

NOTICE

THE COMMISSIONERS OF THE CITY OF REHOBOTH BEACH ON MAY 17, 2024,
ADOPTED ORDINANCE NO. 054-01 WHICH READS AS FOLLOWS:

**AN ORDINANCE TO AMEND CHAPTER 215, RESTAURANTS,
OF THE MUNICIPAL CODE OF THE CITY OF REHOBOTH BEACH,
DELAWARE, 2001, SECTION 215-1, AND SECTION 215-7, AND SECTION 215-11
RELATING TO RESTAURANT PERMIT OF COMPLIANCE PUBLIC HEARINGS**

WHEREAS, the Commissioners of the City of Rehoboth Beach desire to amend Chapter 215, Restaurants, of the Municipal Code of the City of Rehoboth Beach, 2001, as amended, for the purpose of allowing restaurants, where alcoholic liquor is sold or consumed, to make certain decreases to the restaurant's seating capacity without triggering a municipal-level public hearing.

BE IT ORDAINED by the Commissioners of the City of Rehoboth Beach, in session met, a quorum pertaining at all times thereto, in the manner following to-wit:

Section 1. Chapter 215, Section 215-1, of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended be and the same is hereby further amended by making insertions as shown by underlining and deletions as shown by strikethrough, as follows:

§ 215-1. Terms defined.

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~~ an increase to the restaurant or dinner theater's seating capacity, modification to the 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. A decrease to the restaurant or dinner theater's seating capacity does not constitute a substantial modification so long as such action conforms to all applicable zoning and licensing requirements.

Section 2. Chapter 215, Section 215-7(C), of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended be and the same is hereby further amended by making insertions as shown by underlining and deletions as shown by strikethrough, as follows:

- C. Where an existing restaurant or dinner theater, regardless of the date that said restaurant or dinner theater was established, where alcoholic liquor is sold or consumed, is being transferred to a new owner at the existing site, the present owner must file with the City Manager documentation to prove that the floor plan of said restaurant or dinner theater is not substantially modified from the same as the most recent floor plan approved by the

City. Such documentation shall include but not be limited to a scalable floor plan showing the location and size of the permanent seated dining and bar areas. If the City Manager determines that the floor plan in respect to the total square footage of the restaurant or dinner theater and percentage of floor area devoted to bar area and percentage of floor area devoted to permanent seated dining area is not substantially modified from the same as the most recent floor plan approved by the City, no hearing shall be required pursuant to § 215-5A.

Section 3. Chapter 215, Section 215-11, of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended be and the same is hereby further amended by making insertions as shown by underlining, as follows:

- A.** It shall be illegal for any restaurant or dinner theater to substantially modify its floor plan, seating arrangement and/or the location and number and sizes of bar areas and permanent seated dining areas from the plans submitted to the City pursuant to the provisions of this chapter without a public hearing and new permit of compliance. This section shall be interpreted to include dining patios and areas dedicated to outdoor dining on public space.

- B.** Where an existing restaurant or dinner theater, regardless of the date that said restaurant or dinner theater was established, where alcoholic liquor is sold or consumed, desires to modify the floor plan of said restaurant or dinner theater in a manner that does not constitute a substantial modification, the present owner must file with the City Manager documentation to prove that the floor plan of said restaurant or dinner theater, which details the proposed seating capacity change, does not substantially modify the most recent floor plan approved by the City. Such documentation shall include but not be limited to a scalable floor plan showing the location and size of the permanent seated dining and bar areas. If the City Manager determines that the proposed floor plan does not constitute a substantial modification, no hearing shall be required pursuant to this article. This section shall be interpreted to include dining patios and areas dedicated to outdoor dining on public space.

Section 4. This Ordinance shall take effect immediately upon its adoption by the Commissioners of the City of Rehoboth Beach.

SYNOPSIS: This Ordinance amends Chapter 215, Restaurants, of the Municipal Code of the City of Rehoboth Beach to allow restaurants, where alcoholic liquor is sold or consumed, to make certain decreases to the restaurant or dinner theater's seating capacity without triggering a municipal-level public hearing.