from the first performance must leave the establishment before seating can begin for the next performance.~~

LIQUOR LICENSE

A license issued by the Office of the Delaware Alcoholic Beverage Control Commissioner~~Delaware Alcoholic Beverage Control Commission~~ to an owner or lessee of a restaurant for the purchase, sale and dispensing of alcoholic beverages pursuant to Title 4, Delaware Code, § 511 et seq.

PERMANENT SEATED DINING AREA

As found at §270-4.~~The floor space in any restaurant or dinner theater where complete meals are served. A permanently marked dance floor may be located in the permanent seated dining area, but the square footage of its floor space shall not be included in the calculation of the square footage of the permanent seated dining area but rather shall be included in the calculation of the square footage of the bar area. Tables and chairs in the permanent seated dining area may not be temporarily moved so as to increase the space where patrons can consume alcoholic liquor without such consumption being secondary to food consumption while seated at tables. Patrons may not consume alcoholic liquor in the permanent seated dining area unless seated at tables. The square footage of floor space of a dining patio, as defined at § 270-19A(1)(b), shall not be included as part~~

65 ~~of the permanent seated dining area or as part of the bar area. The square footage of floor space of~~
66 ~~a patio which is not a dining patio, as defined at § 270-19A(1)(c), shall be included as part of the bar~~
67 ~~area.~~

68
69 **PERSON**

70 Any individual, partnership, corporation or other entity which either owns, manages, directs or
71 controls activities authorized by this chapter.

72
73 **RESTAURANT**

74 As found at §270-4.

75 ~~A.—Where no alcoholic liquor is sold or consumed on the premises, any establishment which is~~
76 ~~regularly used and kept open principally for the purpose of serving complete meals to persons~~
77 ~~for consideration and which has seating at tables for 35 or more persons and suitable kitchen~~
78 ~~facilities connected therewith for cooking an assortment of foods under the charge of a chef or~~
79 ~~cook. The service of only such food and victuals as sandwiches or salads shall not be deemed to~~
80 ~~be the service of meals.~~

81 ~~B.—Where alcoholic liquor is sold or consumed on the premises, a totally enclosed, except where a~~
82 ~~special patio license has been granted, commercial establishment which is regularly used and~~
83 ~~kept open principally for the purpose of serving complete meals to persons for consideration~~
84 ~~and which has seating and tables for 35 or more persons and suitable kitchen facilities~~
85 ~~connected therewith for cooking an assortment of foods under the charge of a chef or cook. The~~
86 ~~service of only such food and victuals as sandwiches or salads shall not be deemed to be the~~
87 ~~service of meals. The bar area shall be no more than 25% of the square footage of the~~
88 ~~permanent seated dining area, but not to exceed a maximum of 1,000 square feet, except that~~
89 ~~any restaurant regardless of its permanent seated dining area may have a bar area of 350~~
90 ~~square feet. The occupancy capacity must conform with the Fire Marshal's guidelines.~~

91
92
93 Article II Permit of Compliance

94
95 215-2 Permit Required.

96
97 No person shall operate, maintain or carry on the business of a restaurant or dinner theater governed by
98 this chapter until the owner or lessee has received a permit of compliance from the City stating that said
99 restaurant or dinner theater is in compliance with all of the City's applicable zoning and licensing
100 requirements. A copy of such permit of compliance shall be issued by the City to the Office of the
101 Delaware Alcoholic Beverage Control Commissioner~~Delaware Alcoholic Beverage Control Commission.~~

102 A. No person shall construct or operate a dining patio unless the owner or lessee has received a
103 supplemental permit of compliance for same in conjunction with a validly issued permit of
104 compliance for a restaurant.

105 A.B. No person shall construct or operate a brewery-pub unless the owner or lessee has received a
106 supplemental permit of compliance for same in conjunction with a validly issued permit of
107 compliance for a restaurant.

108
109 215-3 Application for ~~restaurant or dinner theater~~ permit of compliance.
110

111 Any person desiring a restaurant or dinner theater permit of compliance and/or dining patio and/or
112 brewery-pub supplemental permit of compliance, as required by this chapter, shall file a written
113 application with the City Building Inspector on a form to be furnished by the Building Inspector. The
114 applicant shall accompany the application with a tender of the correct application fee as hereinafter
115 provided and shall, in addition, furnish the following information:

- 116 A. The type of ownership of the business, i.e., whether individual, partnership, corporation or
117 otherwise.
- 118 B. The name, style and designation under which the business or practice is to be conducted.
- 119 C. The business address and all telephone numbers where the business is to be conducted.
- 120 D. The plan of the proposed new, expanded or otherwise modified restaurant or dinner theater ~~or~~
121 ~~proposed expansion of an existing restaurant or dinner theater~~. Said plan shall show the
122 following information and shall be submitted in paper form and a digital form acceptable to the
123 City:
 - 124 1) The location of the restaurant or dinner theater.
 - 125 2) The location's zoning classification.
 - 126 3) The number and sizes of bar areas in the restaurant or dinner theater.
 - 127 4) The restaurant's or dinner theater's complete floor plan, including delineation of and square
128 footage of all areas of use including but not limited to permanent seated dining, bar,
129 restrooms, food storage and food preparation.
 - 130 5) The restaurant's or dinner theater's seating capacity.
 - 131 ~~6) The designated areas for storage and for preparation of food service.~~
 - 132 6) The distance to the nearest property line of the nearest church, public park and a lot zoned
133 residential from the proposed restaurant or dinner theater or existing restaurant or dinner
134 theater property.
 - 135 7) If the application includes a dining patio, the location, floor plan, area calculation and details
136 of the perimeter barrier.
 - 137 ~~7)8) If the application includes a brewery-pub, the location floor plan and area calculation of all~~
138 areas devoted to the brewing of beer and the storage of raw materials, waste matter and
139 finished product related thereto.
- 140 E. A statement that the establishment's primary purpose shall be that of a restaurant or dinner
141 theater as defined herein.
- 142 F. A statement containing an approximate percentage of projected revenue to be derived from the
143 sale of alcoholic beverage as compared to the percentage of projected revenue to be derived
144 from the sale of food.
- 145 G. An authorization for the City, its agents and employees to seek information and conduct an
146 investigation as to the truth of the statements set forth in the application
- 147 H. Written and dated declaration by the applicant, under verification, oath or affidavit, that the
148 foregoing information contained in the application is true and correct with said declaration
149 being duly dated and signed in the City.

150
151 215-4 Verification by Building Inspector required.

152
153 The Building Inspector shall verify the completeness and accuracy of the application and shall forward
154 said application to the City Manager within five days of the filing of said application.

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156 215-5 Hearing required.

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- A. No applicant shall receive a permit of compliance or a supplemental permit of compliance from the City until after a public hearing, at which hearing interested parties and citizens shall have an opportunity to be heard. The City Manager shall place said application on the agenda for a public hearing at the next scheduled regular meeting of the Mayor and Commissioners if the date of such meeting is more than 25 days from the date the application is filed with the City; otherwise the application shall be heard at the second scheduled regular meeting of the Mayor and Commissioners or at a special meeting to be scheduled pursuant to the provisions of the City's Code.
- B. A permit of compliance or supplemental permit of compliance shall not be issued to the applicant or to the Delaware Alcoholic Beverage Control Commission except by the favorable vote of a majority of the members of the City Commissioners. In reaching their decision, the Commissioners shall consider the following factors, including but not limited to:
 - 1) Whether the applicant has demonstrated that the establishment's primary purpose will be that of a restaurant or dinner theater as defined in this chapter.
 - 2) Whether the establishment meets all of the City's applicable zoning and licensing provisions.
 - 3) Whether the establishment would be a detriment to the peace, order and quiet of the neighborhood and the City.
 - 4) Whether the establishment will have an adverse impact on the neighboring properties or on the City of Rehoboth Beach, considering the impact on traffic, parking and noise.
 - 5) Whether the applicant had made any false representation or statements to the City's employees or the Commissioners in order to induce or prevent action by the City not only in regard to the pertinent pending application under this chapter, but also in regard to the issuance of a building permit or business license for the subject establishment.

215-6 Notice of hearing.

At least 15 days' notice of the time and place of such hearing shall be sent to all City property owners whose boundaries are within 200 feet of the boundaries of the proposed restaurant or dinner theater or existing restaurant or dinner theater property. Notice shall be sent by regular United States mail to the last known address to which City tax bills are sent, said mailing to be done by the City.

215-7 Applicability.

- A. The provisions of this chapter shall apply to:
 - 1) All restaurants or dinner theaters established on or after June 14, 1991, where alcoholic liquor is to be sold or consumed.
 - 2) Any existing restaurant or dinner theater, where alcoholic liquor is sold or consumed, desiring to extend or modify its premises, regardless of the date that said restaurant or dinner theater was established.
 - 3) Any existing restaurant or dinner theater, where alcoholic liquor is sold or consumed, that is being moved to a new location in the City, regardless of the date that said restaurant or dinner theater was established.
- B. An existing restaurant or dinner theater, where alcoholic liquor is sold or consumed, established prior to June 14, 1991, is not required to obtain a permit of compliance pursuant to this chapter unless required as a condition of extension or modification of the premises of the restaurant or

- 203 dinner theater. However, all such existing restaurants or dinner theaters shall have filed a floor
204 plan, including any patio areas, with the City Manager on or before May 15, 1992.
- 205 C. Where an existing restaurant or dinner theater, regardless of the date that said restaurant or
206 dinner theater was established, where alcoholic liquor is sold or consumed, is being transferred
207 to a new owner at the existing site, the present owner must file with the City Manager
208 documentation to prove that the floor plan of said restaurant or dinner theater is substantially
209 the same as the most recent floor plan approved by the City. Such documentation shall include
210 but not be limited to a scalable floor plan showing the location and size of the permanent
211 seated dining and bar areas. If the City Manager determines that the floor plan in respect to the
212 total square footage of the restaurant or dinner theater and percentage of floor area devoted to
213 bar area and percentage of floor area devoted to permanent seated dining area is substantially
214 the same as the most recent floor plan approved by the City, no hearing shall be required
215 pursuant to § 215-5A.
- 216 D. For purposes of this section, in addition to any and all usual interpretations, "extensions or
217 modifications of premises," shall be interpreted to include the construction, expansion, location
218 or operation of dining patios and brewery operations pursuant to Chapter 270, Zoning, of the
219 Code of the City of Rehoboth Beach.

220
221 215-8 Enforcement.

222
223 The City Manager shall enforce the provisions of this chapter.

224
225 215-9 Revocation or suspension of permit; notice.

226
227 Any permit of compliance or supplemental permit of compliance issued pursuant to this chapter shall be
228 subject to suspension or revocation by the City Manager by reason of violation of any provision of this
229 chapter; provided, however, that before any permit of compliance or supplemental permit of
230 compliance is suspended or revoked ~~or suspended by~~ the City Manager, ~~he~~ shall give 10 days' written
231 notice in advance by certified mail with return receipt requested, directed to the permit holder at the
232 restaurant's or dinner theater's address within the corporate limits of the City of Rehoboth Beach, of the
233 reason for the intended suspension or revocation ~~or suspension~~, and upon the correction of the defect
234 within 15 days following receipt of said notice as determined by the City Manager, no suspension or
235 revocation ~~or suspension~~ shall take effect for the first offense. Upon a second or subsequent offense of
236 a similar nature, the City Manager shall suspend the permit of compliance or supplemental permit of
237 compliance and shall immediately notify the permit holder by certified mail, with return receipt
238 requested, directed to the permit holder at the restaurant's or dinner theater's address within the
239 corporate limits of the City of Rehoboth Beach. The period of suspension shall be for 10 days. A second
240 or subsequent offense shall be an offense occurring within 30 days of the preceding offense. If the
241 holder of a permit commits five similar offenses within a twelve-month period, the permit of compliance
242 shall be revoked by the City Manager, and notice of such revocation shall be given to the permit holder
243 as provided herein. The suspension or revocation of a permit of compliance shall include the suspension
244 or revocation of any associated supplemental permit of compliance under the same conditions, however
245 a supplemental permit of compliance may be suspended or revoked without suspending or revoking the
246 associated permit of compliance when the violation is solely related to the substance of the
247 supplemental permit of compliance.
248

249 215-10 Appeals from determination of revocation or suspension.

250

- 251 A. Any permit holder may appeal the decision of the City Manager to ~~suspend or~~ revoke ~~or~~
252 ~~suspend~~ a permit of compliance to the Commissioners of Rehoboth Beach. Such appeal shall be
253 in writing, setting forth the reasons for the appeal, and shall be filed with the Secretary of the
254 Commissioners of Rehoboth Beach by certified mail, with return receipt requested, together
255 with an appeal processing fee of \$500, within 10 days after the receipt of the notice from the
256 City Manager suspending the permit of compliance. Upon receipt of the notice of appeal, the
257 ~~City Manager~~Mayor shall fix a time and place for a public hearing of the appeal, with said time
258 for the hearing of the appeal to be not more than 30 days following receipt thereof by the
259 Secretary of the Commissioners of Rehoboth Beach.
- 260 B. The hearing shall be conducted by the Commissioners, and a record of the hearing shall be
261 made and kept by the Commissioners. All testimony shall be recorded but need not be
262 transcribed. The record shall include the evidence, the Commissioners' findings of fact, the
263 Commissioners' decision and a brief statement of the reasons therefor. At said hearing the
264 permit holder shall be entitled to legal representation and to present witnesses.
- 265 C. The filing of an appeal by a permit holder shall operate as a stay of the determination of the City
266 Manager to revoke or suspend the permit of compliance or supplemental permit of compliance.
267 However, if the appeal is withdrawn or if the suspension is upheld, the period of suspension
268 shall commence on the anniversary date of the original suspension. For example, if a ~~license~~
269 permit is suspended commencing July 1, 1991, and because of an appeal a stay occurs and the
270 issue is not finally resolved until December 1991, the permit ~~of~~ suspension will commence July
271 1, 1992.

272

273 215-11 Modification of floor plan.

274

- 275 A. It shall be illegal for any restaurant or dinner theater to substantially modify its floor plan,
276 seating arrangement and/or the location and number and sizes of bar areas and permanent
277 seated dining areas from the plans submitted to the City pursuant to the provisions of this
278 chapter without a public hearing and ~~certificate new permit~~ of compliance, except that a floor
279 plan may be substantially modified without a hearing with the approval of the City Manager if
280 ~~he the City Manager~~ determines that the changed plan does not violate the provisions of this
281 chapter and does not result in an increase of the bar area. This section shall be interpreted to
282 include dining patios. The Building Inspector shall inspect all restaurants or dinner theaters at
283 least annually to ensure compliance with this chapter.
- 284 B. "Modification," as used herein, means internal rearrangements limited to the interior walls of
285 only that portion of the structure used for restaurant or dinner theater purposes as shown on
286 the floor plan on file with the City Manager. It shall not authorize the extension of the
287 restaurant or dinner theater use into other parts of the structure not shown on the floor plan
288 filed with the City Manager.
- 289 C. Should the City Manager deny a request to modify a floor plan, the applicant may appeal his
290 decision to the Commissioners of Rehoboth Beach, who shall schedule a hearing on said appeal
291 within 45 days. The issue on appeal shall be whether the proposed modified floor plan violates
292 the provisions of this chapter or results in an increase in the size of the bar area.

293

294 215-12 Violations and penalties.

295
296 Any person violating any of the provisions of this chapter, upon conviction thereof, shall be fined not
297 less than \$100 nor more than \$200 for each offense and shall pay the costs of prosecution. For the
298 purpose of this chapter, a separate offense shall be deemed to be committed on each day during or on
299 which a violation occurs or continues after receipt of notice of violation.

300
301 215-13 Application fee.

302
303 Each application for a permit of compliance shall be accompanied by a fee payable to the City in the
304 amount of \$1,000, which fee shall include any supplemental permits of compliance requested at the
305 same time, however a supplemental permit of compliance application filed independent of a permit of
306 compliance shall be accompanied by fee of \$1,000.-

307
308 215-14 Reapplication.

309
310 No new application shall be acted upon by the City Commissioners, if within a six-month period
311 immediately preceding the filing of the new application they have rendered a decision regarding the
312 same application. However, this limitation shall not be applicable if the Commissioners shall find that
313 the facts and circumstances existing at the time of their prior decision have undergone a substantial
314 change justifying the Commissioners' reconsideration.

315
316 215-15 Notice of request for variance.

317
318 The owner or licensee of any restaurant subject to the provisions of this chapter shall notify the City
319 Manager prior to requesting a variance from the Office of the Delaware Alcoholic Beverage Control
320 Commissioner~~Delaware Alcohol Beverage Control Commission~~ with respect to a liquor license.

321
322
323 Article III Dining Patios

324
325 215-16 Overflow of patrons prohibited from public ways.

326
327 For all dining patios, any overflow of patrons onto public ways, pedestrian or vehicular, is prohibited.

328
329 215-17 Blocking of public ways prohibited.

330
331 For all dining patios, the blocking of the public ways, pedestrian or vehicular, by related activities is
332 prohibited.

333
334
335 Article IV Hours of Service

336
337 215-18 Hours of alcohol sale and consumption.

338
339 No restaurant shall sell alcoholic liquor between the hours of 1:00 a.m. and 9:00 a.m. and no alcoholic
340 liquor shall be consumed on the premises between the hours of 2:00 a.m. and 9:00 a.m.

Version: Draft No. 2
Date: June 30, 2016
Author: S. Cooper

341

342 215-19 Food service.

343

344 Food shall be available at all hours that any restaurant is open for the sale of alcoholic liquor.

Version 3 changes

- Added distilling to the definition of brewery-pub consistent with state law.
- Changed the wording regarding the proximity of dining patios to the restaurant.
- Removed the required revenue split between food and alcohol.
- Removed the prohibition of wholesale sales by a brewery-pub.
- Returned the 5,000 square foot maximum for a dinner theater in place of the seating square foot restriction.

Version 2B changes

- This version removes all redlining and notes from Version 2 dated May 1, 2016, to make it easier to see what the new format looks like.
- As redlining, the current 5,000 square foot total area limitation has been restored in lieu of the 2,500 square foot seated dining and bar area limitation of Version 2 and the maximum allowed bar area has been restored to 1,000 square feet.
- This version is intended to supplement not replace Version 2, thus the use of the nomenclature Version 2B.

Version 1

Below is my proposed rewrite of the sections of the zoning code related to restaurants and dinner theaters. This is to be paired with similar revisions to Chapter 215 which set out the permit of compliance process. Some of the goals and highlights:

- ~~The major change is to go from a limit of 5,000 square feet for the total area of a restaurant to 2,500 square feet of combined seated dining and bar area. This change allows for unlimited support areas such as kitchen, food storage and restrooms. This figure was shown during previous discussions to be consistent with restaurants that have received a certificate of compliance under the current rules.~~
- ~~By setting a limit based on the combined seated dining and bar area an incentive is created to reduce the size of the bar area in order to have more seating.~~
- All definitions have been moved to Section 270-4 where all other zoning code definitions are found whereas previously a number of definitions were contained in the body of the code and duplicated definitions have been removed.
- Many of the requirements previously contained in the definitions have been moved to the body of the code and more generic definitions have been used.
- A few additional requirements have been added.
- Previously there was a reference that a patio was to have a “special permit of compliance”, but did not develop this in anyway. The proposed calls for a “supplemental permit of compliance” for what is being termed a dining patio.
- Requirements for brewery-pubs are set out and they are required to obtain a supplemental permit of compliance. This has the effect of making brewery-pubs a special class of restaurant subject to all the requirements of a restaurant plus the additional brewery-pub requirements.

Version 2 changes

- Section 270-53-Relocation of nonconforming restaurant was added to this document and then shown as being deleted from the code.
- Section 270-54-Relocation of nonconforming patio was added to this document and then shown as being deleted from the code.

1 270-4 Definitions

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BAR AREA

The floor space, not classified as permanent seated dining area, in any restaurant where alcoholic liquor is served or consumed. It shall include but not be limited to the bar counter and the contiguous floor and seating area where alcoholic liquor is dispensed or consumed, any dance floor area and any area occupied by persons providing entertainment. Patron restrooms are specifically excluded.

BREWERY-PUB

An establishment which conforms to the requirements of a restaurant and where beer is manufactured on the premises and which may also make, bottle and sell an alcoholic liquor that is fermented or distilled on the premises when permitted by state law. All fermenting and distilling equipment and processes shall be included as if for the brewing of beer for the purposes of this chapter.

CABARET

An establishment where patrons are entertained by performers who dance, sing, play instruments or perform other legal acts for entertainment, but not to include a dinner theater, and where such entertainment may be performed during or after service of dinner, and where a minor, as defined at 4 Del. C. §713, is to be denied admission to or permission to remain on the premises after 9:00 p.m., official eastern time, unless accompanied by a parent or by a legal guardian.

CAFE

An establishment, not a restaurant, where food and liquor is served or consumed.

CATERER

Any proprietorship, partnership or corporation engaged in the business of providing food and beverages at social gatherings, such as weddings, dinners, benefits, banquets or other similar events, for consideration on a regular basis and duly licensed by the state as caterers, with at least 60% of its gross receipts resulting from the sale of food.

DANCE HALL

Any establishment other than a restaurant where dancing by the patrons takes place.

DINING PATIO

A deck or porch whether covered, uncovered, raised or at grade, used in connection with a restaurant and not necessarily attached a part of, abutting, adjacent or adjoining thereto.

FOOD ESTABLISHMENT

An establishment, not a restaurant, which serves various refreshments, not including alcoholic beverages, for consideration.

45 **NIGHTCLUB, INCLUDING AFTER HOURS CLUB**

46 An establishment open for business in the evening and early morning hours which is not a
47 restaurant but at which entertainment is provided and food or alcoholic beverages are served or
48 consumed.

49

50 **PERMANENT SEATED DINING AREA**

51 The floor space in any restaurant or dinner theater where complete meals are served. A
52 permanently marked dance floor may be located in the permanent seated dining area, but the
53 square footage of its floor space shall not be included in the calculation of the square footage of
54 the permanent seated dining area, but rather shall be included in the calculation of the square
55 footage of the bar area.

56

57 **RESTAURANT**

58 An establishment where meals are, for compensation, prepared and served on the premises and
59 when alcohol is sold or consumed complies with §270-19.

60

61 **TAPROOM**

62 An establishment provided with special space and accommodations and operated primarily for
63 the sale by the glass and for consumption on the premises of alcoholic liquors with the sale of
64 food as a secondary object as distinguished from a restaurant where the sale of food is the
65 primary object.

66

67 **TAVERN**

68 Any establishment with special space and accommodations for the sale by the glass and for
69 consumption on the premises of beers.

70

71 270-19 Use Restrictions

72

73 A. Restaurants

74

75 In addition to the standards of the relevant zoning district an establishment that meets the
76 definition of a restaurant where alcoholic liquor is sold or consumed on the premises shall comply
77 with the following:

- 78 1) Be totally enclosed, excepting any area included in a validly issued dining patio
79 supplemental certificate of compliance,
80 2) Is regularly used and kept open principally for the purpose of serving complete meals. The
81 service of only such food and victuals as sandwiches or salads shall not be deemed to be the
82 service of meals.

83 ~~3) Revenue from food sales shall constitute more than 50 percent of the total business~~
84 ~~revenues.~~

85 ~~4)3) Have seating and tables for a minimum of 35 patrons. and suitable kitchen facilities~~
86 ~~connected therewith for cooking an assortment of foods under the charge of a chef or cook.~~

87 ~~5)4) The area in a given building devoted to restaurant purposes where alcoholic liquor is~~
88 ~~consumed on the premises shall not be larger than 5,000 total square feet of floor space,~~
89 ~~including but not limited to seated dining area, food storage and preparation area,~~
90 ~~passageways and entrance foyer, restrooms, dance floor and bar area, except that where a~~

- 91 ~~restaurant occupies space in a building also housing a hotel/motel containing at least 25~~
92 ~~bedrooms, the area devoted to restaurant purposes may occupy up to but not more than~~
93 ~~7,500 square feet. The sum of the floor space devoted to permanent seated dining area and~~
94 ~~bar area in any building shall not exceed 2,500 square feet, except that where a restaurant~~
95 ~~occupies space in a building also housing a hotel/motel containing at least 25 bedrooms, the~~
96 ~~area so devoted may be up to but not more than 3,750 square feet.~~
97 6)5) The bar area shall be no more than 25% of the square footage of the permanent seated
98 dining area, but not to exceed a maximum of ~~500-1,000~~ square feet, except that any
99 restaurant regardless of its permanent seated dining area may have a bar area of 350 square
100 feet.
101 7)6) Tables and chairs in the permanent seated dining area may not be temporarily moved so as
102 to increase the space where patrons can consume alcoholic liquor without such
103 consumption being secondary to food consumption while seated at tables.
104 8)7) Patrons may not consume alcoholic liquor in the permanent seated dining area unless
105 seated at tables.
106

107 B. Dining Patios.

108
109 Dining patios licensed, constructed or expanded after June 14, 1991, shall only be used for
110 consumption of food and beverages consistent with the following conditions:

- 111 1) The gross area devoted to dining patio purposes shall be limited to 750 square feet per
112 restaurant, which area shall be permitted in addition to the limitation contained in §270-
113 19A(5).
- 114 2) Food and beverages may be served only to seated patrons and no patrons may await on the
115 dining patio for seating.
- 116 3) There shall be no live entertainment on the dining patio.
- 117 4) There shall be no external speakers or amplifiers on the dining patio and no internal
118 speakers from the premises are to be directed to the dining patio.
- 119 5) There shall be no bar on the dining patio.
- 120 6) There shall be a physical barrier around the perimeter of the dining patio no less than 42
121 inches high constructed of wood, concrete, plastic, wrought iron, dense vegetation or other
122 approved material such that entry and exit will be restricted to no more than two discrete
123 locations.
- 124 7) No one shall construct or operate a dining patio unless it is included in a supplemental
125 permit of compliance issued pursuant to Chapter [215](#) of the Municipal Code of Rehoboth
126 Beach, Delaware.
127
- 128 8) A dining patio existing as of June 14, 1991, shall be considered a legal nonconforming use
129 but shall be subject to all of the provisions of this chapter if expanded pursuant to a
130 supplemental permit of compliance.
131

132 C. Brewery-pubs.

133
134 In addition to the standards of the relevant zoning district an establishment that meets the
135 definition of a brewery-pub shall comply with the following:

- 136 1) The brewery-pub must be situated on the premises of and be physically a part of a
137 restaurant which holds a valid certificate of compliance issued by the city.
- 138 2) No more than 50 percent of the total gross floor area of the establishment shall be used for
139 the brewery function including, but not limited to, the brewhouse, boiling and water
140 treatment areas, bottling and kegging lines, malt milling and storage, fermentation tanks,
141 conditioning tanks and serving tanks.
- 142 3) Retail carryout sale of beer produced on the premises shall be allowed in containers having
143 a capacity of no more than one U.S. gallon (3,785 ml / 128 US fluid ounces).
- 144 ~~4) No beer produced on the premises shall be sold at wholesale, however beer may be~~
145 ~~removed from the premises for serving at events where the purpose of the event is not for~~
146 ~~commercial profit and where the beer is not wholesaled to the event sponsors but is~~
147 ~~instead, dispensed by employees of the brewpub.~~
- 148 ~~5)4) All aspects of the brewing process shall be completely confined within a building.~~
- 149 ~~6)5) No outdoor storage of raw materials, supplies, beer containers (either full or empty) shall be~~
150 ~~allowed. This prohibition includes the use of fixed or portable storage units, cargo~~
151 ~~containers and tractor trailers.~~
- 152 ~~7)6) The brewery function shall be designed and operated so as to have no offensive brewery-~~
153 ~~related air-borne or water-borne emissions including odors from storage of solid or semi-~~
154 ~~solid waste or by-product and create no public or private nuisance.~~
- 155 ~~8)7) No one shall construct or operate a brewery-pub unless it is included in a supplemental~~
156 ~~permit of compliance issued pursuant to Chapter 215 of the Municipal Code of Rehoboth~~
157 ~~Beach, Delaware.~~

158 D. Dinner Theaters

159 In addition to the standards of the relevant zoning district an establishment that meets the
160 definition of a dinner theater where alcoholic liquor is sold or consumed on the premises shall
161 comply with the following:
162

- 163 1) Be totally enclosed.
- 164 2) Is regularly used and kept open for the purpose of presenting public performances featuring
165 live actor(s) in dramatic or musical productions after and not simultaneously with the
166 serving of complete meals. The service of only such food and victuals as sandwiches or
167 salads shall not be deemed to be the service of meals.
- 168 3) Must serve complete meals to at least 3/4 of the patrons at each performance, and they
169 shall be served in the permanent seated dining area in front of or surrounding the stage.
170 Seating at tables shall be provided for each patron.
- 171 4) Have seating and tables for a minimum of 35 patrons. and suitable kitchen facilities
172 connected therewith for cooking an assortment of foods under the charge of a chef or cook.
- 173 5) There shall be no more than one dinner theater in any public building, and, except for
174 motels and hotels, a dinner theater shall not share a building with any other commercial
175 activity.
- 176 6) ~~Each dinner theater and related activities in a building shall be limited in area to not more~~
177 ~~than 5,000 square feet. No more than 2,500 square feet of floor space in any dinner theater~~
178 ~~shall be devoted to permanent seated dining area.~~
- 179

- 180 7) Shall not have a bar area where patrons consume alcoholic beverages but may have a
181 service bar area where alcoholic beverages are stored and delivered to waiters for service to
182 the patrons seated in the permanent seated dining area.
183 8) Shall not serve alcoholic beverages more than one hour before the service of the complete
184 meal begins or more than two hours before the live stage production begins, whichever is
185 less. Alcoholic beverages may also be served during intermissions but not during or after the
186 performance.
187 9) The rules set forth herein apply to each and every performance. When repeated
188 performances are to be given, all patrons from the first performance must leave the
189 establishment before seating can begin for the next performance.
190 10) Shall close and all patrons must leave by 12:00 midnight.

191
192 E. Certain prohibited uses citywide.
193

194 No structure or land shall be used or occupied anywhere in the City of Rehoboth Beach, regardless
195 of whether the land is zoned residential or commercial, for the following uses: taproom, tavern,
196 dance hall, cabaret, nightclub, after-hours club or cafe. Anything contained in Article [II](#), Use
197 Regulations, or any other portion of Chapter [270](#), Zoning, of the Municipal Code of Rehoboth Beach,
198 Delaware, which is inconsistent herewith is to the extent of such inconsistency repealed.
199



Rehoboth Mayor Sam Cooper

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Greetings,

I'm volunteering for the DE Ovarian Cancer Foundation, organizing our special Awareness Campaign for September, National Ovarian Cancer Awareness Month. We are again requesting your help to develop a successful project our "Turn The Towns TEAL" Awareness Campaign.

We PIN - UP TEAL ribbons on the light posts on your main avenue during the entire month of September, creating awareness of the silent symptoms of Ovarian Cancer. We TAKE - DOWN the Teal ribbons on September 30th, storing them for use the next year.

We plan to "Turn the Towns TEAL" in Delaware City, Dover, Georgetown, Lewes, Middletown, Milton, Millsboro, New Castle, Newark, Rehoboth, Smyrna, and Wilmington. Other location may be added once we receive enough funds and volunteers to make and PIN UP the TEAL ribbons in each town.

I'm sending requests to all local mayors for permission to place TEAL ribbons on light posts on main street of the towns, just like many supported us last year.

"Turn The Towns TEAL" begins September 1st and ends on Sept 30th.

Please go to their web site... "turnthetownsteal.com" and view the project we want to take on for **"Turn The Towns TEAL"** in September.

It would be greatly appreciated if you and some of your staff could assist in the PIN UP of TEAL bows in your town.

You could issue a Press Release/Facebook posting to note your involvement in Delaware Ovarian Cancer Foundation's Awareness Campaign.

Proposed date/time for PIN Up of Teal Bows: Sept 1st , 10:00 - 12:00 noon.

Proposed date/time for TAKE DOWN of Teal Bows: Sept 30th, 10:00 - 12:00 noon.