



REHOBOTH BEACH BOARD OF COMMISSIONERS

Supporting Document Packet

**MEETING:
SPECIAL MEETING
March 10, 2014**

****DISCLAIMER****

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NOTICE OF SPECIAL MEETING

THE COMMISSIONERS OF REHOBOTH BEACH
Special Meeting
Monday, March 10, 2014; 9:00 a.m.

Please be advised that a Special Meeting has been scheduled for Monday, March 10, 2014 at 9:00 a.m. by the Rehoboth Beach Commissioners in the Commissioners Room at 229 Rehoboth Avenue, Rehoboth Beach, Delaware.

AGENDA

1. Call to Order
2. Invocation, Pledge of Allegiance to the Flag and Roll Call
3. The purpose of this Special Meeting is to:
 - A. Consider adoption of an ordinance to amend chapter 224 of the City Code expanding and adding to the public areas within the City where smoking is prohibited to include the beach, Boardwalk, areas adjacent to the Boardwalk, the area of the Bandstand and additional park lands with the option of designating limited areas where smoking would be permitted on the beach.
4. Adjournment

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

**Next scheduled meeting – (Workshop) Monday, March 10, 2014; immediately following Special Meeting

amw: 03/03/14; posted 03/03/14

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

NOTICE

THE COMMISSIONERS OF THE CITY OF REHOBOTH BEACH ON APRIL 15, 2011,
ADOPTED ORDINANCE NO. 0411-01 WHICH READS AS FOLLOWS:

AN ORDINANCE TO ENACT A NEW CHAPTER 224, CODE OF THE CITY OF
REHOBOTH BEACH, REGULATING OUTDOOR SMOKING IN PUBLIC PLACES

WHEREAS, the Commissioners of the City of Rehoboth Beach have determined that smoking in various outdoor venues in the City of Rehoboth Beach is injurious to the public health, welfare and safety of the citizens of and visitors to the City in that:

1. Smokers often dispose of their cigarette or cigar butts by dropping them on the ground. Such discarded butts create litter, pollute the environment and, if not fully extinguished, pose a significant threat of fire as well as risk of injury to barefoot members of the public; and
2. Scientific studies have concluded that smoking of tobacco causes chronic lung disease, coronary heart disease, stroke and various cancers leading to death; and
3. The United States Environmental Agency has found that “second-hand smoke” (sometimes referred to as “passive” or “involuntary” smoking) is harmful to human health, posing a variety of health risks, ranging from cancer to emphysema to triggering asthma attacks and the Surgeon General has determined that no amount of second-hand smoke is safe, and
4. State law prohibits smoking in public buildings and restaurants; and

WHEREAS the Commissioners of the City of Rehoboth Beach recognize that many other communities across the United States, particularly including resort communities, have imposed restrictions and/or outright bans on outdoor smoking; and

WHEREAS the Commissioners of the City of Rehoboth Beach recognize that some balance should be struck between the desire of smokers and the desire of non-smokers to breathe smoke-free air; and

NOW THEREFORE BE IT ORDAINED, by the Commissioners of the City of Rehoboth Beach, in session met, that the following ordinance be and is hereby enacted:

Section 1. The Municipal Code of Rehoboth Beach, Delaware, 2001, as amended be and the same is hereby further amended by addition of a new Chapter 224 as follows:

CHAPTER 224

SMOKING, OUTDOOR

§ 224-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

SMOKING

The burning of a lighted cigarette, cigar, pipe or any other matter or substance that contains tobacco.

§ 224-2. Smoking prohibited.

Smoking shall be prohibited at all times in the following outdoor public places:

1. Grove Park
2. Cranberry Park on Olive Avenue at Third Street
3. Park and Children's playground on Stockley Street in Country Club Estates
4. Children's playground on Lake Avenue at Lakeview Street
5. Central Park situated generally between Columbia and Park Avenues and Third Street.
6. Deer Park located at the intersection of Kent and Dover Streets.

§ 224-3. Conditions.

No person shall be cited for violating this chapter unless signs, readily visible to the public, are posted where smoking is prohibited, indicating when smoking is prohibited and indicating that violations are subject to penalties.

§ 224-4. Violations and penalties.

Any violation of this chapter is declared a civil offense pursuant to Chapter 126 of the Municipal Code of the City of Rehoboth Beach subject to the following:

A. Any person violating any of the provisions of this chapter, who has not been issued a written warning and has not been cited hereunder within the preceding four months, shall be issued a written warning;

B. Any person violating any of the provisions of this chapter, who has been issued a written warning or has been cited hereunder within the preceding four months, shall be cited as provided for in Chapter 126.

Section 2. If any provision of this Ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Ordinance which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Ordinance are declared to be severable.

Section 3. This Ordinance shall become effective 30 days following its adoption by a majority vote of all members of the Commission of the City of Rehoboth Beach.

DATE: ~~February 17~~March 4, 2014
VERSION: Draft ~~2~~redline
Incorporating comments from the Commissioners' meeting of February 21, 2014
and for consideration of adoption at the Commissioners' Special Meeting of
March 10, 2014
AUTHOR: Commissioner Stan Mills
RE: As noted in document title

1 **AN ORDINANCE TO AMEND CHAPTER 224 OF THE MUNICIPAL**
2 **CODE OF THE CITY OF REHOBOTH BEACH, DELAWARE, 2001**
3 **REGULATING OUTDOOR SMOKING IN PUBLIC PLACES**

4 WHEREAS, the Commissioners of the City of Rehoboth Beach adopted Ordinance No.
5 0411-01 on April 15, 2011, which for well-established public health and sanitation reasons
6 prohibits smoking in certain public parks; and

7 WHEREAS, the aforesaid ordinance is acknowledged to have achieved the goals stated
8 therein; and

9 WHEREAS, there has recently been considerable public interest in extending the
10 prohibition of smoking to other public areas of the City; and

11 WHEREAS, The Commissioners find it in the public interest, for all of the reasons stated
12 in Ordinance No. 0411-01, to include additional public areas where smoking is prohibited.

13 NOW THEREFORE BE IT ORDAINED, by the Commissioners of the City of Rehoboth Beach,
14 in session met, in the manner following to wit:

15 **Section 1.** Chapter 224, Section 224-2, of the Municipal Code of the City of Rehoboth
16 Beach, Delaware, 2001, as amended be and the same is hereby further amended by deleting
17 Subsections A through F in their entirety and substituting in lieu thereof the following new
18 Subsections A through I to read as follows:

- 19 A. Grove Park including all of the area of the City situated generally between Rehoboth
20 Avenue, Columbia Avenue, Grove Street and the Lewes-Rehoboth Canal excluding
21 the parking lot.
- 22 B. Lake Gerar including all of the public park lands surrounding the lake.
- 23 C. Central Park situated generally between Columbia and Park Avenues and Third
24 Street.
- 25 D. The entirety of the park lands located in Country Club Estates along Stockley Street.
- 26 E. Deer Park located at the intersection of Kent and Dover Streets.
- 27 F. The entirety of the easternmost median island on Rehoboth Avenue inclusive of the
28 bandstand, sitting areas, restrooms, bus stop and associated areas.

DATE: ~~February 17~~March 4, 2014

VERSION: Draft 2+redline

Incorporating comments from the Commissioners' meeting of February 21, 2014 and for consideration of adoption at the Commissioners' Special Meeting of March 10, 2014

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RE: As noted in document title

29 | Or Alternative F. The entirety of the bandstand plaza area, defined for purposes of this
30 | Chapter as that area that lies east of the line of pavement of Rehoboth Avenue at the
31 | western edge of the bandstand median to include the sidewalks, whether of wood,
32 | concrete or pavers, the streets including parking spaces and any structures situated in this
33 | area and maintained by the City.

Comment [U1]: This alternative expands the area from what was originally contemplated.

34

35 | G. The Boardwalk as defined in Chapter 98.

36 | H. ~~Every~~For every street which has for its eastern termination the Boardwalk, that area
37 | that lies east of the eastern most line of pavement to include all sidewalks, whether of
38 | wood or concrete, and any structures situated in this area and maintained by the City.

Comment [U2]: §98-2. Definitions. As used in this chapter, unless the context otherwise clearly indicates, the following terms shall have the meanings indicated:
BOARDWALK
The pedestrian way constructed and maintained generally parallel to the Atlantic Ocean, including but not limited to all connections and appurtenances thereto, whether on public or private property.

39 | I. The Beach, defined for purposes of this Chapter ~~defined~~ as the area of the City east
40 | of Ocean Drive, Surf Avenue and the Boardwalk extending 100 yards east of the high
41 | water line of the Atlantic Ocean, excluding the parking lot in the area known as
42 | Deauville Beach; except smoking shall be permitted on the Beach in designated and
43 | marked locations as determined by the City Manager, subject to the following:

- 44 | (1) Each area where smoking is permitted shall be abutting and located on the east
45 | side of the easternmost dune fence or if there be no fence at the toe of the main
46 | dune.
- 47 | (2) Each area where smoking is permitted shall be in the shape of a half-circle
48 | having a twelve-foot radius, the center of such half-circle being at a point in the
49 | above-referenced dune fence or toe of dune.
- 50 | (3) Each area where smoking is permitted shall be marked by appropriate signage
51 | and shall be provided with a cigarette/cigar butt disposal container.
- 52 | (4) No area where smoking is permitted shall be located any nearer than ~~50~~40 feet
53 | from any entranceway or path to the beach or Atlantic Ocean.
- 54 | (5) From May 1 to September 30 of each year, there shall be no more than ~~20~~22
55 | areas where smoking is permitted.
- 56 | (6) From October 1 of each year to April 30 of the following year, there shall be no
57 | more than 4 areas where smoking is permitted.

58 | **Section 2.** Chapter 224, Section 224-3, of the Municipal Code of the City of Rehoboth
59 | Beach, Delaware, 2001, as amended be and the same is hereby further amended by deleting the
60 | sentence "No person shall be cited for violating this chapter unless signs, readily visible to the

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61 public, are posted where smoking is prohibited, indicating when smoking is prohibited and
62 indicating that violations are subject to penalties” as it appears therein and substituting in lieu
63 thereof the sentence “No person shall be cited for violating this chapter unless signs, readily
64 visible to the public are posted to indicate those areas where smoking is prohibited.”

65 **Section 3.** This Ordinance shall become effective on May 15, 2014.

66 **Section 4.** If any provision of this Ordinance shall be deemed or held to be invalid or
67 unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect
68 any other provision of this Ordinance which may be given effect without such invalid or
69 unenforceable provision, and to this end, the provisions of this Ordinance are declared to be
70 severable.

71 Adopted by the Commissioners
72 of the City of Rehoboth Beach
73 _____, 2014

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77 _____
78 Secretary of the Commissioners of
79 the City of Rehoboth Beach

DATE: March 4, 2014
VERSION: Draft 2 - Incorporating comments from the Commissioners' meeting of February 21, 2014 and for consideration of adoption at the Commissioners' Special Meeting of March 10, 2014
AUTHOR: Commissioner Stan Mills
RE: As noted in document title. For consideration of adoption March 10, 2014.

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9 WHEREAS, there has recently been considerable public interest in extending the
10 prohibition of smoking to other public areas of the City; and

11 WHEREAS, The Commissioners find it in the public interest, for all of the reasons stated
12 in Ordinance No. 0411-01, to include additional public areas where smoking is prohibited.

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21 the parking lot.

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24 Street.

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27 F. The entirety of the easternmost median island on Rehoboth Avenue inclusive of the
28 bandstand, sitting areas, restrooms, bus stop and associated areas.

29 Or Alternative F. The entirety of the bandstand plaza area, defined for purposes of this
30 Chapter as that area that lies east of the line of pavement of Rehoboth Avenue at the

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32 concrete or pavers, the streets including parking spaces and any structures situated in this
33 area and maintained by the City.

34 G. The Boardwalk as defined in Chapter 98.

35 H. For every street which has for its eastern termination the Boardwalk, that area that
36 lies east of the eastern most line of pavement to include all sidewalks, whether of
37 wood or concrete, and any structures situated in this area and maintained by the City.

38 I. The Beach, defined for purposes of this Chapter as the area of the City east of Ocean
39 Drive, Surf Avenue and the Boardwalk extending 100 yards east of the high water
40 line of the Atlantic Ocean, excluding the parking lot in the area known as Deauville
41 Beach; except smoking shall be permitted on the Beach in designated and marked
42 locations as determined by the City Manager, subject to the following:

43 (1) Each area where smoking is permitted shall be abutting and located on the east
44 side of the easternmost dune fence or if there be no fence at the toe of the main
45 dune.

46 (2) Each area where smoking is permitted shall be in the shape of a half-circle
47 having a twelve-foot radius, the center of such half-circle being at a point in the
48 above-referenced dune fence or toe of dune.

49 (3) Each area where smoking is permitted shall be marked by appropriate signage
50 and shall be provided with a cigarette/cigar butt disposal container.

51 (4) No area where smoking is permitted shall be located any nearer than 40 feet
52 from any entranceway or path to the beach or Atlantic Ocean.

53 (5) From May 1 to September 30 of each year, there shall be no more than 22 areas
54 where smoking is permitted.

55 (6) From October 1 of each year to April 30 of the following year, there shall be no
56 more than 4 areas where smoking is permitted.

57 **Section 2.** Chapter 224, Section 224-3, of the Municipal Code of the City of Rehoboth
58 Beach, Delaware, 2001, as amended be and the same is hereby further amended by deleting the
59 sentence "No person shall be cited for violating this chapter unless signs, readily visible to the
60 public, are posted where smoking is prohibited, indicating when smoking is prohibited and
61 indicating that violations are subject to penalties" as it appears therein and substituting in lieu
62 thereof the sentence "No person shall be cited for violating this chapter unless signs, readily
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66 unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect
67 any other provision of this Ordinance which may be given effect without such invalid or
68 unenforceable provision, and to this end, the provisions of this Ordinance are declared to be
69 severable.

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72 _____, 2014

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77 Secretary of the Commissioners of
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