

1st 8/5/24
2nd 8/20/24

ORDINANCE NO. G-24-12
**AN ORDINANCE OF THE CITY OF NEW HAVEN, INDIANA ESTABLISHING
A CERTAIN DESIGNATED OUTDOOR REFRESHMENT AREA**

WHEREAS, Ind. Code § 7.1-3-31 *et. seq.*, (the "Act") authorizes the establishment of a Designated Outdoor Refreshment Area ("DORA");

WHEREAS, the City of New Haven, Indiana ("City"), supports the revitalization and economic re-development of its downtown corridor, desires to maintain an economically vibrant downtown center for its residents and visitors, and recognizes that a sustainable downtown corridor contributes to the overall economic health of the City;

WHEREAS, the City wishes to maintain a livable, walkable, and vibrant downtown with opportunities to work, shop, live, and recreate;

WHEREAS, in accordance with the Act, the establishment of a DORA generally allows a person to: (i) exit the licensed premises of a designated permittee or vendor with not more than two (2) open containers of an alcoholic beverage at a time, and (ii) consume the alcoholic beverage within the refreshment area; and

WHEREAS, in accordance with the Act, the Common Council for the City of New Haven, Indiana ("Common Council"), believes it is in the best interests of the City to create two DORAs in the City's downtown corridor, as further depicted on Exhibit A (the "Downtown North DORA") and Exhibit B (the "Downtown South DORA"), attached hereto and incorporated herein (the Downtown North DORA and the Downtown South DORA, collectively, the "Downtown DORAs").

NOW, THEREFORE, BE IT ORDAINED, by the Common Council for the City of New Haven, Indiana, meeting in regular session as follows:

Section 1. Recitals. The recitals are hereby incorporated by reference.

Section 2. The Act. All definitions found in Ind. Code §7.1-3-31 *et. seq.*, shall apply to this Ordinance and are hereby incorporated by reference.

Section 3. Downtown North DORA. The Common Council hereby adopts the Downtown North DORA, as further depicted on Exhibit A, which is attached hereto and incorporated herein. The boundaries of the Downtown North DORA shall be as follows:

Beginning at a point in the northwest corner of the intersection of Broadway Street and Powers Street;

then moving east along Powers Street to the intersection of Powers Street and Ann Street;

then moving south along Ann Street to the intersection of Ann Street and Middle Street;

then moving west along Middle Street to the intersection of Middle Street and Broadway Street; and

then moving north along Broadway Street to the beginning point in the northwest corner of the intersection of Broadway Street and Powers Street.

And

Beginning at a point in the southwest corner of the intersection of Broadway Street and Middle Street;

then moving south along Broadway Street (including the properties immediately adjacent to Broadway Street on both the east and west side of the street) to a point north of the railroad crossing. The Downtown North DORA does not cross the railroad crossing.

Section 4. Downtown South DORA. The Common Council hereby adopts the Downtown South DORA, as further depicted on Exhibit B, which is attached hereto and incorporated herein. The boundaries of the Downtown South DORA shall be as follows:

Beginning at a point north of the intersection of Broadway Street and Hartzell Street and south of the railroad crossing;

then moving south along Broadway Street (including the properties immediately adjacent to Broadway Street on both the east and west side of the street) to the intersection of Broadway Street and Park Avenue (including the properties immediately adjacent to Park Avenue on the south side of the road). The Downtown South DORA shall not cross the railroad crossing.

Section 5. Zoning. The Common Council hereby finds that the Downtown DORAs are consistent with the City's zoning ordinance.

Section 6. Signage. The Common Council hereby approves and adopts the sign package as further described and depicted on Exhibit C which is attached hereto and incorporated herein (the "Sign Package"). The Common Council hereby designates the City of New Haven Board of Public Works & Safety with full authority to make future amendments to the Sign Package in order to increase the number of signs or change the type of signage used within the Downtown DORAs.

Section 7. Designated Permittees. The following retail permittees have submitted a completed application to the City to participate in the Downtown DORAs, and

the City hereby find that each of them is an appropriate Designated Permittee and requests the Indiana Alcohol & Tobacco Commission (the "Commission") to issue each a "refreshment area designation":

- a. Carl's Tavern – 433 Broadway Street, New Haven, IN
- b. Trion Tavern – 503 Broadway Street, New Haven, IN
- c. Rack & Helens Bar & Grill – 525 Broadway Street, New Haven, IN
- d. 3 Pals Pub – 615 Broadway Street, New Haven, IN
- e. Navy Club of New Haven Ship #245 – 412 Broadway Street, New Haven, IN

In accordance with the Act, the Commission may approve the Downtown DORAs and issue refreshment area designations to retailer permittees without publication of notice or investigation before a local board. The Commission may not charge a fee for designating a retailer permittee.

Any additional licensed premises, located within the Downtown DORAs, not specifically listed in this Section 6 as a Designated Permittee who desires to be designated as a "Designated Permittee" and granted a "refreshment area designation" shall submit a Designated Permittee Application to the City for approval and recommendation by the Common Council by Resolution.

Section 8. Temporary Vendor. A person who is not a designated permittee for the area must obtain a permit as further described by Ind. Code §7.1-3-31-5 and a temporary vendor designation to participate in an event or festival held within the Downtown DORAs. In accordance with the Act, the Commission may only charge a fee for the temporary beer or wine permit, and the Commission may issue the permit and designation without publication of notice or investigation before a local board.

The vendor shall submit a Special Event Permit Application and State Designated Outdoor Refreshment Area Form, on each such occasion. The City of New Haven Board of Public Works & Safety shall have the authority to decide if said vendor is appropriate for the Downtown DORAs and may approve said vendor in accordance with its procedures established for the same. Upon approval, a "Vendor" may locate at any or all of the available "Vendor Locations" within the Downtown DORAs as further depicted on Exhibit A and Exhibit B.

Section 9. Drink Limitations. In accordance with the Act, a Designated Permittee or Vendor within the Downtown DORAs may allow a person to exit the designated permittee's or vendor's licensed premises with not more than two (2) open containers of an alcoholic beverage at a time. The contents of an open container may not exceed the following:

- a. Beer or flavored malt beverage of not more than sixteen (16) ounces;
- b. Wine, cider, or hard seltzer of not more than twelve (12) ounces;

- c. A mixed drink of not more than ten (10) ounces containing not more than two (2) ounces of liquor.

Section 10. Right of Business Owner to Refuse Entry. In accordance with the Act, a person may consume an alcoholic beverage purchased from a designated permittee or vendor anywhere within the Downtown DORAs, subject to the right of any retailer permittee or business within the Downtown DORAs to refuse to allow individuals to enter the licensed premises or business with an alcoholic beverage. Nothing in this Ordinance prohibits a business, landlord, or other establishment from prohibiting open containers of alcoholic beverages to enter their premises. Only those entities with signage specifying their participation in the Downtown DORAs (which signage will be prominently placed on the storefront or entry door) will allow a person to enter their premises with and consume an alcoholic beverage purchased within the Downtown DORAs.

Section 11. Consumption of Drink Purchased Outside Refreshment Area. A person may not consume an alcoholic beverage within the Downtown DORAs that was purchased outside of the refreshment area.

Section 12. Outdoor Dining. In accordance with the Act, if a designated permittee includes outdoor dining, (i) the designated permittee may serve alcoholic beverages in open containers during the hours of operation and in the areas authorized by the retailer permit; (ii) glass containers may be allowed in the outdoor dining areas but may not be removed from those areas into the refreshment area; and (iii) no fencing or other enclosure of the outdoor dining area is required.

Section 13. Dates & Hours of Operation. The dates and hours of operation for each of the Downtown DORAs shall be in effect each day from: (A) for June 1 through July 31, 11:00 a.m. to 11:59 p.m., prevailing local time, and (B) for August 1 through May 31, 6:00 p.m. to 11:00 p.m. Notwithstanding these standard hours, the City of New Haven Board of Public Works & Safety is authorized to adopt different hours of operation that deviate from these standard hours for special events taking place in either of the Downtown DORAs. For each special event, the City of New Haven Board of Public Works & Safety must specifically identify to which date or dates the different hours of operation apply, and the City of New Haven Board of Public Works & Safety must publish notice of the different hours of operation for special events in accordance with Ind. Code 5-3-1.

Section 14. City Control of Right-of-Way. The City of New Haven maintains full authority and control over the sidewalks and common area and no one may prohibit or limit open containers in accordance with the Act within the Downtown DORAs in those spaces except for the City of New Haven Board of Public Works & Safety and the Common Council.

Section 14. Additional Operating Rules & Regulations. In addition to the requirements set forth in the Act and this Ordinance, the following additional regulations apply to each of the Downtown DORAs:

- a. Alcoholic beverages consumed in the Downtown DORAs must be contained in a plastic cup provided by the Designated Permittee or Vendor, or as specifically designated by the City.
- b. Glass containers may only be allowed in a Designated Permittee's outdoor dining area (as further described in Section 11), and may not be removed into the Downtown DORAs.
- c. Signage, as further depicted on Exhibit C, attached hereto and incorporated herein, shall be posted at each exit of a Designated Permittee and on the licensed premises of a Vendor.
- d. Only those entities with signage specifying their participation in the Downtown DORAs (which signage will be prominently placed on the storefront or entry door) will permit a person to enter their premises with an alcoholic beverage purchased within the Downtown DORAs.

Section 15. Severability. The provisions of this Ordinance are severable, and the invalidity of any one or more provisions shall not affect or limit the enforceability of the remaining provisions. In the unlikely event that a court of competent jurisdiction determines that any of the terms, provisions, or covenants contained in this Ordinance are unreasonable or unenforceable, the court shall limit the application of such term, provision, or covenant, or modify any such term, provision, or covenant, and proceed to enforce the Ordinance as so limited or modified, to the maximum extent permitted by law.

Section 16. Conflicts. Any ordinances or parts thereof in conflict herewith are hereby repealed.

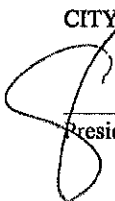
Section 17. Effective Date. This ordinance shall be of full force and effect from and upon its passage by the Common Council, approval by the Mayor, and approval by the Indiana Alcohol and Tobacco Commission, and any other legal requirements as provided by the Act.

SO ORDAINED, by the Common Council for the City of New Haven, Indiana this 20th day of August, 2024.

This instrument prepared by Christopher P. Greisl, Barnes & Thornburg LLP, 11 S. Meridian Street, Indianapolis, IN 46204.

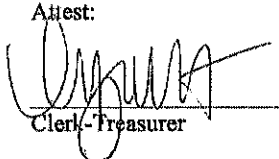
Passed and adopted by the Common Council of the City of New Haven on the 20th day of August, 2024.

CITY OF NEW HAVEN



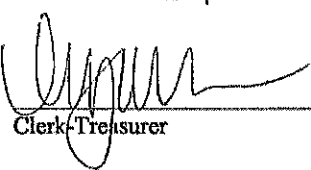
Presiding Officer

Attest:



Clerk-Treasurer

August Presented by me to the Mayor of the City of New Haven at 5:34 p. m., on the 20th day of August, 2024.



Clerk-Treasurer

This Ordinance approved and signed by me, the Mayor of the City of New Haven, at 5:34 p. m., on the 20th day of August, 2024.



Mayor

Exhibit A

[Downtown North DORA]



Exhibit B

[Downtown South DORA]

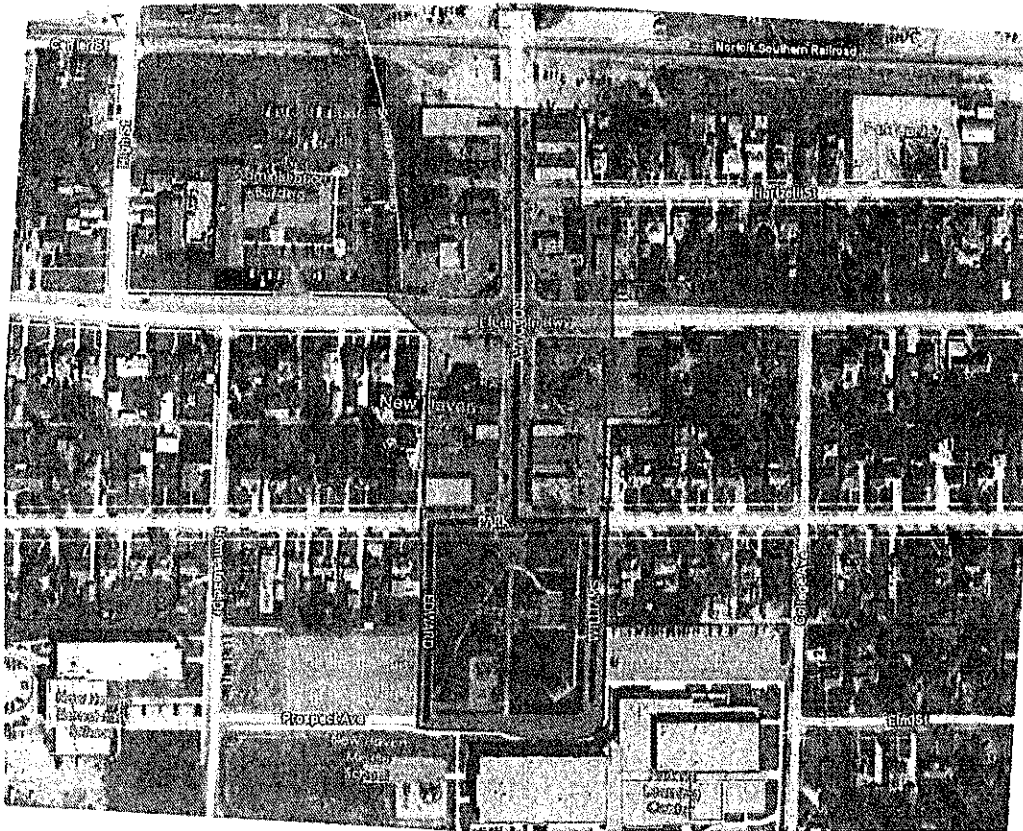


Exhibit C

[Signage]



DESIGNATED OUTDOOR REFRESHMENT AREA

Participating Location

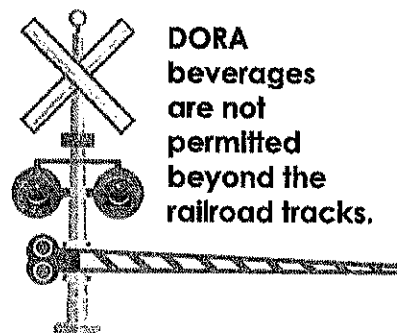
NO OUTSIDE ALCOHOL PERMITTED



DESIGNATED OUTDOOR REFRESHMENT AREA

Guidelines

- 1 In effect from 6 PM to 11 PM August through April, and 11 AM to 11:59 PM May through July.
- 2 DORA beverages may only be consumed in designated DORA cups.
- 3 DORA beverages must stay within DORA boundaries (see map).
- 4 Patrons are subject to open container laws outside DORA boundaries.
- 5 No alcoholic beverages or containers are permitted on or over the railroad tracks.

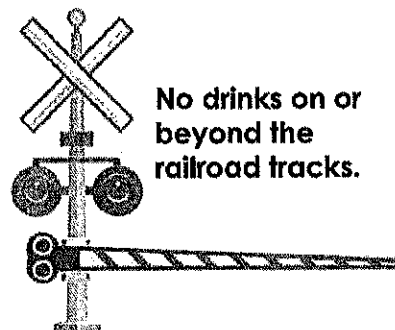




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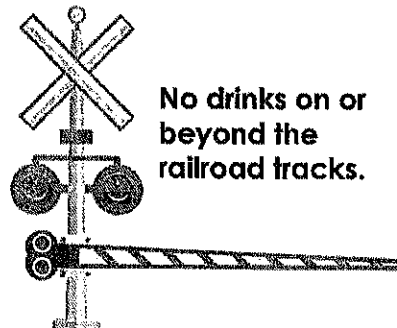




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*ATC Columbia City Contact

- M-F 4pm - Midnight

- S-S 11AM - 1AM

- Schnelker exception: 6pm - 11pm

*Carson Smith email

Now Exiting



DESIGNATED OUTDOOR REFRESHMENT AREA

Remember

**Any open alcoholic beverage
containers purchased within the
DORA must remain within the DORA.**

**Patrons are subject to open container
laws outside DORA boundaries.**

Exhibit D

[Sign Posted at Exit of Designated Permittee and on Licensed Premises of Vendor]

**RULES FOR THE
DOWNTOWN [NORTH/SOUTH] DORA**

1. Hour of Operation: 11:00 a.m. to 11:59 p.m. (June 1 through July 31)
6:00 p.m. to 11:00 p.m. (August 1 through May 31)
 2. Alcoholic beverages may only be consumed in plastic and/or designated cups from participating establishments.
 3. Alcoholic beverages may only be consumed inside the Downtown [North/South] DORA.
 4. Alcoholic beverages may be brought onto the premises of any entity who participates in the Downtown [North/South] DORA, which is signified by specific signage on the storefront or entry door of the participating entity.
 5. Possession of an open container of alcohol in a motor vehicle may constitute a Class C infraction under IC 9-30-15.
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