

ORDINANCE NO. O2015-59

AN ORDINANCE CREATING A DESIGNATED OUTDOOR REFRESHMENT AREA, ESTABLISHING REQUIREMENTS TO ENSURE PUBLIC HEALTH AND SAFETY WITHIN SUCH AREA AND DECLARING AN EMERGENCY.

WHEREAS, Section 4301.82 of the Ohio Revised Code permits the City of Middletown to create and approve an application for one "Designated Outdoor Refreshment Area" within its corporate limits; and

WHEREAS, an application in compliance with Section 4301.82(B) of the Ohio Revised Code was filed with City Council to have certain property designated as an outdoor refreshment area on September 15, 2015; and

WHEREAS, beginning September 17, 2015, notice of the filing and consideration of said application was published in a newspaper of general circulation in the City of Middletown; to wit the Journal news once a week for two separate weeks in compliance with Sections 4301.82(C) and 4301.82(F)(2) of the Ohio Revised Code; and

WHEREAS, on October 6, 2015, City Council conducted a public hearing on its consideration of the application; and

WHEREAS, City Council finds that the application is in compliance with Section 4301.82(B) and that the "Designated Outdoor Refreshment Area" to be created would be in compliance with Section 4301.82(D);

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

The application for the designation of certain property in the City as a "Designated Outdoor Refreshment Area" submitted to this Council on September 15, 2015, is hereby approved, and there is hereby created an outdoor refreshment area.

Section 2

In order to ensure the public health and safety within the "Designated Outdoor Refreshment Area", City Council establishes the following requirements:

- (a) The specific boundaries of the "Designated Outdoor Refreshment Area", including street addresses are shown on Exhibit "A" and "B", attached hereto;

(b) There will be approximately twenty-four signs designating the boundary of the "Designated Outdoor Refreshment Area". The location of the signs is shown on attached Exhibit "A", as indicated by the black circles on the map. The signs will be post mounted and located at all street intersections along the boundary of the "Designated Outdoor Refreshment Area".

(c) The hours of operation for the "Designated Outdoor Refreshment Area" will be from 6:00 p.m. to midnight (12:00 a.m.) on each Thursday, Friday and Saturday. These hours of operation may be expanded by the Chief of the Division of Police with the concurrence of the City Council.

(d) A Safety Plan has been developed to ensure public safety in the "Designated Outdoor Refreshment Area", a copy of which is attached hereto as Exhibit "C". The Safety Plan can be executed with existing staff.

(e) A Sanitation Plan has been developed to maintain the appearance and public health of the "Designated Outdoor Refreshment Area", a copy of which is attached hereto as Exhibit "D". The Sanitation Plan can be executed with existing staff.

(f) For purposes of the "Designated Outdoor Refreshment Area", beer and intoxicating liquor shall be served solely in plastic bottles or other plastic containers that are distinctly marked to indicate the seller. This distinction can take the form of a particular cup, unique sticker or other method approved by the Chief of Police.

Section 3

Five years from the date of the adoption of this Ordinance, City Council shall review the operation of the "Designated Outdoor Refreshment Area" hereby created and shall either approve its continued operation or dissolve it. Such review shall be repeated five years after any subsequent approval of the "Designated Outdoor Refreshment Area" in the same manner.

Section 4

City Council may, at any time, dissolve all or part of the "Designated Outdoor Refreshment Area".

Section 5

All reviews or other action taken under the authority of Section 3 and/or 4 of this Ordinance shall be proceeded by notice of the proposed action in a manner consistent with state law (presently Section 4301.82(H) and (I) of the Ohio Revised Code) in affect at the time of the proposed action.

Section 6

This ordinance is not of a general or permanent nature, nor does it provide for a public improvement.

Section 7

This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: to permit the pending application to be acted upon in a timely manner in accordance with state law, and shall take effect and be in force from and after its adoption.

Lawrence P. Mulligan, Jr., Mayor

Adopted: _____

Attest: _____
Clerk of City Council

EXHIBIT "A"



Legend

- Open Container
- Permit Holders

Streets

CLASS

- Interstate
- Principal Arterial-Urban
- Minor Arterial-Urban
- Secondary
- Collector-Urban
- Local
- Median Cut
- Alley

- Private
- Pkg Lots

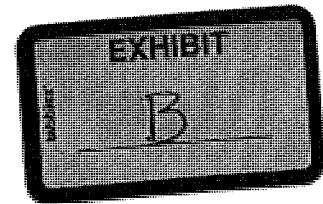
- Fitness
- Great Miami River
- Parks

River Center

Feature

- Deck (2,000 SF)
- Bike Trail
- Parking Lot





Location

1 DONHAM RD
1 N CANAL ST
1 N MAIN ST
100 S CARMODY BLVD
100 S MAIN ST
1000 CENTRAL AVE
1007 FIRST AVE
101 MANCHESTER AVE
101 N MAIN ST
1010 CENTRAL AVE
1010 MANCHESTER AVE
1015 CENTRAL AVE
1020 MANCHESTER AVE
1021 CENTRAL AVE
1024 CENTRAL AVE
1027 MANCHESTER AVE
1029 CENTRAL AVE
1035 CENTRAL AVE
1039 CENTRAL AVE
104 S MAIN ST
1044 CENTRAL AVE
1045 CENTRAL AVE
1049 CENTRAL AVE
105 N MAIN ST
105 S CARMODY BLVD
105 WATER ST
1050 CENTRAL AVE
1053 CENTRAL AVE
1054 CENTRAL AVE
107 WATER ST
109 N MAIN ST
109 WATER ST
11 S CLINTON ST
11 S MAIN ST
1100 CENTRAL AVE
1105 CENTRAL AVE
1108 CENTRAL AVE
111 WATER ST
1119 CENTRAL AVE
112 N BROAD ST
112 S MAIN ST
1120 CENTRAL AVE
1121 CENTRAL AVE
1123 CENTRAL AVE
1131 CENTRAL AVE
1131 MANCHESTER AVE

115 WATER ST
1150 CENTRAL AVE
116 N BROAD ST
116 S MAIN ST
119 WATER ST
12 CLARK ST
12 N MAIN ST
12 S CLINTON ST
120 N BROAD ST
120 N VERITY PKWY
1200 CENTRAL AVE
1201 CENTRAL AVE
1203 VAIL AVE
1205 VAIL AVE
1206 CENTRAL AVE
1206 VAIL AVE
1207 CENTRAL AVE
1207 VAIL AVE
1208 REYNOLDS AVE
1209 CENTRAL AVE
121 N MAIN ST
1210 MANCHESTER AVE
1212 CENTRAL AVE
1214 CENTRAL AVE
1215 CENTRAL AVE
1216 CENTRAL AVE
1218 CENTRAL AVE
1219 CENTRAL AVE
1222 VAIL AVE
1224 CENTRAL AVE
1224 VAIL AVE
1226 CENTRAL AVE
1226 VAIL AVE
1227 CENTRAL AVE
1228 CENTRAL AVE
1232 CENTRAL AVE
1234 CENTRAL AVE
1236 CENTRAL AVE
1237 CENTRAL AVE
1239 CENTRAL AVE
124 N BROAD ST
1240 CENTRAL AVE
128 N BROAD ST
130 N VERITY PKWY
1300 CENTRAL AVE
1301 REYNOLDS AVE
1302 CENTRAL AVE

1304 CENTRAL AVE
1306 CENTRAL AVE
1308 MANCHESTER AVE
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1311 CENTRAL AVE
1311 VAIL AVE
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1312 MANCHESTER AVE
1313 CENTRAL AVE
1314 CENTRAL AVE
1315 CENTRAL AVE
1315 REYNOLDS AVE
1316 CENTRAL AVE
1316 VAIL AVE
1317 CENTRAL AVE
1318 CENTRAL AVE
1318 MANCHESTER AVE
1319 CENTRAL AVE
1320 CENTRAL AVE
1321 CENTRAL AVE
1321 REYNOLDS AVE
1324 CENTRAL AVE
1325 CENTRAL AVE
1327 REYNOLDS AVE
1328 CENTRAL AVE
1329 CENTRAL AVE
1329 REYNOLDS AVE
1330 MANCHESTER AVE
1331 REYNOLDS AVE
1333 CENTRAL AVE
1333 VAIL AVE
1335 CENTRAL AVE
1336 MANCHESTER AVE
1337 CENTRAL AVE
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1371 CENTRAL AVE
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1372 VAIL AVE
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1387 CENTRAL AVE
1389 CENTRAL AVE
1391 CENTRAL AVE
14 S BROAD ST
140 N VERITY PKWY
15 N CLINTON ST
15 N VERITY PKWY
16 CLARK ST
16 N CLINTON ST
16 N MAIN ST
17 S CLINTON ST
18 N CLINTON ST
19 N BROAD ST
19 S CLINTON ST
2 N MAIN ST
2 S MAIN ST
20 CLARK ST
20 N BROAD ST
20 N CLINTON ST
20 N MAIN ST
23 DONHAM PLZ
24 N MAIN ST
26 N CLINTON ST
27 N MAIN ST
30 N MAIN ST
31 N CLINTON ST
31 S MAIN ST
32 S MAIN ST
33 N CLINTON ST

34 S MAIN ST
35 WATER ST
36 DONHAM PLZ
36 S MAIN ST
37 N CLINTON ST
38 S MAIN ST
39 N BROAD ST
4 CLARK ST
4 N MAIN ST
40 S BROAD ST
41 S MAIN ST
43 S MAIN ST
44 S BROAD ST
44 S MAIN ST
46 S MAIN ST
49 S MAIN ST
5 S CANAL ST
50 S BROAD ST
50 S MAIN ST
51 N VERITY PKWY
52 S BROAD ST
52 S MAIN ST
53 S MAIN ST
54 S MAIN ST
55 S BROAD ST
55 S MAIN ST
56 S MAIN ST
57 S MAIN ST
6 CLARK ST
6 S CARMODY BLVD
600 CENTRAL AVE
63 S MAIN ST
64 S MAIN ST
65 S MAIN ST
68 S MAIN ST
69 MAIN ST
7 N BROAD ST
7 S BROAD ST
71 S MAIN ST
710 CENTRAL AVE
790 1ST AVE
791 4TH AVE
800 2ND AVE
801 1ST AVE
802 2ND AVE
805 1ST AVE
805 2ND AVE

806 1ST AVE
806 2ND AVE
806 CENTRAL AVE
810 1ST AVE
815 2ND AVE
900 1ST AVE
900 CENTRAL AVE
907 CENTRAL AVE
909 1ST AVE
910 1ST AVE
911 CENTRAL AVE
912 1ST AVE
913 CENTRAL AVE
915 CENTRAL AVE
916 1ST AVE

EXHIBIT “C”

Safety Plan

Designated Outdoor Refreshment Area (DORA)

In the event the City should create a Designated Outdoor Refreshment Area (DORA), the Division of Police will be responsible for the public safety in the area. This will be accomplished in the following manner.

- A. The Division of Police staffs patrol officers using a beat system. The proposed DORA is centrally located, and comprises the majority of, beat 9.
- B. When the DORA is in operation, typically from 6pm to midnight on Thursday, Friday and Saturday night and other times as determined by the Chief of Police, the on-duty supervisor will ensure beat 9 is staffed by at least one officer.
- C. In the event a larger than normal number of people are in the DORA, the on-duty supervisor is authorized to assign two or more officers to beat 9.
- D. In the event of a City sponsored special event in the DORA that is likely to draw a larger than normal number of people, the Chief of Police may require additional officers to be assigned solely to the DORA.
- E. In the event of a private special event in the DORA that is likely to draw a larger than normal number of people to the DORA, the Chief of Police may require the event organizer to hire additional police personnel to be assigned to the area.
- F. At any point when the on-duty supervisor or the Chief of Police deems it necessary, officer may be assigned to the DORA with the sole responsibility of providing police service to the area.



EXHIBIT “D”

MEMORANDUM

Public Works & Utilities Department

TO: David VanArsdale, Public Safety Director

FROM: Scott Tadych, Public Works & Utilities Director

DATE: August 21, 2015

RE: OUTDOOR REFRESHMENT AREA – SANITATION PLAN

There are currently 32 trash receptacles located in the proposed outdoor refreshment area. The receptacles are concentrated in the following locations:

Central Avenue – Water Street to Clark Street	(12)
Broad Street – 1 st Avenue to Manchester Avenue	(6)
Bicentennial Commons	(4)
Port Middletown	(4)
Donham Plaza	(6)

The City proposes adding ten additional trash receptacles within the outdoor refreshment area to fill gaps in coverage. The trash receptacles will be serviced by the City’s refuse collection contractor a minimum of once per week. Additional collections will be done on an as needed basis. The City’s Litter Collection Specialist will monitor the receptacles and coordinated additional collections.

STAFF REPORT
For the Business Meeting of

DATE: October 19th, 2015
TO: Doug Adkins, City Manager
FROM: David VanArsdale, Director of Public Safety

Designated Outdoor Refreshment Area Legislation

PURPOSE

This staff report is to provide the background for the proposed legislation that will create a Designated Outdoor Refreshment Area in the City of Middletown.

BACKGROUND and FINDINGS

In accordance with the Ohio Revised Code section 4301.82, the City of Middletown is creating a Designated Outdoor Refreshment Area (DORA). This is an area where the Ohio open carry restrictions do not apply on particular days and particular hours, and allows adults to possess and consume alcohol in public, with certain restrictions. For further background on the definition, restrictions and process of creating a DORA, see the earlier staff report titled "Proposed Designated Outdoor Refreshment Area".

In order to comply with ORC 4301.82, prior to Council considering legislation creating a DORA, an application was submitted to Council on September 15th, 2015, that included the following:

- A map of the proposed area (one-half square mile or less)
- A statement of the nature and type of establishments in the proposed area
- A statement verifying that not less than four liquor permit holders are included in the area
- Evidence that the land use in the DORA is in accord with the Master Plan, and
- Proposed requirements that ensure the public health and safety in the DORA

The statute also requires that a public notice be issued two times within 45 days of the application. This notice was issued on September 17th and September 24th. Although not specifically required by the ORC, a public hearing was held on October 6th, 2015.

After 30 days of the first public notice, but before 60 days, Council must either approve or disapprove the application, by ordinance or resolution. To comply with this timeline, Council must take action between October 17th and November 16th.

The legislation for creation of the Designated Outdoor Refreshment Area is attached. As required by the ORC, it includes:

- The specific boundaries of the area (including street addresses)
- The number, spacing and type of signage designating the area
- The hours of operation for the area
- The number of personnel needed to ensure public safety in the area
- A sanitation plan that will help maintain the appearance and public health of the area, and
- A requirement that beer and intoxicating liquor be served solely in plastic bottles or other plastic containers in the area

All of the requirements have been met for Council to consider this legislation. Should the legislation pass, and a DORA be created, the City will notify the Ohio Department of Liquor Control that a Designated Outdoor Refreshment Area exists in Middletown.

ALTERNATIVES

Approve or disapprove the legislation.

FINANCIAL IMPACT

N/A

EMERGENCY/NON EMERGENCY

This legislation is requested as an emergency in order to meet the state code requirements.