



# **REHOBOTH BEACH BOARD OF COMMISSIONERS**

## **Supporting Document Packet**

### **WORKSHOP MEETING:**

**November 9, 2015**

#### **\*\*DISCLAIMER\*\***

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# City of Rehoboth Beach

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THE COMMISSIONERS OF REHOBOTH BEACH  
Workshop Meeting  
Second Floor of Rehoboth Beach Volunteer Fire Company  
Monday, November 9, 2015; 9:00 a.m.

## **WORKSHOP AGENDA**

1. Call to Order
2. Invocation, Pledge of Allegiance to the Flag and Roll Call
3. Correspondence
4. Old Business
  - A. Discuss with Kyle Gulbranson of AECOM, the City's planning consultant, a draft Vacation Rental Ordinance.
  - B. Discuss proposed revisions to the City Code related to bringing the City's personnel code and procedures into conformance with current standards.
  - C. Discuss the requirements contained in the City Code related to the size of restaurants.
  - D. Discuss the status of brewery-pubs as related to the City's applicable zoning and licensing requirements.
5. New Business
  - A. Discuss the recommendation of the Audit Committee approving the audit as prepared by the auditing firm Barbacane, Thornton & Co. for the City's fiscal year ended March 31, 2015.
  - B. Discuss with the City Manager the consideration of eliminating commercial refuse collection services and discuss other refuse, recycling and yard waste issues – Commissioner Mills.
  - C. Discuss potential changes to the City's Charter related to voter qualifications and voter registration requirements – Commissioner McGuinness.
6. City Manager's Report
7. Committee Report
8. City Solicitor's Report
9. Commissioner Announcements/Comments
10. Discuss items to include on future agendas.
11. Citizen Comment
12. Adjournment

AGENDA ITEMS MAY BE CONSIDERED OUT OF SEQUENCE.

Citizen comment regarding Old Business, New Business and Committee Reports will be heard during each agenda topic after initial discussion by the Commissioners at the discretion of the chair. Speakers shall state their name and address. Comments are limited to three minutes or at the discretion of the chair. Comments on non-agenda items will be heard under "Citizen Comment".

\*For additional information or special accommodations, please call (302) 227-6181 (TDD Accessible) 24 hours prior to the meeting.

\*\*Next scheduled meeting – (Regular) Friday, November 20, 2015; 7:00 p.m.

amw: 11/02/15; posted 11/02/15

pc (via Fax) Cape Gazette, Coast Press, State News

1 DATE: September 30, 2015  
2 VERSION: 3  
3 AUTHOR(S)/SPONSOR(S): Kyle Gulbranson, AICP, AECOM & Working Group  
4 TO: Board of Commissioners  
5

6 **Chapter \_\_\_ Vacation Rental**  
7

8 **Section 1 Title.**

9 This Chapter shall be referred to as the "Vacation Rental Ordinance."  
10

11  
12 **Section 2 Findings.**

13 The City Commissioners finds and determines as follows:

- 14 a) The use of single and multiple family dwelling units for Vacation Rental lodging purposes provides  
15 alternate visitor accommodation opportunities in the City; however, such uses in certain single-family  
16 neighborhoods may have effects that can best be addressed through an appropriate city regulatory  
17 program.  
18  
19 b) The establishment of a regulatory program for Vacation Rental lodging will provide an administrative  
20 procedure to preserve and protect the City's residential neighborhoods and provide standards and  
21 procedures for Vacation Rentals, as well as education for prospective renters on the City and expected  
22 behaviors.  
23  
24 c) The purpose of this Chapter is to establish regulations for such use of residential property thereby  
25 enabling the City to preserve residential communities and the public health, safety, and welfare.  
26  
27 d) This Chapter is not intended to regulate hotels, motels, inns, ~~time share units~~ or long term rental  
28 arrangements.  
29  
30

31 **Section 3 Definitions.**

32 For purposes of this Chapter, the following words and phrases shall have the meaning respectively ascribed to  
33 them by this Section:  
34

35 **APPLICANT** - The Owner or in the event the Vacation Rental unit is covered by an exclusive listing arrangement,  
36 the Agent or representative of the Owner  
37

38 **BEDROOM** - An area of a Vacation Rental normally occupied and being heated or cooled by any equipment for  
39 human habitation, which is 70 square feet and greater in size, consists of four walls to the ceiling, at least one  
40 of which is located along an exterior wall with a window, and contains a built-in closet  
41

42 **EXCLUSIVE LISTING ARRANGEMENT** - A written agreement between an Owner and an Agent or representative  
43 where the Agent or representative has the sole and exclusive right to rent or lease a Vacation Rental unit to  
44 any person and the Owner is prohibited from renting or leasing the Vacation Rental unit except through the  
45 Owner's Agent or representative  
46

47 **GOOD CAUSE** - For the purposes of denial, suspension, revocation, imposition of conditions, ~~placement on or~~  
48 ~~removal from the Property Watch List,~~ renewal, and reinstatement of a Vacation Rental Registration  
49 Certificate, means (1) the Applicant, Owner, the Owner's Agent, or the Local Contact Person has failed to

50 comply with any of the terms, conditions, or provisions of this Chapter or any relevant provision of this Code,  
51 State law, or any rule or regulation promulgated thereunder; (2) the Applicant, Owner, Owner’s Agent, or Local  
52 Contact Person has failed to comply with any special conditions that were placed upon the Vacation Rental  
53 | Registration Certificate by the City Manager; ~~or~~(3) the Vacation Rental has been operated in a manner that  
54 | adversely affects the public health or welfare or the safety of the immediate neighborhood in which the  
55 | Vacation Rental is located or (4) is delinquent with any taxes or fees owed to the City of Rehoboth Beach.  
56

57 **GOOD NEIGHBOR BROCHURE** - A document prepared by the City that summarizes general rules of conduct,  
58 consideration, and respect, including without limitation provisions of the Rehoboth Beach Municipal Code  
59 | applicable to or expected of renters and residents of the City  
60

61 **LOCAL CONTACT PERSON** - A local property manager, Owner or Agent of the Owner, who is available twenty-  
62 | four (24) hours per day, seven (7) days per week for the purpose of responding by telephone or in-person  
63 | ~~within forty five (45) minutes~~ to complaints regarding the condition, operation, or conduct of occupants of the  
64 | Vacation Rental, or any agent of the Owner authorized by the Owner to take remedial action and who  
65 | responds to any violation of this Cecode  
66

67 **LONG TERM RENTAL** – Any property rented longer than one hundred and twenty (120) consecutive days  
68

69 **OWNER** - The person(s) or entity(ies) that hold(s) legal and/or equitable title to a Vacation Rental  
70

71 **PROPERTY** - A residential legal lot of record on which a Vacation Rental is located  
72

73 | ~~**PROPERTY WATCH LIST**—One or more Vacation Rentals the City Manager has identified on the basis of good  
74 | cause as properties that warrant a higher level of oversight, scrutiny, review, or monitoring~~  
75

76 | **RENTAL TERM** - The period of time an occupant and/or guest ~~Responsible Person~~ rents or leases a Vacation  
77 | Rental  
78

79 | ~~**RESPONSIBLE PERSON**—An occupant of a Vacation Rental who is at least twenty five (25) years of age and who  
80 | shall be legally responsible for compliance of all occupants of the unit and/or their guests with all provisions of  
81 | this Chapter and/or this code~~  
82

83 | **VACATION RENTAL** - ~~One or more~~ A residential dwellings, including ~~either a~~ single-family detached, single-  
84 | family attached or multi family ~~or multiple family attached~~ unit, or any portion of such a dwelling, rented for  
85 | occupancy for dwelling, lodging, or sleeping purposes for a period of one hundred and twenty (120)  
86 | consecutive days or less, other than ongoing month-to-month tenancy granted to the same renter for the  
87 | same unit, occupancy on a time-share basis, or a condominium hotel  
88

89 **VACATION RENTAL REGISTRATION CERTIFICATE** - Also referred to as “Registration Certificate” means an annual  
90 registration submitted to the City pursuant to this Chapter  
91

92  
93 **Section 4 Registration Certificate Required.**

- 94 a) No Owner of a Vacation Rental shall rent that unit for a period of one hundred and twenty (120)  
95 consecutive days or less without a valid Vacation Rental Registration Certificate for a Vacation Rental  
96 pursuant to this Chapter for that unit.  
97

98 | b) The current Registration Certificate number issued by the City shall be displayed in a clear and legible  
99 | manner on all advertising related to each Vacation Rental, including without limitation, web based  
100 | advertising, print media, and television, and on the property.

101 |  
102 | ~~b)c)~~ The cost of a vacation rental registration certificate shall be twenty-five dollars (\$25) annually and be in  
103 | addition to the required annual rental license fee.

#### 104 | 105 | 106 | **Section 5 Agency.**

107 | a) An Owner may retain an Agent or a representative to comply with the requirements of this Chapter,  
108 | including, without limitation, the filing of a complete Vacation Rental registration, the management of the  
109 | Vacation Rental unit or units, and the compliance with the requirements of this Chapter. Except as  
110 | provided in Subsection (b) of this Section and notwithstanding any agency relationships between an  
111 | Owner and an agent or representative, the Owner of the Vacation Rental unit or units shall remain  
112 | responsible for compliance with the provisions of this Chapter and the failure of an agent to comply with  
113 | this Chapter shall not relieve the Owner of the Owner's obligations under the provisions of this Chapter.

114 |  
115 | b) In the event an Owner enters into an exclusive listing arrangement, the Vacation Rental Registration  
116 | Certificate may be secured ~~, and the transient occupancy registration certificate requirements provided in~~  
117 | ~~this Chapter may be performed,~~ by the Agent or representative ~~and not by the Owner. In addition, in the~~  
118 | ~~event an Owner enters into an exclusive listing arrangement, the Owner will not be required to secure a~~  
119 | ~~separate business license for the business of operating a Vacation Rental.~~

#### 120 | 121 | 122 | **Section 6 Vacation Rental Registration Requirements.**

123 | a) Prior to use of a property as a Vacation Rental, the Applicant shall in conjunction with the procedure for  
124 | obtaining a City Rental License also register the property as a Vacation Rental ~~with the City~~ annually on a  
125 | registration form furnished by or acceptable to the City Manager and signed by the Applicant under  
126 | penalty of perjury. Each application shall contain the following information:

127 |  
128 | 1) The name, address, email and telephone number of the Owner of the unit for which the Vacation  
129 | Rental Registration Certificate is to be issued.

130 | 2) The name, address, email and telephone number of the Agent, if any, of the Owner of the unit.

131 | 3) The name, address, email and twenty-four (24) hour telephone number of the Local Contact Person,  
132 | ~~and verification that the Local Contact Person can respond in person to the site of the Vacation~~  
133 | ~~Rental within forty five (45) minutes.~~

134 | 4) The address of the residential property proposed to be used as a Vacation Rental.

135 | 5) The number of bedrooms contained within the vacation rental unit, ~~and the applicable overnight~~  
136 | ~~occupancy limit of the unit consistent with the provisions of Section 7(b).~~

137 | ~~6) Evidence of a valid business license issued by the City for the separate business of operating~~  
138 | ~~Vacation Rentals or submission of a certificate that Owner is exempt or otherwise not covered by the~~  
139 | ~~City's Business Tax Ordinance for such activity.~~

140 | ~~7) Evidence of a valid transient occupancy registration certificate issued by the City for the Vacation~~  
141 | ~~Rental unit.~~

142 | ~~8)6)~~ Acknowledgement of receipt and inspection of a copy of all regulations pertaining to the operation  
143 | of a Vacation Rental.

144 | ~~9)7)~~ Such other information as the City Manager deems reasonably necessary to administer this Chapter.

145 |

146 b) The registration of a Vacation Rental shall be accompanied by a fee established by resolution of the City  
147 Commissioners, provided, however, the fee shall be no greater than necessary to defer the cost incurred  
148 by the City in administering the provisions of this Section.

149  
150 c) A Vacation Rental Registration Certificate may be denied if a Registration Certificate for the same unit and  
151 issued to the same Owner has previously been revoked pursuant to Section 9. The denial of a Registration  
152 Certificate for any reason may be appealed in accordance with to the provisions of Chapter \_\_\_ of the  
153 Municipal Code.

154  
155 d) Upon change of property ownership, agent, or other material facts set forth in the annual registration, a  
156 new registration for a Vacation Rental shall be required to continue operation of the Vacation Rental and  
157 within fourteen days (14) of said change the Owner or his or her agent shall submit the required  
158 registration and fee.

159  
160

161 **Section 7 Operational Requirements and Standard Conditions.**

162 a) The Owner shall use reasonably prudent business practices to ensure that the Vacation Rental unit  
163 complies with all applicable codes regarding fire, building and safety, health and safety, and all other  
164 relevant laws.

165  
166 b) ~~Annual~~ inspection is required. The Building and Licensing Department will inspect each unit at time of  
167 initial application for a Vacation Rental Registration Certificate and at least ~~triennially~~ annually thereafter  
168 to validate occupancy ratings, and to determine that the unit complies with building, health and safety  
169 requirements of the City and State. Following an inspection a notice of compliance or list of deficiencies  
170 will be provided to the Owner and Agent.

171  
172 ~~c) The Owner shall limit overnight occupancy of the Vacation Rental unit to a specific number of occupants,~~  
173 ~~with the maximum number of overnight occupants as two (2) persons within each Vacation Rental unit~~  
174 ~~plus an amount that will not exceed two (2) persons per bedroom within each Vacation Rental unit. The~~  
175 ~~number of bedrooms in a Vacation Rental shall be verified by staff using City Building records and annual~~  
176 ~~inspection, prior to the issuance of a certificate. The following chart is provided as an example of how this~~  
177 ~~Section would be applied to specific situations:~~

Number of Bedrooms	Total of Overnight Occupants
0	4
1	6
2	8
3	10
4	12
5	14
6	16
7	18

178 | ~~d)c)~~ During the ~~rental~~ term each Vacation Rental unit is rented, the Owner, his or her Agent, and/or the Local  
179 | Contact Person designated by the Owner, shall be available twenty-four (24) hours per day, seven (7) days  
180 | per week for the purpose of (1) responding by telephone ~~within fifteen (15) minutes of to~~ complaints ~~by~~  
181 | ~~telephone~~ from the City Police Department or other City Official and (2) responding in-person ~~within forty-~~  
182 | ~~five (45) minutes~~ to any additional or successive complaints regarding the condition, operation, or conduct  
183 | of occupants of the Vacation Rental when contacted directly by telephone of a serious violation or  
184 | situation that requires immediate attention or action.

185 |  
186 | ~~e)d)~~ The Owner shall use reasonably prudent business practices to ensure that the occupants and/or guests of  
187 | the Vacation Rental unit do not create unreasonable noise disturbances, engage in disorderly conduct, or  
188 | violate provisions of the Municipal Code or any State law.

189 |  
190 | ~~f)~~ ~~Prior to occupancy pursuant to each separate occasion of rental of a Vacation Rental, the Owner or the~~  
191 | ~~Owner's agent or representative shall enter into a written rental agreement with a Responsible Person~~  
192 | ~~where (1) the Responsible Person will provide the Responsible Person's name, age, address, and a copy of~~  
193 | ~~a government issued identification; (2) establishes and sets out the terms and conditions of the rental~~  
194 | ~~agreement, including without limitation occupancy limits, noise prohibitions, and vehicle parking~~  
195 | ~~requirements; (3) requires the Responsible Person to acknowledge and agree that he or she is legally~~  
196 | ~~responsible for compliance of all occupants of the Vacation Rental or their guests with all provisions of this~~  
197 | ~~Chapter and/or the Municipal Code; and (4) the Owner or the Owner's Agent provides a copy of the "Good~~  
198 | ~~Neighbor Brochure" to the Responsible Person.~~

199 |  
200 | ~~g)e)~~ The Owner, ~~or~~ his or her Agent, ~~and/or Local Contact Person~~, shall, upon notification that ~~the responsible~~  
201 | ~~person, including~~ any occupant and/or guest of the Vacation Rental unit, has created unreasonable noise  
202 | or disturbances, engaged in disorderly conduct, or committed violations of provisions of the Municipal  
203 | Code or any State law, shall promptly respond in a timely and appropriate manner to prevent a recurrence  
204 | of such conduct by those occupants or guests. For the purpose of this Subsection and Subsection (h)  
205 | below, ~~the following procedure shall be used to respond to identified violations or complaints: the phrase~~  
206 | ~~"in a timely and appropriate manner" shall mean each of the following three components:~~

- 207 | i. The use of reasonably prudent business practices to contact the ~~occupant and/or guest~~  
208 | ~~Responsible Person within fifteen (15) minutes~~ by telephone for a first incident reported directly  
209 | by telephone by the City Police Department or other City Official of a serious violation or  
210 | situation that requires immediate attention;
- 211 | ii. In-person contact ~~within forty five (45) minutes~~ for a first call from the ~~City if Hotline if contact~~  
212 | ~~with the occupant and/or guest Responsible Person cannot be reached by telephone by the~~  
213 | ~~Owner, Agent or Local Contact Person is not made by telephone~~ and for each subsequent or  
214 | successive incident during a rental term;
- 215 | iii. ~~The Owner, Agent or Local Contact Person shall Rr~~report back to the contacting ~~City Police~~  
216 | ~~Officer or~~ City Official of the disposition and handling of the reported incident, ~~within forty five~~  
217 | ~~(45) minutes of each call from the contacting City Official.~~
- 218 | iv. Complaints of a less serious nature will be reported the next day to the City. A notice of  
219 | complaint will be ~~emailed or~~ mailed to the Owner, ~~Agent~~ and ~~Local Contact Person local~~  
220 | ~~representative~~ and also provided to the City Manager. The City Manager may follow up directly  
221 | with the Owner and representative to determine disposition or resolution to the complaint or  
222 | situation.
- 223 | v. All complaints either of a serious/immediate nature or less serious nature will result in written  
224 | notice of complaint being provided to the Owner and representative.



225 vi. Complaints will be recorded by property and information will be made part of the Vacation  
226 Rental registration file.

227  
228 h) Failure of the Owner or his or her agent to respond to calls or notice of complaints regarding the  
229 condition, operation, or conduct of occupants of the Vacation Rental in a timely and appropriate manner  
230 shall be grounds for imposition of penalties as set forth in this Chapter. It is not intended that an Owner,  
231 Agent, or Local Contact Person act as a peace officer or place himself or herself in an at-risk situation.

232  
233 ~~i) Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of~~  
234 ~~collection by the collectors and between the hours of five a.m. and eight p.m. on scheduled trash~~  
235 ~~collection days. The Owner of the Vacation Rental unit shall use reasonably prudent business practices to~~  
236 ~~ensure compliance with all the provisions of Chapter \_\_\_\_ of the Municipal Code, and shall provide "walk-in~~  
237 ~~service" or as may otherwise be approved by the City Manager.~~

238  
239 ~~h)i)~~ The Owner of the Vacation Rental unit shall post a copy of the Registration Certificate and a copy of the  
240 conditions set forth in this Section in a conspicuous place within the unit.

241  
242 ~~k)j)~~ The Owner shall provide each occupant of a Vacation Rental with the following information prior to  
243 occupancy of the unit and/or post such information in a conspicuous place within the unit:

244  
245 1) The name of the Managing Agency, Agent, Rental Manager, Local Contact Person, or Owner of the  
246 unit, email and a telephone number at which that party may be reached on a twenty-four (24) hour  
247 basis;

248 ~~2) The maximum number of overnight occupants~~  
249 ~~3)2)~~ The trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash or  
250 refuse on the exterior of the property;

251 ~~4)3)~~ Notification that the occupant may be cited or fined by the City and/or immediately evicted by the  
252 Agent or Owner pursuant to State law, in addition to any other remedies available at law, for  
253 creating a disturbance or for violating other provisions of this Chapter and the City Noise Ordinance,  
254 a copy of the City's Noise Ordinance is to be provided;

255 ~~5)4)~~ Notification that failure to conform to the occupancy requirements of the Vacation Rental unit is a  
256 violation of this Chapter;

257 ~~6)5)~~ Provide a copy of the Good Neighbor brochure.

258  
259 l) The use of a Vacation Rental unit shall not violate any applicable conditions, covenants, or other  
260 restrictions on real property.

261  
262 m) The City Manager shall have the authority to impose additional standard conditions, applicable to all  
263 Vacation Rental units, as necessary, to achieve the objectives of this Chapter. A list of all such additional  
264 standard conditions shall be maintained and on file in the office of the City Clerk and such offices as the  
265 City Manager designates.

266  
267 n) Notwithstanding the provisions of Subsection (~~ma~~) above, upon a determination of good cause, the City  
268 Manager may impose additional or special standards or requirements for ~~(1) the determination or~~  
269 ~~placement of properties on the Property Watch List; (2)~~ placement or imposition of special conditions or  
270 performance standards for Owners, Owner's Agents, Local Contact Persons for a particular property; ~~and~~  
271 ~~their affected Vacation Rentals on the Property Watch List; and (3) removal of a Vacation Rental from the~~  
272 ~~Property Watch List.~~

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- o) The standard conditions may be modified by the City Manager upon request of the Owner or his or her Agent based on site-specific circumstances for the purpose of allowing reasonable accommodation of a Vacation Rental. All requests must be in writing and shall identify how the strict application of the standard conditions creates an unreasonable hardship to a property such that, if the requirement is not modified, reasonable use of the property for a Vacation Rental would not be allowed. Any hardships identified must relate to physical constraints to the subject site and shall not be self-induced or economic. Any modifications of to the standard conditions shall not further exacerbate an already existing problem.
- p) The City Manager shall have the authority to establish administrative rules and regulations consistent with the provisions of this Chapter for the purpose of interpreting, clarifying, carrying out, furthering, and enforcing the requirements and the provisions of this Chapter. A copy of such administrative rules and regulations shall be on file in the office of the City Clerk.

**Section 8 Audit.**

Each Owner and Agent or representative of any Owner shall provide access to each Vacation Rental and any records related to the use and occupancy of the Vacation Rental to the City Manager at any time during normal business hours, for the purpose of inspection or audit to determine that the objectives and conditions of this Chapter are being fulfilled.

**Section 9 Violations.**

- a) Any person who uses, or allows the use of, residential property in violation of the provisions in this Chapter is guilty of a misdemeanor for each day in which such residential property is used, or allowed to be used, in violation of this Chapter. Violations are punishable pursuant to Sections \_\_\_\_\_ and the administrative citation provisions of Chapter \_\_\_\_ of the Municipal Code, except that the fine for a first violation shall be two hundred fifty dollars (\$250) and each subsequent violation shall be five hundred dollars (\$500).
- b) Notwithstanding the provisions of Chapter \_\_\_\_, any citation or pre-citation or courtesy warning issued for violations specified in this Section may provide for a reasonable compliance date or time of less than fifteen (15) calendar days ~~but at least thirty (30) minutes~~ from the date or the time the citation or pre-citation warning is given if, due to the nature of the violation, a shorter compliance period is necessary or appropriate, as determined in the reasonable judgment of the city official issuing the citation or notice.
- c) Upon the third violation or complaint in any twelve (12) month period to this Ordinance or for noise or disorderly conduct, ~~the City Manager may place the unit on the Property Watch List until satisfactory compliance is achieved. Upon the third violation or complaint,~~ the City Manager shall call for a meeting with the property owner and representative to determine the causes of such violation, complaints or behavior, and solutions to resolve the situation.
- d) Should after numerous complaints, violations and meetings with the property owner and representatives of properties with three or more violations on the Watch List, and adequate resolution of the particular problems are not resolved, the City Manager for good cause may not renew the Vacation Rental Registration Certificate for the particular property. Applicants may appeal a decision of the City Manager regarding non-renewal to the City Commissioners.

321 e) Any person who fails to timely register a Vacation Rental or pay any fee or charge provided in this Chapter  
322 within the time required shall pay a penalty in the amounts established by the City Commissioners by  
323 resolution. Such penalty may also include interest from the date on which the fee or charge became due  
324 and payable to the City until the date of payment.  
325

326 f) The remedies provided for in this Section are in addition to, and not in lieu of, all other legal remedies,  
327 criminal or civil, which may be pursued by the City to address any violation of this code or other public  
328 nuisance.  
329

330  
331 **Section 10 Requirements Not Exclusive.**  
332 The requirements of this Chapter shall be in addition to any license, permit, or fee required under any other  
333 provision of this Code. The issuance of any permit pursuant to this Chapter shall not relieve any person of the  
334 obligation to comply with all other provisions of this Code pertaining to the use and occupancy of Vacation  
335 Rental or the property on which it is located.

# City of Rehoboth Beach



306 Rehoboth Avenue  
Rehoboth Beach, Delaware 19971

**Building & Licensing Department**  
**(302) 227-4504**

Fax (302) 227-3336

## DRAFT APPLICATION FOR RENTAL LICENSE

Acct. #

**NEW** ( )

Tax ID#

**RENEWAL** ( )

**Please call 302-227-4504 to schedule your rental inspection. If your rental property is managed by a property management or real estate company, please have them call us to schedule. A representative must meet our inspector on site. Inspections are required annually.**

**Property Address:** \_\_\_\_\_ **Parcel #:** \_\_\_\_\_

**Completing and signing this application grants access to the rental property for inspections and for emergency purposes.**

Owner(s) Name(s) (Print): \_\_\_\_\_

Address (home): \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Best Method of Contact: Home Phone \_\_\_\_\_ Cell Phone \_\_\_\_\_ Email: \_\_\_\_\_

Home Phone #: \_\_\_\_\_ Cell Phone #: \_\_\_\_\_

Email: \_\_\_\_\_

Signature: \_\_\_\_\_

**If the property is rented through a realtor or property manager, please provide their contact information.**

Name of Realtor or Firm (Print): \_\_\_\_\_

Address (home): \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone #: \_\_\_\_\_ Email: \_\_\_\_\_

**Each rental property must provide an authorized local emergency contact who can respond 24 hours per day, 7 days per week.**

Contact Person: \_\_\_\_\_ Email: \_\_\_\_\_

Address, City, Zip: \_\_\_\_\_

Daytime Phone #: \_\_\_\_\_ Evening Phone #: \_\_\_\_\_

Optional Second Contact Person: \_\_\_\_\_ Email: \_\_\_\_\_

Address, City, Zip: \_\_\_\_\_

Daytime Phone #: \_\_\_\_\_ Evening Phone #: \_\_\_\_\_

License Fee Pursuant to §120-20. Lodging Facilities: The undersigned persons, firms and corporations engaged, for profit, in renting rooms, cottages, cabins, private houses and apartments and/or serving food within the limits of the City shall pay an annual license fee to the City Manager, for the use of the City, as follows:

**A separate Rental License is required for each rental property. The Rental License fees are as follows:**

- For **each home or apartment with at least one bedroom**: \$50, plus **each bedroom in excess of two in a home or apartment**: \$20 additional
- Efficiency apartments, **one room only** and bath: \$41
- Hotels, motels, inns, rooming houses or boardinghouses or private houses offering rooms for private rental: \$26 per room
- For each cabin: \$33
- Rental Tax is 3%

Unit Type	# of Rooms/Units	Fee Calculation	Fee
Houses			
Apartments			
Efficiency Apartments – One Room Only			
House Offering Rooms for Rent			
Cottages w/Kitchen			
Cabins – No Kitchen			
Hotel Rooms			
Motel Rooms			
Rooming Houses			
Inns			
Boarding Houses			
<b>TOTAL</b>			

Internet Listing # if applicable:

\_\_\_\_\_

Website or Listing Service:

Make Check Payable To:  
 City of Rehoboth Beach  
 Attn: B & L  
 306 Rehoboth Avenue  
 Rehoboth Beach, DE 19971

# City of Rehoboth Beach



306 Rehoboth Avenue  
Rehoboth Beach, Delaware 19971

**Building & Licensing Department**  
**(302) 227-4504**

**Fax (302) 227-3336**

## DRAFT APPLICATION FOR VACATION RENTAL CERTIFICATE

Rehoboth Beach Municipal Code (Ch. \_\_\_) requires a valid registration certificate for all vacation rental units rented 120 consecutive days or less. The annual registration fee of \$25 (per unit) must accompany this application. Please fill in all applicable spaces. For help with this form or for information, please call 302-227-4504.

Owner Name(s): _____	
Mailing Address: _____	
City, State, Zip: _____	
Telephone #: _____ Cell Phone #: _____	
Email: _____	
VACATION RENTAL PROPERTIES (attach additional sheets as necessary)	
Property Address: _____	Property Phone #: _____
Internet Listing #: _____	<input type="checkbox"/> Single Family Home <input type="checkbox"/> Condo/Apartment (check one)
Number of Bedrooms: _____	Stated or Advertised Occupancy Limit: _____
Effective Date (beginning date of renting and/or advertising, whichever is earlier): _____	
<b>Pursuant to Chapter ___ of the Rehoboth Beach Municipal Code, an authorized emergency contact person who can respond 24 hours per day, 7 days a week must be identified. Please enter below:</b>	
Contact Person: _____	
Address, City, Zip: _____	
Telephone #: _____	Email: _____
Optional Second Contact Person: _____	
Telephone #: _____	Email: _____

*I declare under penalty of perjury that this information is, to the best of my knowledge, true, correct and complete.*

Application By: _____	Date: _____
Signature: _____	VR Certificate No.: _____

For Department Use Only		
Process Date: _____	A/R Customer #: _____	Invoice #: _____

**Pools (If Applicable)**

- License Required:** Rental Pool License required for any pool located on a rental property. (MCRB 207-7)
- Qualified Pool Operator required:** Rental Pools Shall be maintained by a Qualified Pool Operator as defined by the Delaware Division of Public Health. (MCRB 206-6)
- Pool Log Required:** The Pool Operator will maintain a written log including the dates and times the pool was visited, the types of chemicals used, chemical and bacteria test, backwashing of filters, and pool cleaning. This log must remain on site and readily available for review. (MCRB 206-6)
- Installation, Enclosure, and Safety Requirements:** All installation, enclosure, and safety requirements shall meet the requirements of the 2012 International Residential Code (IRC). (2012 IRC AG / MCRB 206-4)
- Safety of Bathers, Safety Requirements:** All reasonable precautions shall be taken to protect the health, safety, and welfare of users and bathers in pools. Adequate safety requirements and equipment for rental pools shall be provided and readily accessible. (MCRB 206-8 / 206-9)

**Additional Requirements / Information**

- Please allow a 15 minute grace period for the inspector to arrive at your scheduled inspection.
- Ensure that all utilities (Electric, gas, & water) are active prior to the scheduled inspection.
- After a vacation rental dwelling inspection is complete, a letter of compliance will be issued. If violations exist, the property owner / agent will receive a list of violations and a date to have violations corrected.
- Failure to schedule an inspection may result in a citation being issued and the suspension of your vacation rental license.
- A \$\_\_ re-inspection fee may be assessed for all additional inspections past the second inspection or any scheduled inspection that is missed.
- All work to correct violations must be performed in a skilled manner. All required permits must be obtained. All contractors used for repairs must be licensed with the City of Rehoboth Beach.
- City of Rehoboth Beach Codes and Ordinances may be viewed online at [www.CityofRehoboth.com](http://www.CityofRehoboth.com).

**City of Rehoboth Beach**  
**Building & Licensing Department**

306 REHOBOTH AVENUE Phone: 302-227-4504  
 REHOBOTH BEACH, DE Fax: 302-227-3336

[www.CityofRehoboth.com](http://www.CityofRehoboth.com)

# Vacation Rental Housing Inspections

City of Rehoboth Beach  
 Building & Licensing Department



**A GUIDE FOR LANDLORDS, TENANTS AND  
 PROPERTY MANAGERS ON INSPECTION  
 STANDARDS DURING A VACATION RENTAL  
 INSPECTION.**

Tel: 302-227-4504

Fax: 302-227-3336

This checklist was developed to assist property owners, tenants and property managers on items inspected during a vacation rental inspection and is not meant to be all inclusive. Code references, Guidelines and Ordinances are condensed versions of the 2012 International Property Maintenance Code, department policy and ordinances as adopted by the City of Rehoboth Beach. The checklist contained within this guide is to be considered the **MINIMUM** that a City of Rehoboth Inspector will verify.

**Exterior property areas**

- Accessory structures:** including detached garages, fences, and walls shall be maintained structurally sound and in good repair (IPMC 302.7)
- Sidewalks, driveways, walkways and parking spaces:** shall be kept in a proper state of repair and maintained free from hazardous conditions. (IPMC 302.3 / MCRB 232-1)
- Sanitation:** all exterior property and premises shall be maintained in a clean, safe, sanitary condition, and free from any accumulation of rubbish or garbage. (IPMC 302.1 / 308.1)
- Grass & Weeds:** All premises and exterior property shall be maintained from weeds, plant growth, and grass height in excess of **10 Inches**. Noxious weeds are prohibited. (IPMC 302.4)

**Exterior Dwelling**

- Doors:** Door assemblies and hardware shall be maintained in good condition. All means of egress doors shall be readily openable from the egress side without the need for keys, special knowledge, or effort. (IPMC 304.15 / 702.3)

**Exterior Dwelling (Continued)**

- Deadbolt Locks:** Doors providing access to a rented or leased dwelling unit shall be equipped with a deadbolt lock with a lock throw of not less than 1-inch and openable from the side of egress without the need for keys, special knowledge, or effort. (IPMC 304.18.1/ 702.3)
- Exterior Walls:** shall be free from holes and rotting materials; and maintained weatherproof and properly surface coated to prevent deterioration. (IPMC 304.6)
- Stairways, decks, porches, and balconies:** shall be structurally sound and capable of supporting the imposed loads. (IPMC 304.10)
- Premises Identification:** Dwellings shall have address numbers that is plainly legible and visible from the street and contrast with their background. Numbers shall be a minimum of 4-inches high with a minimum stroke width of 0.5 inch. (IPMC 304.3)

**Interior Dwelling**

- Interior structure and equipment:** therein shall be maintained in good repair, structurally sound, and in sanitary condition. (IPMC 305.1)
- Interior doors:** Every interior door shall properly fit within the frame and open and close easily. The door shall properly and securely attach to jambs, headers, or tracks. (IPMC 305.6)
- Mechanical appliances:** shall be properly installed and maintained and shall be capable of performing the intended function. (IPMC 603.1)
- Ventilation:** Every bathroom or toilet room shall be vented by a window or mechanical ventilation system that discharges to the outdoors and shall not be recirculated. (IPMC 403.2)
- Fire Protection Systems:** All systems, devices, and equipment to detect a fire, actuate an alarm, or suppress a fire shall be maintained in an operable condition. (IPMC 704.1)

**Interior Dwelling (Continued)**

- Smoke Alarms:** shall be installed and maintained at the following locations (IPMC 704.2);
  1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
  2. In each bedroom or room used for sleeping purposes.
  3. In each story of the dwelling, including basements.
- Receptacles:** Every Habitable space in a dwelling shall contain at least two separate and remote outlets. Every bathroom shall contain at least one receptacle. . (IPMC 605.2 )
- Ground Fault Circuit Interrupters (GFCI's):** GFCI protection is required in all bathrooms, toilet rooms, and all receptacles servicing kitchen countertop surfaces. (IPMC 102.8 )
- Panels and circuits directories:** must be covered and circuits labeled. Panels must provide adequate service and operate safely. (IPMC 605.1)

**Habitable spaces**

- Habitable Space Definition:** Space in a structure for living, sleeping, eating or cooking. ***Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar spaces are not considered habitable spaces.*** (IPMC 202)
- Room Area:** All Habitable rooms shall have a minimum clear ceiling height of 7 feet. Every living room shall contain at least 120 square feet and every bedroom shall contain a minimum 70 square feet. Every bedroom occupied by more than one person shall contain a minimum of 50 square feet of floor area for each additional occupant. (IPMC 404.4.1/ 404.3)
- Bedrooms:** Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces. (IPMC 404.4.2)



November 5, 2015

Web page capture by Commissioner Mills showing rental application and safety certification notice

The screenshot shows the website for the Town of Bethany Beach, Delaware. The header includes the town name and navigation links for Home, Documents, Site Map, and Contact Us. A search bar is also present. The main navigation menu includes About Us, Government, Services, Activities, and Visitors. The current page is titled "Licenses & Rental Tax" and is part of a breadcrumb trail: Home > Government > Departments > Finance > Licenses & Rental Tax. The page content is divided into three main sections: Business Licenses, Residential and Commercial Rental Licenses, and Real Estate Rental Tax. Each section provides information on fees, application processes, and renewal options. A sidebar on the left contains various utility links such as Online Bill Payment, Financial Statements, and E-News Signup. At the bottom of the sidebar, there are logos for CCOPE RED, Smart911, and an Emergency Alert button.

Home | Documents | Site Map | Contact Us

Search  Go

Print Page | E-Mail Page

About Us | Government | Services | Activities | Visitors

You are here: [Home](#) > [Government](#) > [Departments](#) > [Finance](#) > Licenses & Rental Tax

## Licenses & Rental Tax

### Business Licenses

Business Licenses are issued for the year beginning June 1 and ending May 31. The fee is \$180 per year. You can request a one-year, two-year, or three-year license.

Fill out the [Business License Application](#) to apply for your Business License.

If you currently have a Town of Bethany Beach Business License in good standing you may renew your license with a [credit card payment online](#).

### Residential and Commercial Rental Licenses

Residential and Commercial Rental Licenses are issued for the year beginning June 1 and ending May 31. The fee is \$50 per year.

Fill out the [Rental License Application](#) to apply for your Rental License.

If you will be renting your property in Bethany Beach any time during the year you are required under Chapter 102 of the Code of Bethany Beach to obtain a Rental License for each unit that you rent.

Please [click here](#) to view the Safety Certification Form for rental property licenses.

### Real Estate Rental Tax

Real Estate Rental Tax is payable to the Town semi-annually and is based on the gross rental income received.

The Town of Bethany Beach Rental Tax Rate on residential and commercial space is 6% of gross receipts.

The Town of Bethany Beach Rental Tax rate on rental properties subject to the State Accommodations tax is 3% of gross receipts.

Rental Tax may be paid with a [credit card payment online](#).

Online Bill Payment

Financial Statements

Budget & Schedule of Fees

Licenses & Rental Tax

Requests, Concerns, Compliments

E-News Signup

E-Services

Town Code, Charter & Non-Residential Guidelines

COPE RED

Smart911™

Emergency Alert

f t

**APPLICATION**  
**RESIDENTIAL AND COMMERCIAL RENTAL LICENSE**  
**TOWN OF BETHANY BEACH**  
**PO BOX 109**  
**BETHANY BEACH DE 19930**

Anyone who operates any kind of business in Bethany Beach, Delaware, must have a license. This includes the rental of rooms, cottages, apartments, motels, townhomes, condominiums, or other forms of domestic occupancy, and the rental of commercial property. **No residential rental license will be issued without the Safety Certification completed and notarized.**

**PROPERTY:** \_\_\_\_\_

Type of Rental Property (please check only one):

- |                                                                                                                     |                                                                                 |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| <input type="checkbox"/> Apartment Building<br># of apartments rented _____                                         | <input type="checkbox"/> Rooming or Boarding House<br># of sleeping rooms _____ |
| <input type="checkbox"/> Cottage or Home (single family dwelling)<br># of sleeping rooms _____                      | <input type="checkbox"/> Motel                                                  |
| <input type="checkbox"/> Townhouse or Condominium                                                                   | <input type="checkbox"/> Commercial Property<br># of units rented _____         |
| <input type="checkbox"/> Duplex (Do you rent both units: yes <input type="checkbox"/> no <input type="checkbox"/> ) | # of apartment units _____                                                      |

II. During which of the following periods do you plan to rent? Please fill in the years.

- May \_\_\_\_\_ to September \_\_\_\_\_  
-----October \_\_\_\_\_ to April \_\_\_\_\_

III. Real Estate Agency that handles your rentals \_\_\_\_\_  
(Even if your property is handled by a Realtor, you still must apply for a license.)  
If you handle your own rentals at least part of the time, check here

IV. Other Information

- All persons who own property in Bethany Beach, if such property is used to provide houses, apartments, townhouses, duplex units, or condos to tenants, must, in addition to obtaining a rental license each year, pay a 6% tax on the gross rental income of each establishment; those who provide commercial space to tenants must pay a 6% rental tax; and those providing motel rooms or boarding houses who are subject to the State of Delaware Accommodations Tax, must pay a 3% tax. Payment of the tax shall be the responsibility of the owner except where the rental is handled by a Realtor, in which case the latter shall collect and pay the tax.
- A separate license is required for each rental unit.
- A fee of \$50.00 is required for each license. Please make checks payable to TOWN OF BETHANY BEACH.
- Applications and fees and safety certification for rental licenses are due by **JUNE 1**.
- An additional administrative fee of \$50 will be charged if this license is not renewed by June 1<sup>st</sup>. The properly notarized safety certification must be received before a residential rental license will be issued. Failure to submit the notarized certificate by June 1<sup>st</sup> will result in the additional \$50 fee.**

PLEASE **SIGN** AND RETURN THE APPLICATION, NOTARIZED SAFETY CERTIFICATION AND ASSOCIATED FEES TO:

Town of Bethany Beach  
PO Box 109  
Bethany Beach DE 19930

(Incomplete and/or unsigned applications  
cannot be processed)

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Mailing Address



## Safety Certification For Rental Property License Application

**Owner or Rental Agent Name:** \_\_\_\_\_

**Owner Home or Rental Agent Business Address:** \_\_\_\_\_

**Owner Home or Rental Agent Business Phone Number:** \_\_\_\_\_

**Owner or Rental Agent e-mail Address:** \_\_\_\_\_

**Bethany Beach Rental Property Address:** \_\_\_\_\_

**Bethany Beach Rental Property Phone Number:** \_\_\_\_\_

For a rental license to be issued or renewed by the Town of Bethany Beach, compliance to the following minimal safety related items must be certified and notarized by the property owner or rental agent to be in place and be in good working order in each rental property. The Town of Bethany Beach will notarize this certificate free of charge.

- **Battery Operated Smoke Detectors**  
A minimum of one battery operated smoke detector shall be placed on each level of the structure and one smoke detector shall be placed in each bedroom/sleeping quarters. The owner of the property or the property rental agent shall install fresh alkaline energy or lithium ion batteries in each smoke detector at the time of the application for the issuance or the renewal of a rental license.
- **Exterior Doors**  
All exterior doors equipped with a deadbolt lockset must easily be opened from the inside without the use of a key.
- **Ground Fault Circuit Interrupter (GFCI)**  
GFCI protection is required for all outdoor receptacles, bathroom receptacles, garage wall outlets, kitchen receptacles and all receptacles in crawl spaces.

- House Address Numbers  
Address numbers must be a minimum of four (4) inches high and be clearly visible from the street.
- Window Locks  
Secure locks are required for all windows within twelve (12) feet of grade and for second story windows accessible by fire escapes or stairs.

I hereby certify, under penalty or perjury, that the above rental property for which a rental license is being sought meet all of the above listed safety related requirements. I understand that in the event of the failure to comply with these requirements is determined after the issuance of a rental license that the license shall be revoked and the owner of the property may be subject to a fine and/or penalties.

Applicant or Property Owner's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

Sworn and Subscribed before me on this \_\_\_\_ day of \_\_\_\_.

Notary Public  
My Commission Expires: \_\_\_\_\_



**TOWN OF CAPE CHARLES  
CODE ENFORCEMENT**

**RENTAL INSPECTION APPLICATION  
Rental Fee \$50**

Date of Application \_\_\_\_\_

Date and Time Inspection Requested \_\_\_\_\_

Inspection Location \_\_\_\_\_

Legal Description (Block & Lot) \_\_\_\_\_

Owner's Name \_\_\_\_\_

Owner's Mailing Address \_\_\_\_\_

Owner's Telephone \_\_\_\_\_

Agent \_\_\_\_\_

Agent's Address & Telephone \_\_\_\_\_

Type of Rental:    Long Term                  Weekly/Daily

Number of Bedrooms \_\_\_\_\_ Maximum Occupants \_\_\_\_\_

Type of Heating \_\_\_\_\_ Air Conditioned \_\_\_\_\_

Home Owner's Insurance Company \_\_\_\_\_

Home Owner's Ins. Co. Address & Telephone \_\_\_\_\_

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_



TOWN OF OCEAN CITY  
P.O. Box 5000  
Ocean City, Maryland 21843-5000  
(410) 289-8833

OFFICE USE ONLY:

Control# \_\_\_\_\_

License# \_\_\_\_\_

**RENTAL LICENSE APPLICATION**  
**\*\* Used ONLY For Single Family or Condo Rentals \*\***

**SECTION 1 – BUSINESS INFORMATION**

BUSINESS / OWNER NAME: \_\_\_\_\_

RENTAL PROPERTY ADDRESS: \_\_\_\_\_

UNIT: \_\_\_\_\_ CONDO NAME: \_\_\_\_\_

**SECTION 2 – PROPERTY OWNER INFORMATION**

OWNER'S NAME: \_\_\_\_\_

OWNER'S ADDRESS: \_\_\_\_\_  
(street address)

\_\_\_\_\_ (city) (state) (zip)

OWNER'S TELEPHONE: \_\_\_\_\_  
(home telephone/cell phone) (Ocean City telephone)

OWNER'S EMAIL ADDRESS: \_\_\_\_\_

**SECTION 3 – EMERGENCY CONTACT**

EMERGENCY CONTACT or RESIDENT AGENT: \_\_\_\_\_  
(name)

\_\_\_\_\_ (address) (city) (state) (zip)

\_\_\_\_\_ (telephone number) (cell phone)

Per City Ordinance 1992-2, permission is granted to the Town of Ocean City to inspect these premises at any reasonable time prior to the issuance of during the term of this license. All properties shall be maintained in accordance with the Standard Housing Code International Property Maintenance Code and all other Town of Ocean City as well as any State or Federal Codes.

I declare that the statements contained in this application are true to the best of my knowledge and belief.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

**RENTAL LICENSE FEE \$116.00 + NOISE CONTROL PERMIT \$25.00**

**TOTAL: \$141.00**

DATE: October 5, 2015

VERSION: 1

AUTHOR: Commissioner Stan Mills

RE: Support document, Restaurant size topic, Commissioners' workshop of October 5, 2015.  
Illustrated breakdown of code sections relative to size.

### **BAR AREA**

The floor space in any restaurant or dinner theater that is used primarily for the service or consumption of alcoholic liquor and not secondary to food consumption. 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, together with all other areas of the restaurant, except the permanent seated dining area, whether contiguous to the bar or not where patrons are served or consume alcoholic liquor.

(Stan's interpretation:)

Bar area = Floor area:

- For service of alcohol
- For consumption of alcohol

Include but not limited to:

- Bar counter
- Contiguous floor and seating area where alcohol liquor is dispensed or consumed together with all other areas of the restaurant except the permanent seated dining area whether contiguous to the bar or not where patrons are served or consume alcoholic liquor.
- Dance floor
- Patio area (which is not a dining patio)

### **PERMANENT SEATED DINING AREA**

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

(Stan's interpretation:)

Permanent Seated Dining area = floor space where complete meals are served

Excludes:

- Bar area [which includes dance floor area, etc. See above.]
- Floor space of an [outdoor] dining patio.

**RESTAURANT**

**B. Where alcoholic liquor is sold or consumed on the premises,** a totally enclosed, except where a special patio license has been granted, commercial establishment which is regularly used and kept open principally for the purpose of serving complete meals to persons for consideration and 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. The service of only such food and victuals as sandwiches or salads shall not be deemed to be the service of meals. The bar area shall be no more than 25% of the square footage of the permanent seated dining area, but not to exceed a maximum of 1,000 square feet, except that any restaurant regardless of its permanent seated dining area may have a bar area of 350 square feet. The occupancy capacity must conform with the Fire Marshal's guidelines.

(Stan's interpretation:)

Restaurant (serving alcohol) =

- commercial establishment
- regularly used and kept open principally for the purpose of serving complete meals to persons for consideration
- has seating and tables for 35 or more persons
- has suitable kitchen facilities connected therewith for cooking an assortment of foods under the charge of a chef or cook.
- Bar area  $\leq$  25% of the square footage of the permanent seated dining area, but not to exceed a maximum of 1,000 square feet, except that any restaurant regardless of its permanent seated dining area may have a bar area of 350 square feet.
- The occupancy capacity must conform with the Fire Marshal's guidelines.

Permanent seated dining area  
+ Bar area  
+ Balance of floor space (e.g. restrooms, kitchen space, foyer/hallways/pathways)

---

Total restaurant floor space



§ 270-28. Limitation on size of restaurants.

[Amended 12-13-1991 by Ord. No. 1291-2]

The area in a given building devoted to restaurant purposes where alcoholic liquor is consumed on the premises shall not be larger than 5,000 square feet of floor space, including seated dining area, food storage and preparation area, passageways and entrance foyer, restrooms, dance floor and bar area, except that where a restaurant occupies space in a building also housing a hotel/motel containing at least 25 bedrooms, the area devoted to restaurant purposes may occupy up to but not more than 7,500 square feet.

(Stan's interpretations:)

- seated dining area
- + food storage area
- + food preparation area
- + passageway(s) areas
- + entrance foyer area
- + restroom areas
- + dance floor area
- + bar area

OR

- seated dining area
- + food storage area
- + food preparation area
- + passageway(s) areas
- + entrance foyer area
- + restroom areas
- + dance floor area
- + bar area

not larger than 5,000 square feet of floor space

- +other areas determined to be devoted to restaurant use
- Trash areas
- Other?

not larger than 5,000 square feet of floor space

RESTAURANT DATA SHEET			GROSS FLOOR AREA	SQ.FT FLOOR SERVICE AREA	SQ.FT PERM SEATED DINING AREA	SQ.FT FLOOR BAR AREA	SQ.FT OTHER FLOOR AREA(S)	# SEATS PERM. SEATED DINING AREA	SQ.FT PERM DINING AREA PER SEAT	SQ.FT GROSS FLOOR AREA PER SEAT	RATIO DINING : GROSS FLOOR AREA	RATIO BAR : PERM SEATED DINING AREA	RATIO PERM SEATED DINING : SERVICE AREA	# SEATS BAR AREA	RATIO BAR: GROSS FLOOR AREA	RATIO BAR AREA : SERVICE AREA	ZONING CLASSIFICATION	
	(Restaurants where alcoholic beverages are sold and consumed on premises) Compiled by Commissioner Stan Mills 11-04-15 Version One																	
DATE	NAME	ADDRESS																
2009	Green Turtle Boardwalk **	101 S. Bdwlk	7,740	4,275	1,988	550	927.00		186	11	42	0.26	0.13	0.47	26	0.07	0.13	C-2
2009	Rigby's Bar & Grill	404 Reh Av	2,194	1,109	732	343	10.00		66	11	33	0.33	0.47*	0.66	14	0.16	0.31	C-2
2009	Nicola's Too **	71 Reh Av	8,040	5,426	2,104	510	0.00		170	12	47	0.26	0.24	0.39	33	0.06	0.09	C-1
2009	Henlopen City Oyster	50 Wilmington	2,139	1,034	910	195	0.00		60	15	36	0.43	0.21	0.88	14	0.09	0.19	C-3
2010	Purple Parrot Grill	41 Wilmington	4,762	1,689	2,490	583	0.00		240	10	20	0.52	0.23	1.47	33	0.12	0.35	C-1
2010	Café Azafran	18 Baltimore	1,536	840	525	171	0.00		38	14	40	0.34	0.32	0.63	6	0.11	0.20	C-1
2010	Ocean Side Grill	19 Wilmington	4,282	2,330	1,826	126	0.00		156	12	27	0.43	0.07	0.78	9	0.03	0.05	C-1
2010	Lily's Thai Cuisine	10 N. First	1,667	819	701	146	1.00		38	18	44	0.42	0.21	0.86	6	0.09	0.18	C-1
2011	Café Sole	44 Baltimore	1,935	850	738	345	2.00		64	12	30	0.38	.47*	0.87	15	0.18	0.41	C-1
2011	Jam Bistro	21 Baltimore	2,723	1,738	812	172	1.00		78	10	35	0.30	0.21	0.47	9	0.06	0.10	C-3
2011	The Café	70 Reh Av	1,364	752	612	0	0.00		38	16	36	0.45	0.00	0.81	0	0.00	0.00	C-1`
2011	Malory Square Fish House	22 Wilmington	4,132	2,611	1,191	330	0.00		101	12	41	0.29	0.28	0.46	15	0.08	0.13	C-3
2012	Cultured Pearl **	301 Reh Av	6,948	3,482	2,937	528	1.00		212	14	33	0.42	0.18	0.84	12	0.08	0.15	C-1
2012	Salt Air	50 Wilmington	3,469	1,321	1,940	207	1.00		98	20	35	0.56	0.11	1.47	11	0.06	0.16	C-3
2012	Grotto Pizza **	36 Reh Av	14,832	10,721	3,607	504	0.00		260	14	57	0.24	0.14	0.34	20	0.03	0.05	C-1
2012	Conch Island	211 Reh Av	4,345	2,150	1,750	444	1.00		119	15	37	0.40	0.25	0.81	15	0.10	0.21	C-1
2013	Bramble & Brine	315 Reh Av	2,606	1,781	692	133	0.00		50	14	52	0.27	0.19	0.39	8	0.05	0.07	C-1
2013	Semra's Mediterranean	19 Reh Av	2,552	1,117	1,345	90	0.00		80	17	32	0.53	0.07	1.20	4	0.04	0.08	C-1
2014	Modern Mixture	62A Reh Av	1,716	1,027	628	60	1.00		42	15	41	0.37	0.10	0.61	0	0.03	0.06	C-1
2013	Avenue Inn Hotel Rest. *	33 Wilmington	3,198	1,856	1,090	252	0.00		78	14	41	0.34	0.23	0.59	8	0.08	0.14	C-1
2013	Green Turtle	52B Reh Ave	4,959	2,204	2,197	558	0.00		176	12	28	0.44	0.25	1.00	18	0.11	0.25	
2014	Flying A BBQ	251 Reh Av	1,683	698	648	337	0.00		56	12	30	0.39	.52*	0.93	13	0.20	0.48	C-1
2014	Cellar Door	20 Baltimore	4,641	2,141	2,170	329	1.00		76	29	61	0.47	0.15	1.01	16	0.07	0.15	C-1
2014	Goolie's	9 S. First	2,000	1,218	764	18	0.00		76	10	26	0.38	0.02	0.63	0	0.01	0.01	C-1
2014	Atlantic Seafood Grill *	101 N. Bdwlk	6,370	4,057	1,887	426	0.00		107	18	60	0.30	0.23	0.47	7	0.07	0.11	C-1

2015	Dough Roller	44 Reh Av	2,739	1,371	1,240	128	0.00		112	11	24	0.45	0.10	0.90	6	0.05	0.09	C-1
2015	Egg Restaurant	403 Reh Av	1,724	1,020	568	136	0.00		48	12	36	0.33	0.24	0.56	8	0.08	0.13	C-1
2015	Dogfish Head **	320 Reh Av	9,451	5,087	3,604	760	258.00		184	20	51	0.38	0.21	0.71	22	0.08	0.15	C-1
	Stingray	Lake Av	5,285	2,263	2,337	684	1.00		152	15	35	0.44	.25*	1.03	16	0.13	0.30	C-3

- Notes
1. All data in black is transcribed from Permit of Compliance reports of the building inspector. Data in blue = from formulas. ? = data missing from report.
  2. Reference City Code §215-1 within definition of restaurant: "The bar area shall be no more than 25% of the square footage of the permanent seated dining area, but not to exceed a maximum of 1,000 square feet, except that any restaurant regardless of its permanent seated dining area may have a bar area of 350 square feet."
  3. .25 noted as amended from .29 in original report.
  4. Included for sushi bar for extra analysis. Seating reported as 152 seats "16 of which are at the Sushi Bar"
  5. \*\* Two asterisks after establishment name indicates a restaurant that had requested a variance to exceed the 5,000 sq ft limit and which was approved by the Board of Adjustment at some time (not necessarily around the time of the Permit of Compliance noted)
  6. Restaurant located within a hotel. Per §270-28 Limitations on Size of Restaurant: "... where a restaurant occupies space in a building also housing a hotel/motel containing at least 25 bedrooms, the area devoted to restaurant purposes may occupy up to but not more than 7,500 square feet."
  7. Restaurant includes two buildings.

COMMENTS
Dining patio sq ft/# of patio seats if recorded + notes
750/60 Other area = entrances
576/28 *See note 2
0/0
0/0
736/not noted. Sq ft = two patios Two buildings.
351/not noted.
0/0
0/0
462/23 *See note 2
638/38
530/32
729/not noted
2,568/not noted
0/0
0/0
15
126/8 *See note 6
0/0
723/62 *See note 2
394/not noted.
0/0
?/? One patio *See note 6



DATE: November 5, 2015

VERSION: One

AUTHOR: Commissioner Stan Mills

RE: Restaurants that sought a variance over the past decade to the 5,000 sq. foot limit on restaurants where alcohol is served and consumed on premises.

12/15/06 – **Cultured Pearl**. Seeking to convert entire second floor and portions of first floor of existing hardware store into a restaurant and install a patio on the roof. Variance granted to exceed 5,000 sq ft limitation by 1,958 sq ft.

05/18/07 – **Grotto's - Rehoboth Avenue**. Seeking to enlarge patio beyond code limit of 750 sq ft to 2,569 –variance granted.

09/22/08. **Nicola Pizza/Nicola's Too**. Seeking to combine existing restaurant *and* 2-story retail store into one restaurant. Three variances requested. 1st Variance – rooftop patio of 1,355 square feet. 2nd Variance – combine two buildings and create single restaurant of 15,518 square feet. 3rd Variance – requirements for parking for restaurant over 10,000 square feet. Variances granted.

11/24/08 - **Greene Turtle** – Boardwalk. Seeking to convert entire second floor and partial first floor space of an existing hotel into a restaurant. Seeking to exceed 5,000 square feet up to 7,653.2 square feet. Variance granted.

04/27/09 – **Greene Turtle - Boardwalk**. Seeking change of floor plan and extension of time. Approved.

05/26/09 – **Nicola's Too**. Seeking to convert existing 2-story retail store into a restaurant exceeding 5,000 sq ft. Variance granted allowing 3,064 square feet over the 5,000 square foot limitation.

11/23/09 – **Greene Turtle – Boardwalk**. Seeking 3-month extension on starting construction – approved.

08/23/10 – **Nicola's Too**. Seeking additional area above approved square footage to allow a tunnel between the two buildings – approved.

05/12/11 – **Stingray**. Seeking appeal/variance to expand beyond existing exceedance of 5,000 sq foot limitation. Denied.

12/21/12 **Grotto Pizza – Rehoboth Avenue**. Seeking to rearrange the floor plan of an existing restaurant – approved.

04/27/15 – **Dogfish Head**. Seeking to demolish an existing 8,280 sq ft restaurant and replace with a new restaurant building. Seeking size variance of 4,400 +/- sq ft above 5,000 sq ft limit. Variance denied.

05/18/15 – **Dogfish Head**. Seeking a rehearing – approved.

06/19/15 – **Dogfish Head**. Seeking to demolish an existing 8,280 sq ft restaurant and replace with a new restaurant building. Variance granted allowing 9,451 square feet total size.

DATE: September 29, 2015

VERSION: 1

AUTHOR: Commissioner Stan Mills

RE: Support document for discussion of "status of brewery-pubs as related to the City's applicable zoning and licensing requirements" on the agenda of the Commissioners' workshop meeting of October 5, 2015.

### **Delaware State Code relative to Brewery-Pubs.**

**(Other codes may be applicable.)**

DEL CODE § 512B : **Delaware Code - Section 512B: BREWERY-PUBS** Search DEL CODE § 512B : Delaware Code - Section 512B: BREWERY-PUBS - See more at:

<http://codes.lp.findlaw.com/decode/4/5/II/512B#sthash.8SwTRFHL.dpuf>

(a) Subject to the provisions, restrictions and prohibitions of this title, the Commissioner may grant a brewery-pub license to each qualified applicant therefor. No person shall own or operate a brewery-pub unless licensed to do so by the Commissioner. For purposes of this section, a "brewery-pub" shall be an establishment in which beer is manufactured on the premises of the licensed establishment, limited to restaurants owned or leased by the brewery-pub applicant.

(b) The following conditions and restrictions shall apply to the holder of each brewery-pub license:

(1) It must be situated on the premises of, or be physically a part of, a restaurant;

(2) It may brew, bottle, and sell beer at no more than 2 licensed establishments, provided that each such licensed establishment qualifies as a separate brewery-pub under this section;

(3) It shall brew no more than 4,000 barrels of beer in any calendar year;

(4) It may sell beer manufactured on licensed premises in labeled barrels, bottles, or other closed containers to wholesalers licensed under this title for delivery by them to persons inside or outside this State;

(5) It may sell at the licensed premises beer manufactured on the licensed premises at retail for consumption off the premises;

(6) It may sell at the licensed premises beer manufactured on the licensed premises for on-premises consumption, and

(7) It shall be prohibited from owning, operating or being affiliated with any other manufacturer or importer of alcoholic liquor, either in or without this State; except that the holder of a brew-pub license may own, operate or be affiliated with a brewery or a microbrewery licensed under this chapter and actually located within this State.

(c) It shall be unlawful for a person to operate a brewery-pub if:

- (1) The restaurant portion of the licensed establishment fails to offer complete meals for consideration to patrons or fails to operate as a bona fide restaurant as defined by Commissioner rules or this title;
  - (2) The license is denied, cancelled, suspended or revoked for any of the grounds contained in § 543 or § 561 of this title;
  - (3) The business is transferred to a different location.
- (d) This section shall not prohibit the granting of a restaurant license to sell alcoholic liquors, for on-premises consumption, as provided in § 512 of this title.
- (e) The Commissioner may make and publish such rules and regulations with respect to the assessment and payment of the tax on beer, as contained in § 581 of this title, as it deems proper, and all such rules and regulations that are not inconsistent with this title shall have the force and effect of law.
- (f) Notwithstanding any other provision of this title to the contrary, the holder of a brewery-pub license may also make, bottle and sell a malt-based alcoholic liquor that is fermented or distilled on the premises, subject to the following conditions and restrictions:
- (1) All of the conditions and restrictions relating to beer set forth in subsection (b) of this section; and
  - (2) For purposes of calculating taxes under § 581 of this title, malt-based alcoholic liquor that is fermented or distilled on the premises shall be considered as beer and the tax on it shall be calculated on the amount in barrels of malt-based beverage prior to fermentation or distillation. 68 Del. Laws, c. 205, § 1; 70 Del. Laws, c. 469, §§ 1, 2; 71 Del. Laws, c. 83, § 1; 72 Del. Laws, c. 486, § 9; 73 Del. Laws, c. 225, § 1.; - See more at: <http://codes.lp.findlaw.com/decode/4/5/II/512B#sthash.8SwTRFHL.dpuf>



**ORDINANCE # \_\_\_\_\_**

**AN ORDINANCE OF THE COMMISSIONERS OF THE TOWN OF DEWEY BEACH  
APPROVING A CONDITIONAL USE APPLICATION  
SUBMITTED BY DEWEY BEER & FOOD COMPANY, LLC  
FOR A RESTAURANT BUSINESS WITH DELAWARE ABCC RESTAURANT  
ALCOHOL AND BREWPUB LICENSES TO BE LOCATED AT  
2100 COASTAL HIGHWAY, DEWEY BEACH, DELAWARE 19971**

**WHEREAS**, Dewey Beer & Food Company, LLC (the “Applicant”) has submitted an application for approval of a conditional use regarding operation of a business that will be a restaurant with Delaware ABCC (Alcohol Beverage Control Commission) restaurant alcohol and brew pub licenses as an expansion and change in use of the non-conforming restaurant Bubba’s which does not have a current ABCC liquor license;

**WHEREAS**, the proposed primary use, i.e., “restaurant”, is a conditional use in the Town of Dewey Beach requiring conditional-use approval under Table 3, Uses in Resort Business Districts, of Chapter 185, Zoning, of the Town of Dewey Beach Municipal Code;

**WHEREAS**, the Town Commissioners of the Town of Dewey Beach find that the inclusion of a small, brewery-pub as part of the operation of a restaurant licensed in the Town of Dewey Beach and holding valid Delaware ABCC restaurant alcohol and brew pub licenses is an ancillary function of such a restaurant and may be permitted under a conditional-use approval process provided the brewery-pub function is secondary to and supportive of the normal restaurant operations which shall always be the sales of complete meals to dining patrons;

**WHEREAS**, Section 185-25. D.(1)(c) of the Dewey Beach Municipal Code, 2005, as amended, incorporated by reference in Section 185-25.1(D), provides that, “All restaurants, bars and eateries in existence as of the date of the adoption of Ordinance No. 228 (April 11, 1992) may continue to operate the facility as before the adoption of said ordinance as a nonconforming (“grandfathered”) facility. The status of the nonconforming, grandfathered facility shall terminate and the facility shall be required to operate in conformity with this Code, § 185-25D, § 185-35A, and § 185-35 B, if there is a[n]: [1] Expansion of or addition to the existing building or existing outside service area except as required by applicable codes or insurance requirements. [2] Reduction of the percentage of patron area committed to seated dining. [3] Reduction of service areas by internal rearrangement for the purpose of creating an increase in the bar areas of more than 100 square feet of floor space as of the date of the adoption of Ordinance No. 234 (July 10, 1992)”; and

**WHEREAS**, Section 185-40 of the Dewey Beach Municipal Code, 2005, as amended, provides that, “[s]pecial requirements may be imposed as conditions to any site plan approval, conditional use approval, special exception approval, or any other approval to protect the health, safety, and welfare of the general public.”

**NOW, THEREFORE, BE IT RESOVED BY THE TOWN COMMISSONERS OF THE TOWN OF DEWEY BEACH, DELAWARE IN SESSION MET THIS \_\_\_\_<sup>th</sup> DAY OF \_\_\_\_\_, 2014, THAT:**

**Section 1.** After reviewing the Applicant’s proposal and site plan and the report and recommendation from the Town Planning Commission, the Town Commissioners of the Town of Dewey Beach find that the location is appropriate, the public health, safety, morals and general welfare will not be adversely affected, adequate off-street parking facilities will be provided, the use will not contribute to a traffic problem on congested roads, and that the necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

**Section 2.** The Town Commissioners of the Town of Dewey Beach hereby grant conditional-use approval to Dewey Beer & Food Company, LLC for a restaurant with ABCC restaurant alcohol and brew pub licenses to be located at 2100 Coastal Highway, Dewey Beach, Delaware 19971 under the conditions enumerated herein in Section 3.

**Section 3.** This conditional-use approval shall be subject to all applicable provisions of U.S. Federal, State of Delaware, Sussex County and Town of Dewey Beach Code, and the following enumerated conditions which are applicable to the Applicant’s entire property at 2100 Coastal Highway, Dewey Beach, Delaware 19971:

**A. Conditions for the operation of a restaurant in Dewey Beach, including standard conditions contained in Town code under 185-25. D.(1)(a)[1] “Restaurant, with or without an ABCC license”, elsewhere in Town Code and related restaurant conditional-use approvals, and in related portions of Delaware State Code, including:**

- 1) The primary use of the facility shall be that of a restaurant. As per Delaware State Code, Title 4 Section 543, “The word ‘Restaurant’ means any establishment which is regularly used and kept open principally for the purpose of serving complete meals to persons for consideration.” And, “[t]he service of only such food and victuals as sandwiches or salads shall not be deemed to be the service of ‘meals.’”;
- 2) The proposed restaurant shall be operated in a manner that is consistent with all written and agreed upon representations made by the Applicant during the application process, including in their preliminary application package, revised site plans, and informational presentations. These materials are attached to this conditional-use approval and their specific voluntary conditions incorporated herein.
- 3) Seated dining for 35 or more patrons must be provided;
- 4) A minimum of 80% of the patron area, exclusive of kitchens, storage areas, offices, outside service areas, and rest rooms, must be permanently committed to seated dining, and said seating areas may not be altered, moved, or removed;

- 5) A maximum of 20% of the patron area, exclusive of kitchens, storage areas, offices, outside service areas, and rest rooms, may be designated as bar area, where stand-up consumption of alcoholic beverages by patrons is permitted;
- 6) In the area designated for seated food service, alcoholic beverages shall only be served to dining patrons;
- 7) No stand-up consumption of alcoholic beverages in the area designated for seated food service is permitted;
- 8) All tables and chairs shall be maintained in the configuration shown in the approved conditional-use application;
- 9) Occupancy shall not exceed the Occupancy Limit(s) determined by the Fire Marshall's Office. If the bar area is separated from the dining area by walls or partitions, the number of patrons in the bar area cannot exceed the Fire Marshall's occupancy limit for that specified area;
- 10) Kitchen facilities shall be under the direction of a chef or cook;
- 11) There shall be no change to the approved floor plan, including no erection of any temporary or permanent staging without Town approval as a special event;
- 12) No service or consumption of alcoholic beverages shall be permitted in the entrance or waiting areas;
- 13) No outdoor public address system, amplifiers, or speakers are permitted on the Applicant's property;
- 14) All exterior windows and doors to the restaurant shall be closed at 11:00 p.m.;
- 15) All interior speakers in the restaurant portion of the building shall be directed towards the interior space and away from any exterior door, window, or wall;
- 16) The Applicant, during periods of normal operations, shall remove any and all litter accumulating in the public space, including street storm sewer intakes, bordering the property along Coastal Highway and Saulsbury Street each day before 8:00 a.m.;
- 17) The Applicant shall not "engage in any trade practice which can reasonably be expected to cause, encourage, or induce a consumer to purchase, receive, or consume alcoholic beverages in excessive amounts or at an unduly rapid rate and shall include, but not be limited to, the following: d. Promoting, sponsoring, conducting, or participating in any event that is in any way conditional upon or involves consumption of alcoholic beverages, and e. Offering or selling two (2) or more drinks for the regular price of one." (State of Delaware, Department of Public Safety, Division of Alcoholic Beverage Control under Rule #2).

**B. Conditions for a restaurant in a mixed-use structure in a Residential Business 2 (RB-2) Zoning District to protect neighboring RR (Resort Residential) residences from undue noise, odor, congestion or other nuisance:**

- 18) Brewery Restaurant/Brewpub hours of operation from 7:00 am to 11:30 pm. Last seating at 10:45 pm and patrons must leave the premises by 11:30 pm;
- 19) No amplified live entertainment, including DJs/disk jockeys and MCs/master of ceremonies, shall be permitted on the Applicant's property except when approved by the Town Commissioners under a Special Event Permit;
- 20) There shall be no outside service area(s) except by approval under a Special Event Permit or subsequent conditional-use approval;
- 21) The Applicant shall provide a minimum of one (1), appropriately lined and signed, off-street parking space dedicated for patron handicap parking for the restaurant;
- 22) The Applicant shall erect, unless there is an existing fence in this location, and maintain a fence along the East edge of the property to buffer impacts on abutting RR (Resort Residential)-zoned residential properties. This fencing shall begin twenty-two feet (22') from the property line on Saulsbury Street and be a minimum of six-feet six-inches high. This fencing shall be constructed in accordance with Section 185-92 of Town Code;
- 23) Tiered plantings shall be installed and maintained along the East boundary of the property for the first twenty-two feet from the Saulsbury Street property line, in order to protect the neighboring properties' privacy and protect said properties from light and noise resulting from the Applicant's operations. This planted buffer area shall be a minimum of two-feet six-inches wide. Such tiered plantings shall include ground-level plants and/or ground cover, mid-height shrubberies, and a tree canopy. The planting plan shall be approved by the Town Code Enforcement Official or designee;
- 24) All kitchen and brewery-pub exhaust outlets shall be located a minimum of 30 feet from any residential property unless such positioning conflicts with fire and health department requirements;
- 25) The Applicant shall provide and maintain lighting in the parking area during normal hours of operations. Such lighting shall be designed and maintained so as not to unreasonably impact the residential neighbors as per Section 185-38 C of the Town Code;
- 26) Entrances to any and all commercial-use space(s) on the North side of the building shall be kept closed at all times except for emergencies with such use approved by consent of the adjoining property owner if necessary, and entrances to any and all commercial-use space(s) on the East side of the building shall be kept closed at all times except when being used for deliveries and/or removal of waste and trash. Any windows adjoining

toilet, kitchen or storage areas of any and all commercial-use spaces(s) shall be kept closed at all times;

- 27) All exterior mechanical equipment visible from public streets and adjacent residential-use properties or any residential zoning district shall be appropriately screened so as not to create a nuisance. Any such screening plan shall be approved by the Town prior to installation;

**C. Conditions for the operation of a “brewpub” beyond those of a simple restaurant:**

- 28) To ensure the brewery function is of secondary importance, brewery/brewhouse capacity shall be limited to a seven (7) beer barrel system; beer creation shall be limited to five (5) days a week Monday through Friday during the “in season” defined as May 15 through September 15; Beer creation shall be limited to restaurant days of operation during the “Off-Season” defined as September 16 through May 14; and beer creation shall be limited to a maximum of two (2) brew batches per day;
- 29) Operation of any and all brewery-pub functions within a restaurant in Dewey Beach shall only be permitted upon approval by a majority of Town Commissioners of a conditional-use application detailing such proposed functions, possession of valid Delaware ABCC restaurant alcohol and brewpub licenses, and in compliance with all Town, County, State and Federal agencies with oversight- or regulatory authority over such operations;
- 30) ‘Meals’ shall be considered to mean the normal meals provided at breakfast, lunch and dinner, offered from menus consisting of, but not limited to: breakfast foods, soups, appetizers, entrees, salads, vegetables, desserts and beverages other than alcohol, as defined in Delaware State Code (insert citation);
- 31) The brewery function of the restaurant shall be designed and operated so as to have no offensive brewery-related air-borne or water-borne emissions including odors from storage of solid or semi-solid waste or by-product and create no public or private nuisance. To this end, all brewery-related equipment shall conform to industry standards. . The Applicants will work with the Town to ensure the resulting emissions into the local environment will have minimal odors and will be contaminant free, and to install condensers or similar equipment to capture steam emissions and eliminate problem odors if complaints regarding the emission of odors become a recurring problem;
- 32) Brewery operations and routine service and maintenance of the related equipment shall be limited to the hours of 9:00 am to 5:00 pm on weekdays;
- 33) Wholesale sales of beer produced on site for off-site consumption shall be limited to 800 barrels per year;
- 34) Spent grain shall be stored inside the facility, in rigid air tight containers until picked up for disposal;

- 35) The entire facility shall comply with all applicable State, County and Town fire, health and building codes ;
- 36) No outdoor storage of raw materials or supplies for the restaurant or brewery-pub or of barrels, kegs or other specialty beer containers either full or empty shall be allowed. Restaurant waste, trash and recycling shall, at a minimum, be placed in heavy gauge plastic trash bags and stored for pick-up in a properly maintained dumpster with a tightly fitting lid, which shall be located a minimum of 5' back from the Saulsbury St. property line and enclosed by suitable plantings or stockade-style fencing. Location of any and all exterior waste storage containers and fencing shall be approved by the Town;
- 37) All vehicles involved in deliveries to and trash and wholesale beer pick up from the restaurant/brewery-pub shall park on the South side of the property within the designated parking area/loading zone in a manner so as not to interfere with or prevent the safe flow of local traffic and pedestrian use of the street. Also, delivery trucks are not to turn around at the East end of Saulsbury Street;
- 38) No outgoing delivery service shall be permitted from any portion of the Applicant's property before 9:00 am or after 6:00 pm;
- 39) The "Staff Bathroom" shall be available for patron use.

**Section 4.** This Conditional-Use Approval shall terminate under conditions in which the ownership and/or control of Dewey Beer & Food Company, LLC are substantially changed, or its Delaware ABCC restaurant alcohol and/or brew pub license(s) lapse or are terminated. Under such circumstances continued operations shall require a new conditional-use approval.

**Section 5.** Applicant agrees to abide by all Federal, State, County and Town laws and codes or risk forfeiture of its conditional-use approval. Violation of any condition enumerated in Section 3 herein may be cause for penalties and/or revocation or modification of this conditional-use approval.

**Section 6.** Prior ordinances, resolutions and/or issues related to "grandfathered" operations for previous restaurant businesses at this location, e.g., permitting operating hours 24 hours per day, are hereby repealed in their entireties and the restaurant facility at 2100 Coastal Highway shall be operated as a conforming restaurant under the conditions enumerated herein. This repeal does not affect the status of the existing three dwelling units which may remain as a non-conforming use on this property, the footprint of the existing building which may remain as a non-conforming structure, or future usage of the commercial area as a conforming restaurant;

**Section 7.** Minor changes of formatting, grammar, and typography may be made to assist incorporating these changes into the Town Code.

**Section 8.** This Ordinance shall become effective immediately upon adoption by a majority of the Commissioners of the Town of Dewey Beach and receipt of a written record statement by the Applicant agreeing to operate under all terms and conditions herein.

\_\_\_\_\_  
DIANE HANSON  
Mayor

Attest: \_\_\_\_\_  
MARC APPELBAUM  
Town Manager

**Synopsis:** This Ordinance approves the Applicant's request for a conditional use regarding a restaurant business, Dewey Beer & Food Company, that will operate with Delaware ABCC restaurant alcohol and brew pub licenses as an expansion and change in use from the current non-conforming restaurant, Bubba's, which occupies this location and which does not have a Delaware ABBC liquor license



## ORDINANCE 2013-11

### AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF GEORGETOWN BY AMENDING CHAPTER 230 THEREOF, ENTITLED ZONING

**Whereas**, due to economies of scale in production, distribution, marketing and advertising, national and super-regional breweries have dominated the beer industry for decades. These large-scale production facilities are traditionally assigned to industrial zoning classifications. Starting in the 1980's, local, independent breweries emerged as a competitive market segment within the beer industry and by the turn of the twenty-first century, the increased demand for small production facilities and mixed-use concepts began to reshape certain expectations about the potential impacts of this land-use type when developed on a smaller scale. The purpose of this Section is to recognize the emergence of this specialized market segment and establish appropriate standards allowing for the typical range of activities, while mitigating any associated, undesirable impacts.

**Whereas**, this Ordinance shall apply to brewery, microbrewery and brewpub uses. Breweries are generally divided into four (4) distinct market segments: brewpub, microbrewery, regional (small) brewery and large brewery.

**Whereas**, this Ordinance does not apply to temporary or special events authorized by other sections of this chapter.

**Whereas**, breweries, including regional (small) and large, microbrewery and brew pub uses shall be allowed as provided in the Zoning Code and shall comply with the development standards of the applicable zoning district, Development Design Standards and this section.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF GEORGETOWN IN COUNCIL MET, HEREBY ORDAINS:**

**Section 1.** Chapter 230, Zoning, §230-5 Definitions of the Code of the Town of Georgetown is hereby amended as follows:

§230-5. Definitions.

**BREWERY - Establishments that are primarily a brewery, which produce more than 15,000 barrels (465,000 US gallons / 17,602.16 hectoliters) per year. A regional (small) brewery typically has an annual beer production of between 15,000 and 6,000,000 barrels. A large brewery typically has an annual beer production of more than 6,000,000 barrels.**

**MICROBREWERY - Establishments that are primarily a brewery, which produce no more than 15,000 barrels (465,000 US gallons / 17,602.16 hectoliters) of beer per year. Microbreweries sell to the general public by one or more of the following methods: the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and, directly to the consumer for consumption on the premises or for retail carryout sale.**



**RESTAURANT AND BAR, BREWPUB - Establishments that are primarily a restaurant and bar, but which include the brewing of beer as an ancillary use. A brewpub produces only enough beer for consumption on the premises or for retail carryout sale in containers commonly referred to as growlers.**

**Section 2.** Chapter 230, Zoning, UB2 Neighborhood Business District §230-82 Permitted Uses of the Code of the Town of Georgetown is hereby amended as follows:

§230-82. Permitted Uses

**P. Restaurant and Bar, Brewpub.**

**In addition to the development standards of the zoning district, and applicable Development Design Standards, an establishment that meets the definition of a brewpub shall comply with the following:**

1. **Revenue from food sales shall constitute more than 50 percent of the total business revenues;**
2. **No more than 50 percent of the total gross floor area of the establishment shall be used for the brewery function including, but not limited to, the brewhouse, boiling and water treatment areas, bottling and kegging lines, malt milling and storage, fermentation tanks, conditioning tanks and serving tanks;**
3. **Where permitted by local ordinance, state and federal law, retail carryout sale of beer produced on the premises shall be allowed in specialty containers holding no more than a U.S. gallon (3,785 ml / 128 US fluid ounces). These containers are commonly referred to as growlers;**
4. **Brewpubs may sell beer in keg containers larger than a U.S. gallon (3,785 ml / 128 US fluid ounces) for the following purposes and in the following amounts:**
  - a) **An unlimited number of kegs for special events, the primary purpose of which is the exposition of beers brewed by brewpubs and microbreweries, which include the participation of at least three (3) such brewers;**
  - b) **An unlimited number of kegs for town co-sponsored events where the purpose of the event is not for commercial profit and where the beer is not wholesaled to the event co-sponsors but is instead, dispensed by employees of the brewpub.**
5. **All mechanical equipment visible from the street (excluding alleys), and adjacent residential use or residential zoning district shall be screened in accordance with Development Design Standards;**

6. Access and loading bays shall not face toward any street, excluding alleys;
7. Access and loading bays facing an adjacent residential use or residential zoning district, shall have the doors closed at all times, except during the movement of raw materials, other supplies and finished products into and out of the building;
8. Service trucks for the purpose of loading and unloading materials and equipment shall be restricted to between the hours of 8:00 a.m. and 8:00 p.m. Monday through Saturday and between 11:00 a.m. and 7:00 p.m. on Sundays and national holidays;
9. No outdoor storage shall be allowed. This prohibition includes the use of fixed or portable storage units, cargo containers and tractor trailers.

Q. Microbrewery.

In addition to the development standards of the zoning district, and applicable Development Design Standards, an establishment that meets the definition of a microbrewery shall comply with the following:

1. The microbrewery shall produce no more than 15,000 barrels (465,000 US gallons / 17,602.16 hectoliters) of beer per year;
2. This use shall be permitted only in conjunction with a 'restaurant,' tasting room or retail sales and service:
  - a. No more than 75 percent of the total gross floor space of the establishment shall be used for the microbrewery function including, but not limited to, the brewhouse, boiling and water treatment areas, bottling and kegging lines, malt milling and storage, fermentation tanks, conditioning tanks and serving tanks;
  - b. The façade of any accessory use(s) shall be oriented toward the street, excluding alleys, and, if located in a shopping center, to the common space where the public can access the use;
  - c. Pedestrian connections shall be provided between the public sidewalks and the primary entrance(s) to any accessory use(s).
3. All mechanical equipment visible from the street (excluding alleys), an adjacent residential use or residential zoning district shall be screened using architectural features consistent with the principal structure;
4. Access and loading bays shall not face toward any street, excluding alleys;
5. Access and loading bays facing any street, adjacent residential use or residential zoning district, shall have the doors closed at all times, except during the movement of raw materials, other supplies and finished products into and out of the building;

6. **Service trucks for the purpose of loading and unloading materials and equipment shall be restricted to between the hours of 8:00 a.m. and 8:00 p.m. Monday through Saturday and between 11:00 a.m. and 7:00 p.m. on Sundays and national holidays;**
7. **No outdoor storage shall be allowed, including the use of fixed or portable storage units, cargo containers and tractor trailers, except as follows: spent or used grain, which is a natural byproduct of the brewing process, may be stored outdoors for a period of time not to exceed 24 hours. The temporary storage area of spent or used grain shall be:**
  - a. **Designated on the approved site plan;**
  - b. **Permitted within the interior side or rear yard or within the minimum building setbacks;**
  - c. **Prohibited within any yard abutting a residential use or residential zoning district;**
  - d. **Fully enclosed within a suitable container, secured and screened behind a solid, opaque fence or wall measuring a minimum five (5) feet in height.**

**Section 3.** Chapter 230, Zoning, LI-1 Limited Industrial §230-110 Permitted Uses of the Code of the Town of Georgetown is hereby amended as follows:

§230-110. Permitted Uses

**D.1 Breweries, Regional (small) and large**

**Regional (small) and large breweries, as defined in §230-5, herein, shall comply with the development standards of the zoning district and applicable Development Design Standards**

**Section 4.** This ordinance shall become effective upon its adoption by a majority of the members elected to the Town Council.

**ADOPTED** by a majority vote of the Town Council of Georgetown this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Michael R Wyatt, Mayor

\_\_\_\_\_  
Steve Hartstein, Secretary

1<sup>st</sup> Reading: June 12, 2013  
2<sup>nd</sup> Reading: June 26, 2013  
Adoption: June 26, 2013

Review by P&Z: 09/10/15  
Public Hearing: 09/21/15  
Adopted by Council: 09/21/15  
Sponsor: Councilwoman Brown  
Ord. No.: 013-15

**AN ORDINANCE TO AMEND APPENDIX A (“ZONING”) OF THE TOWN CODE OF THE TOWN OF SMYRNA BY AMENDING SECTION 5 (“DISTRICT REGULATIONS”), SUBSECTION 10 (“HIGHWAY COMMERCIAL DISTRICT HC”) AND SUBSECTION 9 (“CENTRAL COMMERCIAL DISTRICT CC”) TO CLARIFY THAT BREWERY-PUBS ARE A PERMITTED USE**

WHEREAS, the Town Council of the Town of Smyrna is authorized by 22 Del. C. Chapter 3 and Section 4.2.37 of the Town Charter to enact zoning regulations in the town;

WHEREAS, the Town Council of the Town of Smyrna has enacted zoning regulations in the Town of Smyrna; and

WHEREAS, in the opinion of the Town Council of the Town of Smyrna, the use of property within the Highway Commercial (HC) District and the Central Commercial (CC) District for brewery-pub establishments is consistent with the intent of those districts, and it is necessary to amend the Town Code to allow brewery-pubs as a permitted use within these districts.

BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that the Town Code of the Town of Smyrna be and hereby is amended as follows:

**Section 1.** Amend Appendix A (“Zoning”), section 5 (“District Regulations”), subsection 10 (“Highway commercial district HC”), subsection A (“Permitted uses”) by inserting the following immediately after subsection 10(a)(20) as follows:

(21) Brewery-pub establishments, as defined at 4 Del. C. § 512B, provided that:

- a. All permits and approvals required by the Delaware Alcoholic Beverage Commissioner to operate a brewery-pub are obtained and remain in full force and effect.
- b. All aspects of the brewing process are completely confined within a building, including storage of all materials and finished products.

**Section 2.** Amend Appendix A (“Zoning”), section 5 (“District Regulations”), subsection 9 (“Central commercial district (CC)”), by making insertions as shown by underline and deletions and shown by strike through as follows:

(8) Restaurant, Full-Service and Brewery-pubs; provided that:

- (a) Suitable on-site kitchen facilities are provided.

- (b) The primary use consists of sit-down, full meal service to patrons.
- (c) Adequate seating arrangements for patrons are provided on the premises.
- (d) Those facilities serving alcohol shall be licensed by the Delaware Alcoholic Beverage Control Commission as a ~~restaurant or brewery pub~~ brewery-pub under 4 Del. C. § 512 512B or as a restaurant authorized to serve alcohol and shall provide sit-down, full meal service to patrons with lunch, dinner and dessert menus during all hours of operation; except that limited late meal service may be substituted beginning 90 minutes before the time alcoholic beverages are no longer served. The limited late mean service shall consist of such foods as sandwiches, salads, pizza, and similar items.

SYNOPSIS

This ordinance amends the Zoning Code regulations for the Highway Commercial District and the Central Commercial District to clarify that brewery-pub establishments are a permitted use.

ATTEST:

\_\_\_\_\_  
Council Secretary

\_\_\_\_\_  
Mayor

This shall certify that the title and synopsis of this Ordinance was published in "The Smyrna/Clayton Sun Times" on \_\_\_\_\_, 2015 and posted at the Town Hall on \_\_\_\_\_, 2015.

So Certifies:

\_\_\_\_\_  
Town Clerk

This shall certify that the title, effective date and synopsis of this Ordinance was published in "The Smyrna/Clayton Sun Times" on \_\_\_\_\_, 2015 and posted at the Town Hall on \_\_\_\_\_, 2015.

So Certifies:

\_\_\_\_\_  
Town Manager

P&Z Review: 04/16/14  
Public Notice: 04/16/14  
Public Hearing: 05/07/14  
Adopted by M&C: 06/02/14  
Ord. No: 005-14

**AN ORDINANCE TO AMEND APPENDIX A (“ZONING”) OF THE TOWN CODE OF THE TOWN OF SMYRNA BY AMENDING SECTION 5 (“DISTRICT REGULATIONS”), SUBSECTION 14 (“INDUSTRIAL/OFFICE/RESEARCH PARK DISTRICT”), TO INCLUDE CRAFT DISTILLERY AND MICROBREWERY ESTABLISHMENTS AND ANCILLARY ACTIVITIES AS A CONDITIONAL USE**

WHEREAS, the Town Council of the Town of Smyrna is authorized by 22 Del. C. Chapter 3 and Section 4.2.37 of the Town Charter to enact zoning regulations in the town;

WHEREAS, the Town Council of the Town of Smyrna has enacted zoning regulations in the Town of Smyrna;

WHEREAS, in the opinion of the Town Council of the Town of Smyrna, the use of property within the Industrial/Office/Research Park (“IORP”) District for craft distillery and microbrewery establishments and ancillary activities is consistent with the intent of the IORP District; and

WHEREAS, in the opinion of the Town Council of the Town of Smyrna, it is necessary to amend Appendix A, Section 5, subsection 14 to allow craft distillery and microbrewery establishments and ancillary activities as a conditional use within the IORP District.

BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that the Town Code of the Town of Smyrna be and hereby is amended as follows:

**Section 1.** Amend Appendix A (“Zoning”), section 5 (“District Regulations”), subsection 14 (“Industrial/office/research park district”), by inserting the following immediately after subsection 14(a)(9)(9) as follows:

(10) Craft Distillery and microbrewery establishments, as defined at 4 Del. C. Sections 512C and 512E, provided that:

- a. All permits and approvals required by the Delaware Alcoholic Beverage Commissioner to operate a craft distillery or microbrewery are obtained and remain in full force and effect.
- b. On-site consumption or tasting of alcohol shall be limited to those products brewed or distilled on the premises. All facilities licensed by the Delaware Alcoholic Beverage Control Commissioner for tastings pursuant to 4 Del. C. § 525 or for on-site consumption of alcohol in accordance with a license issue pursuant to 4 Del. C. §§ 512C or 512E shall only operate as follows: (a) between the hours of 11:00 a.m. and 9:00 p.m. Monday through Saturday; (b) between the hours of 1:00 p.m. and 6:00 p.m. on Sundays; and (c) at such other times specifically authorized by the Town Council for special events (e.g. new product release or promotional events).

- c. All aspects of the distilling or brewing process are completely confined within a building.
- d. Such establishment offers the public, on a regular and continuing basis, various activities ancillary to its distilling and/or brewing process, which activities are limited to the following: tours of the premises, educational classes, demonstrations, tasting rooms, and retail sales areas limited to the sale of beer, mead, cider, or spirits brewed or distilled on the premises and other retail items identified in 4 Del. C. § 512E(c)(5).
- e. All food sales shall be limited to prepackaged snack items such as pretzels, chips, crackers, and nuts.

SYNOPSIS

This ordinance amends the Zoning Code regulations for the Industrial/office/research park district to allow as a conditional use, craft distillery and microbrewery establishments and ancillary activities. The establishments must obtain all approvals and permits required of the Delaware Alcoholic Beverage Commissioner, must keep the brewing and distilling process confined to the inside of a building, and must offer ancillary activities limited to tours, retail sales, educational classes, demonstrations, and tastings. Food sales are limited to prepackaged snack items. This ordinance requires establishments offering tastings or sales of alcohol for consumption on-site to offer the same during certain hours of the day and at other times as prescribed by Council and limits such tastings and consumption to that which is brewed or distilled on the premises.

This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna at its regular Council meeting on \_\_\_\_\_, 2014.

ATTEST:

\_\_\_\_\_  
Council Secretary

\_\_\_\_\_  
Mayor



This shall certify that the title and synopsis of this Ordinance was published in “The Smyrna/Clayton Sun Times” on \_\_\_\_\_, 2014 and posted at the Town Hall on \_\_\_\_\_, 2014.

So Certifies:

\_\_\_\_\_  
Town Clerk

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This shall certify that the title, effective date and synopsis of this Ordinance was published in “The Smyrna/Clayton Sun Times” on \_\_\_\_\_, 2014 and posted at the Town Hall on \_\_\_\_\_, 2014.

So Certifies:

\_\_\_\_\_  
Town Manager