

DATE: November 10, 2020

VERSION: #1

AUTHOR: Commissioner Gossett

SUBJECT: Public Use of Outdoor Space – Beginning April 1, 2021

PRESENTATION DATE: November 10, 2020

1 **City Policy regarding use of public outdoor space**
2 **April 1, 2021 until Governor’s Emergency Order Lifted.**

3 Beginning April 1, 2021, if the pandemic-related Governor’s State of Emergency Order
4 and the pandemic-related ABCC guidelines are still in place, the following policy for
5 sidewalk dining on City property shall be in effect, subject to any changes in the
6 Governor’s State of Emergency Order.

7 The City will utilize a similar operating plan for sidewalk dining as was in place until
8 November 1, 2020 during the Governor’s State of Emergency Order. An annual City
9 issued permit, application available on the City website, will be required for an
10 establishment to operate sidewalk dining. The permit for sidewalk dining expires when
11 the Governor’s State of Emergency Order is lifted. The State or the City of Rehoboth
12 Beach may also revoke the permit at any time.

13 The City will review and approve or deny all applications. The City will issue sidewalk
14 dining permits which may allow a food service establishment located in the commercial
15 area to operate sidewalk dining on public property, subject to the following;

- 16 1) Establishment serving food must possess a current City-issued business license.
- 17 2) Establishment must not exceed total dining capacity requirements approved prior
18 to the State of Emergency, as established in the Permit of Compliance.
- 19 3) Establishment must abide by all existing rules and regulations for food safety as
20 directed by the State Department of Public Health.
- 21 4) Establishment, if possessing a valid ABCC license, must abide by all existing
22 rules and regulations for the service of alcohol as directed by the State Alcohol
23 Beverage Control Commission.
- 24 5) Establishment must abide by all existing rules and regulations for food and
25 beverage establishments as directed by the Governor’s State of Emergency
26 Order.
- 27 6) Current business license holders must submit a completed application for
28 sidewalk dining by February 15, 2021.
- 29 ○ All applications from establishments with liquor licenses, once approved
30 by the City, will then be provided to the Alcohol Beverage Control
31 Commission (ABCC) for their approval. City sidewalk dining permit
32 issuance is dependent on the approval of the ABCC.

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- 33 7) Street traffic barriers are to be used to create a pedestrian walkway, in parking
34 spaces, where the sidewalk pedestrian walkway has been blocked by sidewalk
35 dining.
- 36 8) To maintain the health, safety and welfare of pedestrians, traffic barriers must
37 conform to City of Rehoboth Beach and DeDOT public safety standards and only
38 the traffic barriers obtained from the City of Rehoboth Beach may be used.
- 39 9) Traffic barriers will be available beginning April 1, 2021. Payment for rental of
40 barriers is at the expense of the sidewalk dining permit holder, and payment must
41 be received by the City before any barrier is provided to the establishment. The
42 rental cost per barrier will be equal to the cost of the barrier incurred by the City.
43 The City will contract with a business to obtain the best rental cost per traffic
44 barrier.
- 45 10)Food and beverages may be served only to seated patrons.
- 46 11)There shall be no live entertainment on the sidewalk.
- 47 12)There shall be no external speakers or amplifiers on the sidewalk and no internal
48 speakers from the premises are to be directed to the sidewalk.
- 49 13)There shall be no bar on the sidewalk.
- 50 14)If alcohol is served with a valid Alcoholic Board Control Commission permit, a
51 physical barrier to separate the tables from the pedestrian walkway and define
52 the sidewalk dining area, not less than 42 inches high, constructed of wood,
53 concrete, plastic, wrought iron, dense vegetation or other materials approved by
54 the City of Rehoboth Beach, must be in place adjacent to the tables closest to
55 the curb line.
- 56 15)There shall be no food/beverage preparation on the sidewalk.
- 57 16)A separation between tables of 8' minimum is required.
- 58 17)Tables & chairs must not block any entrance or ADA accessible areas.
- 59 18)Sidewalk dining permit area shall close by 11:00 P.M. and vacated by 11:30 P.M.
- 60 19)Umbrellas shall have a maximum diameter of eight (8) feet and must have a
61 weighted base.
- 62 20)Tents or canopies, without sides, may be used on City property, if approved in
63 advance by the City Manager.

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64 21)The sidewalk dining permit shall not be in effect unless and until the applicant
65 files with the City a certificate of liability insurance confirming that the applicant
66 has procured a policy of commercial general liability insurance issued by an
67 insurance company authorized to do business in the state of Delaware. The
68 policy shall provide in substance that the insurer will defend against all claims
69 and lawsuits which arise and will pay any final judgment of a court of competent
70 jurisdiction against the City, its officers, agents or employees. The insurance
71 shall provide coverage in an amount of not less than \$1,000,000.00 for each
72 single occurrence. The policy of insurance shall name both the applicant and the
73 city as insured parties to the full amount of the policy limits. If the policy is not
74 kept in full force and effect throughout the term of this sidewalk dining permit, the
75 permit may be terminated by the City upon providing written notice of termination
76 to applicant.

77 22)The sidewalk dining permit shall not be in effect unless and until the applicant
78 files with the City a complete and valid waiver of indemnification agreement.

79 23)The City Code Enforcement Officer will be responsible for monitoring and
80 assuring compliance, and reporting findings to the City Manager, Mayor and
81 Commissioners.

82 24)Exceptions, upon the demonstration of need or hardship, may be granted, in
83 writing, by the City Manager.

84 **Note of explanation**

85 All underlined text in lines 17 - 26 is existing language appearing in the
86 2020 approved City of Rehoboth Beach permit application for sidewalk
87 dining.

88 All underlined text in lines 45 - 55 is existing language appearing in the
89 Rehoboth Beach Code section 270-19, B2, B3, B4, B5, and B6 use
90 restrictions pertaining to Patio dining.

91 All underlined text in lines 57 - 58 is existing language appearing in the
92 Rehoboth Beach City Policy regarding use of public outdoor space
93 through March 31, 2021.