

TOWN OF FREMONT, INDIANA

ORDINANCE NO. 2025-08

**AN ORDINANCE ESTABLISHING A DESIGNATED OUTDOOR
REFRESHMENT AREA FOR ALCOHOLIC BEVERAGES.**

WHEREAS, pursuant to Indiana Code ("IC") 7.1-5-8-5 and other applicable law, it is generally unlawful for a person, for the person's own use, to knowingly carry on, convey to, or consume on or about the licensed premises of a person authorized to manufacture or sell an alcoholic beverage that was not then and there purchased from that permittee;

WHEREAS, notwithstanding IC 7.1-5-8-5, pursuant to IC 7.1-3-31-6, to the extent that a municipality designates an area as a refreshment area pursuant to that Indiana Code chapter, a person may instead lawfully: (1) exit the licensed premises of a designated permittee or vendor with not more than two open containers of an alcoholic beverage at a time; and (2) consume the alcoholic beverage within the refreshment area;

WHEREAS, pursuant to IC 7.1-3-31-8(a), to create such a refreshment area, the municipal legislative body must adopt an ordinance designating the area as such ("DORA Ordinance");

WHEREAS, pursuant to IC 7.1-3-31-8(b), the DORA ordinance may include any other provisions regarding the operation of the refreshment area that the municipal legislative desires;

WHEREAS, pursuant to IC 36-5-2-2, the Town Council of the Town of Fremont ("Town Council") is the legislative body of the Town of Fremont, Indiana ("Town");

WHEREAS, the Town Council understands that designating a refreshment area would tend to promote economic development, vitality, and the enjoyment of Town citizens and visitors, especially during the times of festivals and other special events, while still ensuring that the refreshment area is administered in an orderly fashion in accordance with applicable law;

WHEREAS, pursuant to IC 36-5-4-11, the Town Council President may revoke or suspend any license issued by the Town if the licensee has violated the terms or conditions of the license or of the laws under which it was issued; *and*

WHEREAS, the Town desires to create corresponding legislation for inclusion in the Fremont Code ("Town Code").

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FREMONT, INDIANA THAT:

SECTION I – NAME

The name of this ordinance is the "Town of Fremont Designated Outdoor Refreshment Ordinance," or the "DORA Ordinance" where the context is obvious.

SECTION II – RECITALS

The foregoing recitals, including all defined terms, are hereby incorporated into, and made a part of, this ordinance and found to be true, accurate, and correct.

SECTION III – TOWN CODE PROVISIONS

A new Town Code Chapter 154 entitled “Designated Outdoor Refreshment Areas (“DORAs”)” is hereby created.

SECTION IV – DEFINITIONS

A new Section 154.01 of Chapter 154 of the Town Code is hereby entitled “Definitions” and is enacted to read as follows:

- A. Incorporation. The definitions contained in IC 7.1-3-31 shall apply also to this chapter.
- B. Meaning. Whenever the following terms are used in this chapter, they shall have the meanings herein ascribed to them unless the context clearly indicates or requires otherwise.
 - 1. “Administrator” means the person designated by the Town Council to supervise the operation of this chapter; the term includes any other person to the extent that authority under this chapter has been delegated thereto.
 - 2. “Commission” stands for the “Indiana Alcohol & Tobacco Commission.”
 - 3. “DORA” stands for “Designated Outdoor Refreshment Area” and means a respective refreshment area designated under this chapter.
 - a. “Downtown DORA” means the refreshment area designated by Section 154.03 of this chapter.
 - 4. “Licensed Premises” has the meaning given in IC 7.1-1-3-20.
 - 5. “Permittee” means a person who holds a valid permit under IC 7.1 for alcohol sales.
 - 6. “Permittee Application” means the Commission’s State Form 57288, as may be supplemented by the Administrator.
 - 7. “Zoning Ordinance” means the *Zoning Ordinance of Fremont, Indiana*, which is the zoning ordinance for the Town.
- C. Arbiter. The Town Council shall have the final authority in adjudicating the meaning of the terms in this section.

SECTION V – ADMINISTRATION

A new Section 154.02 of Chapter 154 of the Town Code is hereby entitled “Administration” and is enacted to read as follows:

- A. Position. A DORA Administrator position is hereby established to administer the provisions of this chapter; the Administrator may have other employment with the Town.
- B. Ex Officio Appointment. The Zoning Administrator shall serve as the default Administrator except to the extent that the Town Council has assigned (and not revoked) the powers and duties of the position to another person by motion.
- C. Application. The Administrator is hereby authorized, empowered, and directed to take all action necessary or proper to file with the Commission a complete application for any DORA designated under this chapter, which application is to include the underlying DORA ordinance, any necessary waivers from nearby churches and schools, and the completed Permittee Applications.
- D. Coordination. Except as otherwise provided in this chapter, the Administrator may assist Permittees to participate in a DORA as Designated Permittees or Vendors without the need for further Town Council approval.
- E. Forms. The Administrator may supplement the Permittee Application with additional inquiries and requirements as necessary to ensure proper administration of this chapter.
- F. Standards. The Administrator may develop, publish, and implement neutral standards for considering any Permittee Application.
- G. Consideration and Approval. The Administrator shall generally respond to a Permittee Application within ten (10) days but may consider it for a longer period for good cause and upon proper notice of the extension to Permittee. The Administrator may approve any Permittee Application:
 - 1. to the extent that the Administrator finds that approving the Permittee Application will be beneficial to the Town as determined under neutral standards;
 - 2. as long as the respective Permittee has not been found to have violated this chapter within the then-previous three (3) years; *and*
 - 3. except as otherwise directed by the Town Council.
- H. Application Fee. The Administrator may set, modify, and assess a fee with respect to any Permittee Application in order to recoup some or all of the costs that the Administrator reasonably anticipates in the administration of the application process, inspection, and enforcement of this chapter. The fee shall not be designed to generate income.
- I. Vendors. The Administrator may limit the number of Vendors that may be allowed to operate in any designated Vendor area during any festival or event.

SECTION VI – GENERAL RULES

A new Section 154.03 of Chapter 154 of the Town Code is hereby entitled “General Rules” and is enacted to read as follows:

A. Permittee Applications. Each Permittee who is not already a Designated Permittee with respect to a particular DORA may apply for Designated Permittee or Vendor status as appropriate with the Administrator using the Permittee Application.

B. Participation.

1. Applicable Law. Each Designated Permittee and Vendor, by participating in a DORA, covenants to comply with this chapter and other applicable DORA law, to adhere to any additional License terms, and to follow all instructions from the Administrator and law enforcement officers.

2. Indemnification. Each Designated Permittee and Vendor, by participating in a DORA, covenants to irrevocably release, discharge, and agrees to indemnify and hold harmless, and defend the Town and its agents and other DORA guests from and against any and all liability, debts, suits, actions, legal proceedings, claims, demands, damages, costs, expenses, lost wages or benefits, and attorney's fees (including paralegal fees), and any amounts paid in good faith arising from any threatened or pending claim, demand, action, suit, settlement, or judgment, whether any such amount is known or unknown, and whether past, present, or future, or by whomsoever caused, to persons or property arising out of or relating to participation in the DORA, due in whole or in part to any act, omission, or negligence of the person at the DORA; provided, however, that the indemnification does not apply to the extent of any act or omission of the Town amounting to willful misconduct or gross negligence. The Administrator may insert the substance of this subsection into any supplemental Permittee Application.

3. Forum. Each Designated Permittee and Vendor, by participating in a DORA, covenants to file any action arising from or relating to this chapter or a License in any way either in the state courts located in Steuben County or the United States District Court for the Northern District of Indiana, Fort Wayne Division; to submit to the exclusive jurisdiction of the courts; and to waive any right of transfer therefrom.

C. Drink Limitations.

1. No Designated Permittee or a Vendor shall allow a person to exit the respective Licensed Premises or designated Vendor area with more than two (2) open alcoholic beverages.

2. The maximum fill limits for an alcoholic beverage being sold for consumption within a DORA are as follows:

a. for beer or flavored malt beverages: up to sixteen (16) ounces;

b. for wine, cider, or a premixed cocktail: up to twelve (12) ounces; *and*

c. for liquor or a liquor-based cocktail: up to ten (10) ounces, including up to two (2) ounces of liquor.

D. Signage.

1. Number. Each DORA shall have at least ten (10) signs that designate the DORA.
2. Spacing. Town signage that designates the DORA must be posted in conspicuous locations around the perimeter of the DORA, at an average of no less than two hundred (200) feet apart. Town signage should also be displayed in heavily concentrated pedestrian traffic areas within the DORA.
3. DORA Participation.
 - a. Each Permittee located in a DORA that is not participating in the DORA must post an Administrator-approved sign to that effect in a conspicuous location at each entrance of the Licensed Premises.
 - b. Any other private business within the DORA may post prominent signs as to whether a person may enter the business with an alcoholic beverage.
4. Regulatory Signage. A sign must be prominently displayed at each exit of a Licensed Premises of a Designated Permittee and at each designated Vendor area within a DORA that contains the following information:
 - a. any open container of alcoholic beverages purchased within a DORA must remain within the DORA;
 - b. possession of an open container of an alcoholic beverage in a motor vehicle may constitute a Class C infraction under IC 9-30-15;
 - c. the dates and hours of operation in which the DORA is open; *and*
 - d. any logo that has been associated with the DORA.

E. Cups.

1. Each Designated Permittee must ensure that any alcoholic beverage that is taken from its Licensed Premises into a DORA is served only in 16-ounce disposable plastic cups. Each Vendor must serve alcoholic beverages only in 16-ounce disposable plastic cups.
2. Each person who consumes an alcoholic beverage in a DORA outside of a licensed premises must do so using an official plastic cup approved by the Administrator.

F. Wristbands.

1. Each Designated Permittee must ensure that any alcoholic beverage that is taken from its Licensed Premises into a DORA is possessed by a person who is wearing a wristband approved by the Administrator. Each Vendor must ensure that it provides a wristband to each person to whom it serves an alcoholic beverage.
2. Each person, while consuming an alcoholic beverage in a DORA outside of a licensed premises, must wear an official wristband approved by the Administrator.

- G. Color Coding. The default color for all Administrator-approved cups and wristbands shall be lime green; provided, however, that the Administrator may instead impose other colors upon reasonable advance notice.
- H. Administrator Procurement. Upon reasonable advance notice and 30-days' demand for payment, the Administrator may design, procure, deliver, and impose any reasonable amounts of regulatory signage, cups, and/or wristbands required by this section and collect the reasonable procurement costs (including delivery) thereof from the respective Designated Permittees and Vendors.
- I. Trash Receptacles. Each Designated Permittee and Vendor must continuously maintain one or more trash receptacles outside each entrance to their respective Licensed Premises or designated Vendor area at their sole cost and expense and without causing a nuisance during any active DORA hours.

SECTION VII – DOWNTOWN DORA

A new Section 154.04 of Chapter 154 of the Town Code is hereby entitled "Downtown DORA" and is enacted to read as follows:

- A. Designation. A DORA is hereby established in the Town and designated as the "Fremont Downtown DORA."
- B. Boundaries. The Downtown DORA boundary is as follows, excluding all rights-of-way:
 - 1. (southern boundary) the northern edge of Toledo St. (SR 120);
 - 2. (eastern boundary) the western edge of Pleasant St.;
 - 3. (western boundary) the eastern edge of Tolford St.;
 - 4. (northern boundary) the southern edge of an unnamed alley that runs east-west from Tolford St. across Wayne St. to Pleasant St., which is located approximately halfway between Toledo St. and Spring St., excluding the alley itself, and, when crossing Wayne St., the northern boundary is formed by connecting the two end points of the southern edge of the alley as they meet Wayne St.
- C. Street Address. The boundary of the Downtown DORA can be described using street addresses by 116/118 Toledo St. to 119 Toledo St. plus an unmarked lot to the east on Toledo St. owned by the Town. The Downtown DORA also includes 103 N. Pleasant St.
- D. Map. A map of the Downtown DORA that depicts the boundaries thereof is as follows:

{Continue to next page}



Town of Fremont Designated Outdoor Refreshment Area

- E. Conflicts. In the event of a conflict between the boundary description and the map, the boundary description shall govern.
- F. Zoning Consistency. The Downtown DORA is hereby found to be consistent with the Zoning Ordinance.
- G. Dates and Hours of Operation. The Downtown DORA shall be in effect from May 1 through November 1 each year and from 4:00 p.m. to 9:00 p.m. each of those days.
- H. Initial Designated Permittees. Subject to approval by the Commission, the initial Designated Permittees for the Downtown DORA, as shown in west-to-east order on the map in this section are:
 - 1. Pizza King, 118 Toledo St., Fremont, IN 46737
 - 2. Fremont Bar & Grill, 110 Toledo St., Fremont, IN 46737
 - 3. Rugiono's, 101 Toledo St., Fremont, IN 46737
 - 4. What the Fork, 113 Toledo St., Fremont, IN 46737
- I. Vendor Locations. Two Vendor locations in the Downtown DORA are established on the east and west side of Wayne St., approximately 40-50 feet from the southern boundary.

SECTION VIII – ENFORCEMENT

A new Section 154.09 of Chapter 154 of the Town Code is hereby entitled "Enforcement" and is enacted to read as follows:

- A. Philosophy. Participation in any DORA is a privilege and not a right.
- B. Closure. The Town Council may repeal any section of this chapter that establishes a DORA and may, by motion, temporarily close any DORA until a stated date.
- C. Appeals. Appeals from any Administrator denial of or failure to timely respond to a Permittee Application may be taken to the Board of Zoning Appeals as if the denial originated under the Zoning Ordinance; provided, however, that where the Zoning Ordinance conflicts with this chapter, this chapter shall control.
- D. Violation. No Designated Permittee or Vendor shall participate in a DORA without approval from the Commission, nor shall the Designated Permittee or Vendor otherwise violate this chapter, any supplemental Permittee Application terms, or other applicable DORA law.
- E. Inspection. Each Designated Permittee and Vendor must allow the Administrator to inspect the respective Licensed Premises and designated Vendor area at all reasonable times for compliance with this chapter, any supplemental Permittee Application terms, and other applicable DORA law.

- F. Revocation. The signed and approved Permittee Application shall constitute a "license" within the meaning of IC 36-5-4-11. The Town Council President may revoke or suspend the Permittee Application if the Designated Permittee or Vendor has violated the terms or conditions of this chapter, the supplemental Permittee Application terms, or other applicable DORA law. If a Permittee Application has been revoked in this way, the Administrator shall promptly notify the person in writing and take all reasonable action to seek revocation of Commission approval as well.

SECTION IX - MISCELLANEOUS

A. References.

1. Except where a specific version or edition is given, reference to another section of this ordinance or to another law, document, fund, department, board, program, public servant, or public office, shall extend and apply to the same, as may be subsequently amended, revised, recodified, renamed, reappointed, or renumbered from time to time.
2. Reference in this ordinance to a law, document, fund, department, board, program, public servant, or public office, either generally or by title, without reference to another jurisdiction, shall be construed as though it were preceded or followed, as appropriate, by the words "(of the) Town of Fremont (Indiana)."
3. Should a provision of this ordinance require an act to be done which, by law, an agent or deputy may do instead of the principal, the requirement is satisfied by the performance of the act by an authorized agent or deputy.

- B. Claims Barred. This ordinance is intended only to improve the internal management of the Town. Notwithstanding anything in this ordinance to the contrary, nothing in this ordinance shall be construed to: (i) create any new legal duty, right, or benefit, whether substantive or procedural, enforceable against the Town; nor, (ii) waive or diminish any existing right, protection, immunity, defense, or limitation on liability that may apply to the Town or any of its elected or appointed officials, employees, agents, or representatives under any law or regulation.

- C. Conflicts. No part of this ordinance shall be construed to conflict with any applicable local, state, or federal law, and all reasonable efforts should be made to harmonize the same.

- D. Severability. Should any section or part thereof of this ordinance be declared by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of this ordinance as a whole, nor any other portion thereof, and for this purpose the provisions of this ordinance are hereby declared to be severable.

- E. Promulgation. The Clerk-Treasurer is hereby authorized, empowered, and directed to take all action necessary or proper to authenticate, record, publish, promulgate, and/or otherwise make this ordinance effective.

F. Effective Date. This ordinance shall take effect upon adoption and subsequent approval of the Downtown DORA from the Commission, but no DORA shall operate earlier than January 1, 2026.

{Continue to next page for Adoption section.}

SECTION X -- ADOPTION

Ayes: _____

Nays: _____

Abstentions: _____

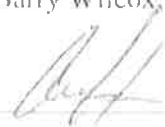
Adopted and ordained this 16th day of September, 2025.

**TOWN COUNCIL OF THE TOWN OF
FREMONT, INDIANA**


Linda Fulton, President


Dr. William Stitt, Vice President


Barry Wilcox, Member


Ashlee Hoos, Member


Scott Glendening, Member

ATTEST:


M. Kathleen Parsons, Clerk-Treasurer

WAIVER OF SECOND READING

On motion duly made and seconded, the second reading of the foregoing ordinance was unanimously waived, and the ordinance shall take effect as provided therein.

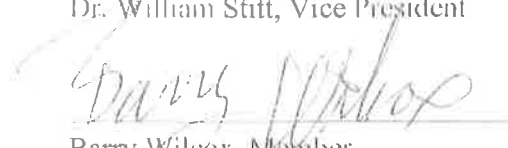
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ATTEST:



M. Kathleen Parsons, Clerk-Treasurer

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