

By. MR. LOVE/ACE

No. 6121-15

### **A RESOLUTION**

Establishing the Procedure for the Designation of  
an Outdoor Refreshment Area.

WHEREAS, Section 4301.82 of the Ohio Revised Code provides that a municipal corporation with a population of more than fifty thousand (50,000) may create not more than two (2) outdoor refreshment areas; and,

WHEREAS, R.C. Section 4301.82 further provides that at the time of the creation of an outdoor refreshment area, the legislative authority of a municipal corporation shall adopt an ordinance that establishes requirements the legislative authority determines necessary to ensure public health and safety within the area; and,

WHEREAS, This Commission deems it in the public interest to establish a procedure in accordance with R.C. Section 4301.82 for the creation of any outdoor refreshment area in the city of Dayton; now, therefore,

### **BE IT RESOLVED BY THE COMMISSION OF THE CITY OF DAYTON:**

Section 1. The Department of Planning and Community Development may receive petitions from qualified permit holders, as defined in R.C. 4301.82(A), seeking to have property within the city designated as an outdoor refreshment area or to expand an existing outdoor refreshment area to include additional property within the city.

Section 2. Any petition submitted pursuant to Section 1 above shall include the following:

- A. A map of the proposed outdoor refreshment area showing the specific boundaries of the proposed outdoor refreshment area.
- B. A list of the addresses of property located within the defined boundaries.
- C. Signatures by individuals representing at least four (4) qualified permit holders, as defined in R.C. 4301.82, as petitioners.
- D. A completed checklist, as provided by the Department of Planning and Community Development, with all appurtenant attachments, demonstrating that the petitioners consulted with all applicable City departments as well as other stakeholders, including citizen groups.
- E. An implementation plan that includes:
  1. Proposed requirements for ensuring public safety, and the number of safety personnel needed to ensure public safety, as evaluated by the Department of Police.
  2. A sanitation plan, utilizing information provided by the Department of Public Works and including the number of personnel necessary to

execute the plan, to maintain the appearance and public health of the proposed area.

3. The days and hours of operation for the area.
4. A budget for the implementation plan, itemizing sources of funds and expenditures.

Section 3. Each petition shall be reviewed by the Outdoor Refreshment Area Petition Review Committee, consisting of representatives from the Departments of Planning and Community Development, Police, Public Works, Economic Development, Law, and any other Department deemed necessary by the City Manager. The criteria for evaluating a petition shall include:

- A. Demonstrated support from, and consultation with, persons and entities within the proposed outdoor refreshment area and within the general vicinity as well as other stakeholders.
- B. Strength and feasibility of the implementation plan.
- C. Operational capacity of City departments to provide necessary services to the outdoor refreshment area.
- D. Potential ramifications to the health, safety, and welfare of the proposed area and vicinity.
- E. Alignment with the City's comprehensive plan and other existing plans and policies.
- F. Long-term implications of an outdoor refreshment area at the proposed location.

Section 4. The Outdoor Refreshment Area Petition Review Committee shall provide to the City Manager a report reviewing each petition based on the criteria listed in Section 3 herein, and, if applicable, submit suggestions for the City Manager's consideration.

Section 5. The City Manager may determine whether to submit an application to the Commission, pursuant to R.C. Section 4301.82, regarding a petition reviewed by the Outdoor Refreshment Area Petition Review Committee.

Section 6. The Commission may establish an outdoor refreshment area by Ordinance pursuant to R.C. Section 4301.82

Section 7. The City Manager shall cause an annual review of the operation of an outdoor refreshment area established by Ordinance to determine whether its continued operation is conducive to the public good.

Section 8. The Commission may dissolve an outdoor refreshment area at any time, with publication of notice as prescribed in R.C. Section 4301.82, upon finding its continued operation is not conducive to the public good.

Section 9. The Commission shall review the operation of an outdoor refreshment area every five (5) years and by Ordinance approve or disapprove its continued operation.

Section 10. A map showing the outdoor refreshment areas, if any, established by Ordinance and indicating the date for review of each shall be maintained on the City's internet website.

Adopted by the Commission..... July 29 ....., 2015

Signed by the Mayor..... July 29 ....., 2015

Nam Whaley  
Mayor of the City of Dayton, Ohio

Attest:

Rashella Lavender  
Clerk of the Commission

Approved as to form:

Ernest R. Warrick  
City Attorney



## MEMORANDUM

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July 14, 2015

**TO:** Warren Price, City Manager  
City Manager's Office

**FROM:** Aaron Sorrell, Director *AKS*  
Department of Planning and Community Development

**SUBJECT:** Outdoor Refreshment Areas

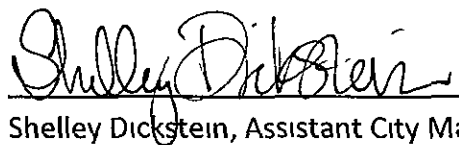
Attached for your review and placement on the July 22, 2015 City Commission calendar is a Resolution that establishes the City procedure for designation of an outdoor refreshment area. An outdoor refreshment area is a specified geography that is exempt from traditional open container laws, as enabled through the process outlined in Ohio Revised Code Section 4301.82.

Based on population, Dayton may designate up to two outdoor refreshment areas. There have been a number of inquiries made as to how this might occur, from various property owners and drinking establishments. This Resolution and associated attachments seek to establish that process. It is a petition process whereby four or more qualified liquor permit holders outline how the area will safely operate and not harm the health, safety, and welfare of the subject geography and vicinity, and how the associated costs will be addressed. It also provides the process and standards for review of petitions for proposed outdoor refreshment areas.

If you have any questions or require additional information please contact me at ext. 3679.

/ams

**APPROVED:**



Shelley Dickstein, Assistant City Manager  
City Manager's Office

Attachments



## **OUTDOOR REFRESHMENT AREA PETITION**

### **City of Dayton, Ohio**

The City of Dayton has the authority to designate up to two "Outdoor Refreshment Areas" within the city limits, pursuant to Section 4301.82 of the Ohio Revised Code

To advance an Outdoor Refreshment Area for consideration, a petition must be submitted with signatures from at least for qualified permit holders in the proposed area. Qualified permit holders can include businesses with permit types A-1, A-1-A, A-1c, A-2 or D.

A checklist must be completed that indicates proper consultation has occurred with the appropriate groups and agencies. Also, an Implementation Plan must be completed to demonstrate the proposed operation and maintenance of the prospective area.

Upon submittal of these materials to the Department of Planning and Community Development, each petition will be reviewed by the Outdoor Refreshment Area Petition Review Committee, consisting of representatives from the Departments of Planning and Community Development, Police, Public Works, Economic Development, Law and others deemed necessary by the City Manager.

The Committee will provide a report to the City Manager based on criteria including public support, the strength and feasibility of the Implementation Plan, the operational capacity of City departments to provide necessary services to the outdoor refreshment area, alignment with the City's comprehensive plan and other plans and policies, long-term implications of the proposed designation, and the potential ramifications on the health, safety, and welfare of the proposed area and vicinity.

The City Manager may then determine whether to submit an application to the City Commission, pursuant to R.C. Section 4301.82, for their consideration.

If approved by the City Commission, annual reviews of the Outdoor Refreshment Area will be conducted. The Commission may dissolve an Outdoor Refreshment Area at any time, with publication of notice as prescribed in R.C. Section 4301.82, upon finding its continued operation is not conducive to the public good.

The Commission shall also review the operation of an Outdoor Refreshment Area every five years and approve or disapprove its continued operation.



## PETITION

### **For an Outdoor Refreshment Area in the City of Dayton, Ohio**

Directions Complete this form with all required attachments and deliver to the Department of Planning and Community Development (City Hall 6<sup>th</sup> Floor, 101 West Third Street, Dayton, OH 45402)

General Location of the Proposed Outdoor Refreshment Area (attach map and address list)

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Required Signatures (minimum of four qualified holders of permit types A-1, A-I-A A-Ic, A-2 or D)

\_\_\_\_\_  
Signature of Business Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
Signature of Business Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
Signature of Business Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
Signature of Business Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Business Address

Required Attachments\*

Map of Proposed District with Specific Boundaries

List of Addresses to be included in the District

Completed *Implementation Plan*

Completed *Communication Checklist*

\*supplementary supporting materials, such as letters of support, may also be submitted for review

PETITION SUBMITTED BY

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**Implementation Plan  
Outdoor Refreshment Area (required attachment)  
City of Dayton, Ohio**

What days and times will the Outdoor Refreshment Area operate?

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What efforts will be made to ensure public safety? Include proposed regulations and number of safety personnel, as well as the point of contact for oversight of the safety efforts

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What is the sanitation plan? How will it help maintain the appearance and public health of the area? Include number of personnel, trash receptacles, as well as processes that will be established, and list the point of contact for oversight of the sanitation efforts

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What type of signage will be installed, and where will the signs be located?

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What is the expected cost to execute all aspects of this Implementation Plan, and what are the funding sources?

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If applicable, please describe other factors for consideration that would provide assurance that the Outdoor Refreshment Area will operate in a manner that maintains public health, safety, and welfare.

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**Communication Checklist**  
**Outdoor Refreshment Area (required attachment)**  
**City of Dayton, Ohio**

Check	Agency/Group	Reviewed By (name)	Comments (attach additional sheets as necessary)
<input type="checkbox"/>	Department of Police (333-1082)		
<input type="checkbox"/>	Department of Fire (333-4500)		
<input type="checkbox"/>	Department of Public Works (333-4070)		
<input type="checkbox"/>	Neighborhood Groups as provided by the Department of Planning and Community Development (333-3673)		
<input type="checkbox"/>	Downtown Dayton Partnership (if proposed district is inside Special Improvement District boundaries) (224-1518)		