

Board of Commissioners
229 Rehoboth Avenue
P.O. Box 1163
Rehoboth Beach, Delaware 19971



City of Rehoboth Beach
Telephone 302-227-6181
www.rehobothbeachde.gov

**APPLICATION FOR PERMIT OF COMPLIANCE
PURSUANT TO CHAPTER 215 OF THE MUNICIPAL CODE
OF THE CITY OF REHOBOTH BEACH, DELAWARE**

All applicants must answer questions 1 – 14 (pages 1 - 4) and fully complete pages 5 – 11.

Application for:

- (New) Restaurant Permit of Compliance Hearing (Page 7)
- Amended Restaurant Permit of Compliance, e.g. substantial modification of floor plan (Page 7)
- Dining Patio/Outdoor Dining on Public Space Supplemental Permit of Compliance (Page 8)
- Brewery-Pub Supplemental Permit of Compliance (Page 9)
- Dinner Theater Permit of Compliance (Page 10)

Application for Administrative Permit of Compliance

- Transfer of Liquor License

Revised: April 2023

- 1) Applicant Name: _____
Mailing Address: _____

Contact Person for this Application: _____
Telephone: (_____) _____
Email: _____
- 2) Name of Restaurant (d/b/a): _____
Address: _____

Telephone: (_____) _____
Website: _____
- 3) Name of owner(s) of Restaurant:
1) _____
2) _____
3) _____
- 4) Name of Legal Entity owning Business:
a) _____
b) Type of entity: (check appropriate box)
 Sole proprietorship Partnership Corporation LLC
 Other (define): _____
- 5) Property owner, if different from applicant:
Individual(s) Name: _____
Mailing Address: _____

Telephone: (_____) _____
Email: _____
- 6) Zoning classification:
 C-1 Central Commercial district
 C-2 Commercial Amusement district
 C-3 Secondary Commercial district

7) Tax Map Data:

Parcel ID #: _____

Lot #: _____

Block #: _____

8) Distance in feet from the application location to the nearest property line of:

• Church:
Name: _____ Distance: _____

• Public park:
Name: _____ Distance: _____

• Lot zoned residential:
Address: _____ Distance: _____

9) Service Provided: Breakfast Lunch Dinner Bar

10) Alcohol Service:

New License: Yes No

Has State ABCC application been submitted? Yes No
(If yes, attach copy)

Transfer License: Yes No

If transfer, current license issued to: _____

11) Hours of Operation:

Monday:	Open: _____	am / pm	Close: _____	am / pm
Tuesday:	Open: _____	am / pm	Close: _____	am / pm
Wednesday:	Open: _____	am / pm	Close: _____	am / pm
Thursday:	Open: _____	am / pm	Close: _____	am / pm
Friday:	Open: _____	am / pm	Close: _____	am / pm
Saturday:	Open: _____	am / pm	Close: _____	am / pm
Sunday:	Open: _____	am / pm	Close: _____	am / pm

12) Approximate percentage of projected annual revenue derived from the sale of alcohol/food is:

a. % of total revenue of alcohol _____ %

b. % of total revenue of food _____ %

100 % (must total 100%)

13) Seating Capacities:

Restaurant

Number of bar seats: _____
Number of permanent dining seats: _____
Ratio of bar to dining seats: _____ %

Dining Patio

Number of patio seats: _____

Dinner Theater

Number of permanent dining seats: _____

14) Area Square Footage Calculation

Proposed Sq. Ft.

RESTAURANT – (Review page 7 prior to completion)

Permanent Seated Dining Area(s): _____
Service Area(s): _____
Subtotal: _____

Bar Area(s): _____
Permanent Marked Dance Floor & Stage: _____
Subtotal: _____

Total Dining Area: _____ *

*Total may not exceed 2,500 square feet

Kitchen: _____
Food preparation area: _____
Food storage area: _____
Restroom(s): _____
Other: (i.e.: hall, elevator, staff area) _____
Total Interior Area: _____

DINING PATIO(S) – (Review page 8 prior to completion)

Patio Area: _____

BREWERY-PUB – (Review page 9 prior to completion)

Brewery-Pub: _____
Brewing area: _____
Brewing storage area: _____

DINNER THEATER – (Review page 10 prior to completion)

Dinner Theater: _____
Gross Floor Area: _____

SUBMITTAL CHECKLIST

(Check all applicable boxes to indicate fulfillment of required information.)

- Attached are twelve (12) copies of the restaurant's existing floor plan with dimensions. Applicable only to modifications of existing floor plans.
- Electronic copy of all architectural plans, renderings, menus, etc.
- Attached are twelve (12) 30" x 24" scalable copies, prepared by a certified architect, of a floor plan with dimensions of the proposed restaurant or proposed expansion of an existing restaurant to include the following information:
 - a. The location (address) of the restaurant.
 - b. For a **restaurant**, highlighted delineation, by color, of the location, floor plan, area calculations, of the following:
 - a. Permanent Seated Dining
 - i. Plans to show table and chair placement and table capacities.
 - b. Bar area(s)
 - c. Kitchen - Food Preparation area
 - d. Kitchen - Food Storage area
 - e. Restrooms
 - f. Permanently Marked Dance Floor
 - g. Stage Area
 - h. Other: (i.e.: hall, elevator, staff area, HVAC, stairs, location of refuse containers and details of screening, and location of grease interceptors)
 - c. For a **dining patio**, the location, floor plan, area calculations and details of the perimeter barrier.
 - a. Plans to show table and chair placement and table capacities.
 - d. For **outdoor dining on public space**, a completed Outdoor Dining on Public Space License Application.
 - e. For a **dinner theater**, the stage and other areas associated with the theater.
 - a. Plans to show table and chair placement and table capacities.
 - f. For a **brewery-pub**, the locations, floor plan and area calculation of all areas devoted to the brewing of beer and the storage of raw materials, waste matter and finished product related thereto.
 - g. Any actual modification to the seating placement, seating capacity or other interior changes of a restaurant that is not reflected in the floor plan on file and approved by B&L will require a new Permit of Compliance application.
 - h. Existing plan resulting in an increase occupant load requires submittal Permit of Compliance which must meet the stricter requirements for the City of Rehoboth's building code and State Fire Code.
- Attached are twelve (12) copies of the menu.
- Attached is a signed and executed check list relative to §270-19 Use Restrictions pertaining to restaurants, dining patio, brewery pubs and dinner theaters.
- Attached / enclosed is the required application fee of \$1,250.00.

The applicant certifies that the primary purpose of the business shall be that of a restaurant as defined in Chapter 215 of the Municipal Code of the City of Rehoboth Beach, Delaware.

The Applicant hereby authorizes the City of Rehoboth Beach, its agents and employees, to seek information and to conduct an investigation as to the truth of the statements set forth in this application.

Date: _____
_____ Applicant

STATE OF DELAWARE)
) SS.
COUNTY OF SUSSEX)

BE IT REMEMBERED that on this _____ day of _____,
A.D. 20____, personally appeared before me, the Subscriber, a Notary Public of the State and
County aforesaid, _____ in the foregoing application, known to
me personally to be such, and he did depose and say the foregoing application is true and correct
to the best of his knowledge and belief.

SWORN TO AND SUBSCRIBED before me the day and year aforesaid.

Notary Public

Checklist for Compliance with Zoning Code § 270-19 Use Restrictions

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

- 1) Be totally enclosed, excepting any area included in a validly issued dining patio supplemental certificate of compliance.
- 2) Is regularly used and kept open principally for the purpose of serving complete meals. The service of only such food and victuals as sandwiches or salads shall not be deemed to be the service of meals.
- 3) Have seating and tables for a minimum of 35 patrons, and suitable kitchen facilities connected therewith for cooking an assortment of foods under the charge of a chef or cook.
- 4) The sum of the floor space devoted to permanent seated dining area and bar area in any building shall not exceed 2,500 square feet, except that where a restaurant occupies space in a building also housing a hotel/motel containing at least 25 bedrooms, the area so devoted may be up to but not more than 3,750 square feet.
- 5) 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 500 square feet, except that any restaurant regardless of its permanent seated dining area may have a bar area of 350 square feet.
- 6) 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.
- 7) Patrons may not consume alcoholic liquor in the permanent seated dining area unless seated at tables.

I have read and understand the requirements for Restaurants and have to the best of my knowledge provided information that complies with the requirements.

Owners Printed Name: _____

Signature: _____

Date: _____

Checklist for Compliance with Zoning Code § 270-19 Use Restrictions

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

- 1) The gross area devoted to dining patio purposes shall be limited to 1,000 square feet per restaurant, which area shall be permitted in addition to the limitation contained in § **270-19A(4)**.
- 2) Food and beverages may be served only to seated patrons and no patrons may wait on the dining patio for seating.
- 3) There shall be no live entertainment on the dining patio.
- 4) There shall be no external speakers or amplifiers on the dining patio and no internal speakers from the premises are to be directed to the dining patio.
- 5) There shall be no bar on the dining patio.
- 6) There shall be a physical barrier around the perimeter of the dining patio no less than 42 inches high constructed of wood, concrete, plastic, wrought iron, dense vegetation or other approved material such that entry and exit will be restricted to no more than two discrete locations.
- 7) No one shall construct or operate a dining patio or outdoor dining on public space unless it is included in a supplemental permit of compliance issued pursuant to Chapter **215** of the Municipal Code of Rehoboth Beach, Delaware.
- 8) A dining patio existing as of June 14, 1991, shall be considered a legal nonconforming use but shall be subject to all of the provisions of this chapter if expanded pursuant to a supplemental permit of compliance.

I have read and understand the requirements for Restaurants and have to the best of my knowledge provided information that complies with the requirements.

Owners Printed Name: _____

Signature: _____

Date: _____

Checklist for Compliance with Zoning Code § 270-19 Use Restrictions

Brewery-pubs. In addition to the standards of the relevant zoning district, an establishment that meets the definition of a brewery-pub shall comply with the following:

- 1) The brewery-pub must be situated on the premises of and be physically a part of a restaurant which holds a valid certificate of compliance issued by the city.
- 2) No more than 50% 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) No more than 4,000 barrels (124,000 U.S. gallons) of beer shall be brewed on the premises in any calendar year.
- 4) Retail carryout sale of beer produced on the premises shall be allowed in containers having a capacity of no more than one U.S. gallon (3,785 ml/128 U.S. fluid ounces).
- 5) All aspects of the brewing process shall be completely confined within a building.
- 6) No outdoor storage of raw materials, supplies, or product shall be allowed; this prohibition includes the use of fixed or portable storage units, cargo containers and tractor trailers. Beer containers emptied of their contents may be stored outside provided they are screened from public view with an acceptable screen material, including wood, lattice, fine-mesh fencing, plantings or other suitable material erected in conformance to all building and zoning codes. Said screened storage areas and containers shall not be located within setback areas.
- 7) The brewery function shall be designed and operated so as to have no noxious or offensive brewery-related air-borne or water-borne emissions, including odors from storage of solid or semi-solid waste or by-product, that create a public or private nuisance.
- 8) No one shall construct or operate a brewery-pub unless it is included in a supplemental permit of compliance issued pursuant to Chapter **215** of the Municipal Code of Rehoboth Beach, Delaware.

I have read and understand the requirements for Restaurants and have to the best of my knowledge provided information that complies with the requirements.

Owners Printed Name: _____

Signature: _____

Date: _____

Checklist for Compliance with Zoning Code § 270-19 Use Restrictions

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

- 1) Be totally enclosed.
- 2) Is regularly used and kept open for the purpose of presenting public performances featuring live actor(s) in dramatic or musical productions after and not simultaneously with the serving of complete meals. The service of only such food and victuals as sandwiches or salads shall not be deemed to be the service of meals.
- 3) Must serve complete meals to at least 3/4 of the patrons at each performance, and they shall be served in the permanent seated dining area in front of or surrounding the stage. Seating at tables shall be provided for each patron.
- 4) Have seating and tables for a minimum of 35 patrons, and suitable kitchen facilities connected therewith for cooking an assortment of foods under the charge of a chef or cook.
- 5) There shall be no more than one dinner theater in any public building, and except for motels and hotels, a dinner theater shall not share a building with any other commercial activity.
- 6) No more than 2,500 square feet of floor space in any dinner theater shall be devoted to permanent seated dining area.
- 7) Shall not have a bar area where patrons consume alcoholic beverages but may have a service bar area where alcoholic beverages are stored and delivered to waiters for service to the patrons seated in the permanent seated dining area.
- 8) Shall not serve alcoholic beverages more than one hour before the service of the complete meal begins or more than two hours before the live stage production begins, whichever is less. Alcoholic beverages may also be served during intermissions but not during or after the performance.
- 9) The rules set forth herein apply to each and every performance. When repeated performances are to be given, all patrons from the first performance must leave the establishment before seating can begin for the next performance.
- 10) Shall close and all patrons must leave by 12:00 midnight.

I have read and understand the requirements for Restaurants and have to the best of my knowledge provided information that complies with the requirements.

Owners Printed Name: _____

Signature: _____

Date: _____

Checklist for Compliance with Zoning Code § 270-19 Use Restrictions

Prohibited uses citywide.

No structure or land shall be used or occupied anywhere in the City of Rehoboth Beach, regardless of whether the land is zoned residential or commercial, for the following uses:

- Taproom
- Tavern
- Dance hall
- Cabaret
- Nightclub
- After-hours club
- Microbrewery
- Craft distillery
- Cafe

See page 14 for definitions of above referenced terms.

Anything contained in Article **II**, Use Regulations, or any other portion of Chapter **270**, Zoning, of the Municipal Code of Rehoboth Beach, Delaware, which is inconsistent herewith is to the extent of such inconsistency repealed.

Owners Printed Name: _____

Signature: _____

Date: _____

Selected definitions from the Municipal Code of the City of Rehoboth Beach, Delaware to assist the applicant in understanding and completing the application for a permit of compliance.

§ 215-1 Terms Defined

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

OUTDOOR DINING AREA ON PUBLIC SPACE

A permitted outdoor dining area on a portion of a City sidewalk or property.

PUBLIC SPACE

City owned sidewalks or property excluding the Boardwalk.

SEPARATION BARRIER

A physical, freestanding obstruction designed to define a dining area and constrain entry and exit to the dining area. Separation barriers must comply with 270-19B (6), be self-supporting without the use of attachments to the sidewalk or other structures, and must be substantive enough to withstand strong winds or other pressures.

SUBSTANTIALLY MODIFY

Modification to a restaurant or dinner theater's delineation of and square footage of all areas of use including but not limited to permanent seated dining, bar, restrooms, food storage and food preparation. Additionally, this includes modification to the restaurant or dinner theater's seating capacity, number and sizes of bar areas, and extension of the restaurant or dinner theater into other parts of the structure not shown on the approved floor plan. Rearrangement of tables or seating does not constitute a substantial modification.

§ 270-4 Definitions

As used in this chapter, unless the context otherwise requires, the following terms shall have the meanings indicated:

BAR AREA

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

BREWERY- PUB

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

CATERER

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

DINING PATIO

A deck or porch whether covered, uncovered, raised or at grade, used in connection with a restaurant and a part of, abutting, adjacent or adjoining thereto.

DINNER THEATER

An establishment presenting public performances featuring live actor(s) in dramatic or musical productions after the service of a meal.

FOOD ESTABLISHMENT

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

HOTEL, MOTEL or INN

A building or structure operated for profit, accommodating more than six persons, providing lodging, food and/or service to the transient traveling public, and may include restaurants, club rooms, public banquet halls, ballrooms or meeting rooms, but the individual living units shall not contain kitchen or cooking facilities.

PARKING LOT

Any area privately owned which is used for the storage of motor or other vehicles, not in excess of 24 hours' continuous storage and which is used for more than four vehicles.

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.

RESTAURANT

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

The following defined uses are PROHIBITED citywide.

No structure or land shall be used or occupied anywhere in the City of Rehoboth Beach, regardless of whether the land is zoned residential or commercial, for the following uses: taproom, tavern, dance hall, cabaret, nightclub, after-hours club, microbrewery, craft distillery or cafe.

CABARET

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

[Added 10-21-2016 by Ord. No. 1016-01]

CAFE

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

[Added 10-21-2016 by Ord. No. 1016-01]

CRAFT DISTILLERY

An establishment other than a brewery-pub where spirits are manufactured.

[Added 10-21-2016 by Ord. No. 1016-01]

DANCE HALL

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

[Added 10-21-2016 by Ord. No. 1016-01]

MICROBREWERY

An establishment other than a brewery-pub where beer, mead or cider is manufactured or sold in a quantity not more than the maximum amount permitted by federal regulations to qualify for a reduced rate of tax for certain brewers.

[Added 10-21-2016 by Ord. No. 1016-01]

NIGHTCLUB, INCLUDING AFTER HOURS CLUB

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

[Added 10-21-2016 by Ord. No. 1016-01]

TAPROOM

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

[Added 10-21-2016 by Ord. No. 1016-01]

TAVERN

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

[Added 10-21-2016 by Ord. No. 1016-01]