

EMERGENCY

City of Cincinnati

TJL
AWB

An Ordinance No. _____ - 2022

AMENDING Ordinance No. 486-2021 to make modifications to the hours of operation of the existing designated outdoor refreshment area in the Westwood neighborhood of Cincinnati, known as the “Westwood DORA,” pursuant to Chapter 838 of the Cincinnati Municipal Code, “Outdoor Refreshment Areas.”

WHEREAS, pursuant to Ohio Revised Code (“R.C.”) Section 4301.82, municipal corporations are authorized, upon application by their executive officers, to designate certain areas within their borders as designated outdoor refreshment areas (“DORAs”); and

WHEREAS, in furtherance of this state authorization, Council enacted Chapter 838 of the Cincinnati Municipal Code (“CMC”), “Outdoor Refreshment Areas,” to provide for the creation of DORAs within the City; and

WHEREAS, pursuant to Ordinance No. 486-2021, passed on December 15, 2021, Council (i) approved an application for the creation of a designated outdoor refreshment area in the Westwood neighborhood of Cincinnati, which application was submitted by the City Manager pursuant to R.C. Section 4301.82 and CMC Chapter 838, and (ii) authorized the City Manager to take all necessary and proper actions to provide for the operation and maintenance of the designated outdoor refreshment area known as the “Westwood DORA”; and

WHEREAS, the City Manager has submitted a proper application pursuant to R.C. Section 4301.82 and CMC Chapter 838 requesting modifications to the Westwood DORA (the “Modified Application”), and Council has received the Modified Application; and

WHEREAS, pursuant to CMC Chapter 838-03(B), notice of the Modified Application was published once a week for two consecutive weeks in a newspaper of general circulation within the City, which notice indicated that the Modified Application is on file with the Clerk of Council and is available for inspection; and

WHEREAS, the Modified Application proposes to expand the hours of operation of the Westwood DORA to aid in the attraction and retention of new patrons and visitors to Westwood and to encourage economic growth within the neighborhood; and

WHEREAS, the Mayor and Council have reviewed the Modified Application and determined that the modifications to the public health and safety requirements of the Westwood DORA conform to the applicable requirements of R.C. Section 4301.82 and CMC Chapter 838; and

WHEREAS, it is in the public interest of the City to approve the Modified Application and modify the public health and safety requirements of the Westwood DORA; and

WHEREAS, the proper operation and management of the Westwood DORA is also in the interests of the City and the health, safety, and public welfare of its residents and is in accordance with the provisions of applicable federal, state, and local laws and requirements; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati:

Section 1. That Council hereby approves the City Manager's application for the modifications to the public health and safety requirements of the existing designated outdoor refreshment area in Westwood ("Westwood DORA"), attached hereto as Attachment A and incorporated herein by reference ("Modified Application"), upon finding that the Modified Application contains all information required by Ohio Revised Code ("R.C.") Section 4301.82 and Cincinnati Municipal Code ("CMC") Section 838-03.

Section 2. That Council has determined it is necessary and advisable to modify the public health and safety requirements for the Westwood DORA by expanding the hours of operation to aid in the attraction and retention of new patrons and visitors to Westwood and to encourage economic growth within the neighborhood.

Section 3. That Section 4 of Ordinance No. 486-2021, passed by Council on December 15, 2021, is hereby amended as follows:

Section 4. That the DORA's hours of operation shall be fixed at 5:00PM to 11:00PM Monday through Friday and ~~10:00AM-12:00PM~~ to 11:00PM Saturday and Sunday; provided that the City Manager, or his or her designee, may, upon due and proper notice to permit holders within the district, temporarily suspend the DORA's operations as necessary to provide for the public health, safety, or welfare.

Section 4. That existing Sections 1-3 and 5-12 of Ordinance No. 486-2021 shall remain in full force and effect.

Section 5. That the Clerk of Council is hereby instructed forthwith to provide notice of the modification to the public health and safety requirements of the Westwood DORA, as required by

R.C. Section 4301.82(F)(3), to the Ohio Division of Liquor Control and the Investigative Unit of the Department of Public Safety.

Section 6. That Council authorizes the proper City officials to take all necessary and proper actions to fulfill the terms of this ordinance.

Section 7. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to allow the qualified license holders and businesses to prepare for the new operational needs of the Westwood DORA.

Passed: _____, 2022

Aftab Pureval, Mayor

Attest: _____
Clerk

Deletions are struck through. Additions are underlined.

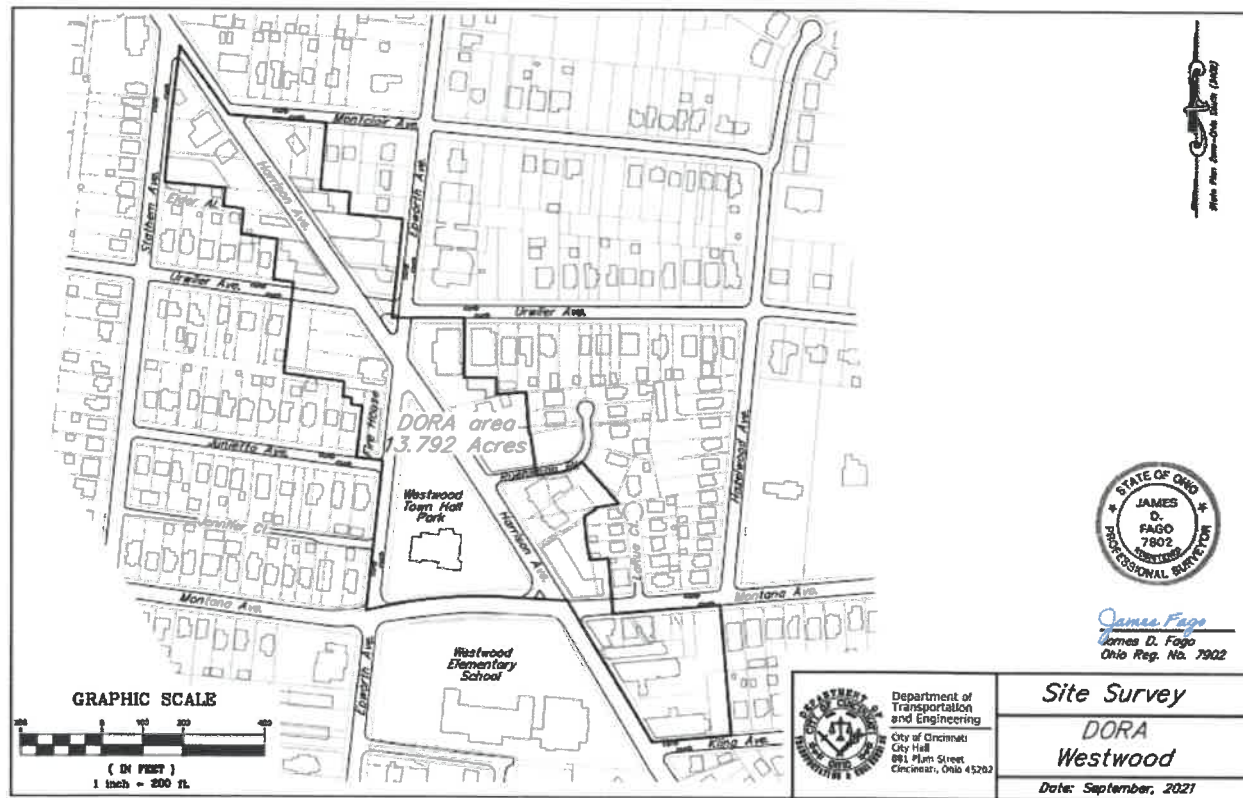
Attachment A

APPLICATION FOR THE MODIFICATION OF THE WESTWOOD DESIGNATED OUTDOOR REFRESHMENT AREA

Pursuant to Section 4301.82 of the Ohio Revised Code (“ORC”), John P. Curp, the Interim City Manager and chief executive officer of the City of Cincinnati, respectfully submits this application to City Council for the approval of the modification to the public health and safety requirements of the Westwood designated outdoor improvement area depicted and described below (referred to herein as the “DORA”). The DORA was established by City Council on December 15, 2021, pursuant to Ordinance No. 486-2021.

The purpose of this proposed modification is to expand the hours of operation of the DORA on Saturday and Sunday to 10:00 AM – 11:00 PM, as provided herein.

Boundaries of the DORA:



The DORA will cover the above-depicted approximately 13.792-acre area. Notwithstanding the foregoing, the exact operational boundaries of the DORA may be adjusted or more specifically delineated in the City Manager’s discretion in order to accommodate existing improvements or for health, safety, or other reasonable operational purposes.

A list of all parcels and street addresses included in the DORA are listed below in Exhibit A.

Overview of DORA and Operations

The goal of the DORA is to further enhance the Westwood neighborhood as a destination neighborhood for individuals and families to live and play. The DORA hopes to build off the momentum from the existing and new businesses located in the Westwood business district and attract more establishments to this growing neighborhood.

Approval of the DORA will allow participating bars, restaurants, and other vendors with an appropriate state-issued liquor permit to sell alcoholic beverages in designated cups, plastic bottles, or other non-glass containers to patrons. Patrons will then be legally allowed to depart the establishment or site where the beverage was purchased and move freely around outside within the DORA boundary and with that beverage. The designated cups, plastic bottles (or other non-glass containers) will be sold by brick-and-mortar establishments and may also be sold by other approved outdoor vendors, such as for special events. All vendors must still maintain state-issued liquor permits to sell alcohol and be in good standing with the Ohio Division of Liquor Control in accordance with state law. All property owners and establishments have the option of opting-out of participating in the DORA. In accordance with state law, patrons may only leave establishments with alcoholic beverages in the designated cups, plastic bottles, or other approved containers. Further, no outside alcoholic drinks are permitted—meaning only alcoholic drinks that are purchased in the designated cup, plastic bottle, or other non-glass containers and from a properly permitted vendor in the DORA may be enjoyed outside. Signage, as further described below, will inform patrons of the rules and boundaries of the DORA.

The DORA is being launched in partnership with the Westwood Civic Association (the “WCA”). WCA will contract with the City to provide certain operational and management services for the DORA. This will entail coordinating the requirements for DORA cups sold by the participating businesses in the DORA, and the provision of security and sanitation services to ensure a safe and clean public space.

The WCA will form a DORA Management Committee that will be responsible for managing stakeholder relationships, provide DORA window stickers to businesses, signage maintenance, and marketing of the DORA. WCA will partner with the participating businesses, who will coordinate the ordering of DORA containers independently of the WCA. To ensure that DORA-related litter is addressed, DORA operations will be in-part financed through these existing resources and from revenue collected through the sale of the designated containers and shared with WCA, pursuant to an agreement between the WCA and the participating businesses that are Qualified Permit Holders (listed below). At this time, WCA already provides a host of services and amenities to enhance the area; therefore, by contracting with the WCA for operational and management services of the DORA, the City will be able to operate the DORA safely, efficiently, and without any ongoing increased financial commitment by the City.

DORA-Identified Containers and Approval: The WCA will have the authority to approve of all containers intended for use in the DORA. No DORA container may be sold by

participating businesses unless it has been approved for sale by the WCA. The WCA will ensure that all DORA containers sold by participating businesses will brandish a DORA-identifying logo that is either printed directly on the container or on a sticker that will be affixed to the container. The WCA will create and notify the participating businesses of all container requirements and the process for obtaining container approval for sale in the DORA.

Public Health and Safety

The City of Cincinnati and the WCA are committed to ensuring the health and safety of patrons of the DORA and cleanliness of the area; therefore, in the contract between the City and the WCA for operation of the DORA, the WCA will agree to provide any additional security or sanitary services needed in excess of the current city-provided police and sanitation services.

The City currently has 124 patrol officers on staff in District 3, 89 of the 124 patrol officers will work during the proposed DORA operation hours. This level of staffing is believed to be adequate to ensure public safety in the DORA. The City and the WCA will continually assess the public safety needs on an ongoing basis, and the WCA will agree to provide additional security detail as deemed necessary in the City's reasonable discretion.

The City's Department of Public Services ("DPS") empties the public trash receptacles in the DORA weekly. Each run requires one staff member per truck. There are multiple trash receptacles located on corners in the highest trafficked intersections/areas of the DORA. Similar to the security needs, the City will continue with the current level of services, and the City believes the current DPS staffing levels and services in conjunction with the supplementary cleaning services are sufficient to adequately maintain the appearance and public health in the DORA. However, the City and the WCA will continually assess the service levels and staffing needs and the WCA will provide any supplementary cleaning and sanitation services needed to keep the DORA area in a clean, safe, and sanitary state. The WCA will agree to increase staffing as needed to meet this standard.

Hours of Operation

The DORA will operate from 5:00 PM- 11:00 PM Monday through Friday and from **10:00 AM - 11:00 PM** Saturday and Sunday. Notwithstanding anything herein to the contrary, the City Manager will retain the discretion to temporarily suspend the operations of the DORA or alter operational parameters at his or her sole discretion if determined necessary for public health, safety, or welfare.

Signage

In accordance with ORC 4301.82(F), clearly marked signs will delineate all boundaries of the DORA. Additionally, signage will be placed within the DORA to notify patrons of the rules of operation. This signage will be a mix of “sidewalk tattoos,” which will be printed on the sidewalk and traditional signage. The sidewalk tattoos are semi-permanent adhesives that are placed on the sidewalk. Examples of the proposed DORA sidewalk tattoo and signage designs are depicted in Exhibit B. The signage will be paid for and maintained by the WCA throughout the life of the DORA.

The proposed plan for signage is to include street signage and tattoos along the boundaries of the DORA, with an estimated twenty-six signs needed to clearly demarcate the boundary, spaced not more than 1,000 feet apart along the boundary, and made conspicuous to pedestrians. Additional signs will be added in the interior to demarcate operational boundaries, as determined necessary by the City Manager. The numbers of signs and spacing may be increased or decreased in the City Manager’s discretion, and the City and the WCA will assess the need for changes to signage on an ongoing basis.

Additional Rules and Requirements

The City Manager may establish additional rules and regulations for operation of the DORA and will update such rules and regulations from time to time as deemed necessary for public health, safety, or operational purposes; provided however, such rules will always require that all alcoholic drinks served to be consumed outside of establishments within the DORA shall be served in a designated cup, plastic bottle, or other non-glass container.

Special Events

The DORA will provide additional flexibility for events in Westwood. The City Manager will work with the WCA to develop operational parameters for hosting special events within the DORA that balance interests of all stakeholders.

Nature of Establishments

In accordance with ORC 4301.82(B)(2), the nature and types of establishments that will be located within the DORA are a broad array of institutions, businesses, and uses, including the Westwood Townhall Park, offices, retail stores, a theater, a gallery, health and wellness centers, residences, and several drinking and dining establishments. There is no intention of changing the nature and types of establishments in the area. Instead, once operational, the DORA will support this existing eclectic mix of establishments by attracting additional customers, residents, and workers. A current list of existing establishments is below:

Name	Address	Street	Zip	Category	Qualified Permit Holder?
Ivory House	2998	Harrison Ave.	45211	Dining/Bars	Yes
Bass Cellar	3016	Harrison Ave.	45211	Service Provider	No
Muse Café	3018	Harrison Ave.	45211	Dining/Bars	Yes
Fuzzy Butts	3022	Harrison Ave.	45211	Service Provider/Retail Store	No
Perfect Little Peach Boutique	3024	Harrison Ave.	45211	Retail Store	No
Studio N Photography	3028	Harrison Ave.	45211	Service Provider	No
Niche	3030	Harrison Ave.	45211	Event Space	No
Forté Ladies Fitness Studio & Personal Training	3034	Harrison Ave.	45211	Fitness	No
By the Sea Salt Therapy	3036	Harrison Ave.	45211	Wellness	No
West Side Brewing	3044	Harrison Ave.	45211	Dining/Bars	Yes
Red's Westside Venyou	3050	Harrison Ave.	45211	Event Space	Yes
Madcap Education Center	3064	Harrison Ave.	45211	Education/Entertainment	Yes
Henke Winery	3077	Harrison Ave.	45211	Dining/Bars	Yes
Carriage House Screen Printing/Westwood Skateboarding	3103	Harrison Ave.	45211	Retail Store	No
Joe's Hibachi Grille	3104	Harrison Ave.	45211	Dining	No
Basketshop Gallery	3105	Harrison Ave.	45211	Art Gallery	No
Creative U	3107	Harrison Ave.	45211	Creative Events & Retail	No
Vintage Creations	3117	Harrison Ave.	45211	Retail Store	No
G's Perfection Plus Barber Shop	3120	Harrison Ave.	45211	Service Provider	No
Emma's All-in-One Occasions	3122	Harrison Ave.	45211	Dining/Bars	Yes
Game & Groove	3139	Harrison Ave.	45211	Retail Store	No
Wondercade	3143	Harrison Ave.	45211	Arcade/Entertainment	Yes
Nation Westwood	3435	Epworth Ave.	45211	Dining/Bars	Yes
The Sauter Law Firm	2956, Suite #18	Montana Ave.	45211	Service Provider	No
Styles by Eunika	2956	Montana Ave.	45211	Retail Store	No
Pollman's Upholstery	2959	Montana Ave.	45211	Service Provider	No
Aztec Video Productions	2967	Montana Ave.	45211	Service Provider	No

Qualified Permit Holders

As required by ORC 4301.82(B)(3), the DORA will encompass not fewer than four qualified permit holders of A-1, A-1-A, A-1c, A-2, A-2f, or D class liquor permits (excluding D-6 and D-8 class liquor permits) issued under ORC Chapter 4303.

To date at least 9 current qualified permit holders, as that term is defined in ORC 4301.82(A)(1), have been identified in the DORA, as follows:

#	Permit Holder	Doing Business As (DBA)	Permit Number	Permit Class(es)	Address
1	ALL IN ONE OCCASIONS	EMMA'S ALL-IN-ONE OCCASIONS	0122123	D5J	3120 Harrison Avenue (identified on liquor permit as 3122 Harrison Avenue)
2	CINCINNATI LANDMARK PRODUCTIONS DBA WESTWOOD EDUCATION CENTER	MADCAP EDUCATION CENTER	14820550010	D5H	3064 Harrison Avenue
3	HENKE WINE LLC	HENKE WINE	37359990001	A2,	3077 Harrison Avenue
4	IVORY HOUSE LLC	IVORY HOUSE	4154667	D5J	3002 Harrison Avenue (identified on liquor permit as 2998 Harrison Avenue)
5	MUSE FUSION CAFE LLC	MUSE CAFE	6255410	D5J	3018 Harrison Avenue, 1 st Floor
6	REDS WESTSIDE VENYOU LLC	RED'S WESTSIDE VENYOU	7248059	D5J	3050 Harrison Avenue, 1 st Floor
7	SUPERCADDE LLC	WONDERCADE	8693828	D5J	3143 Harrison Avenue
8	WEST SIDE BREWING LLC	WEST SIDE BREWING	9555625	A-1-A, A-1c, A-2	3044 Harrison Avenue
9	NATION WESTWOOD LLC	NATION KITCHEN AND BAR 1ST FL & BSMT & PATIO	6170670	D5J	3435 Epworth Avenue

Land Use & Zoning

In accordance with ORC 4301.82(B)(4) and as depicted below, the uses of land within the DORA are zoned T5N.SS-O, T5MS-O, T5MS, T5N.LS-O, and PR. The current mix of uses in the DORA, including restaurants, bars, and theaters, are permitted uses in these zoning districts.

Attached as Exhibit C is a letter from Cincinnati's Department of City Planning confirming that the uses of land within the DORA are permitted and in accordance with Cincinnati's master zoning plan.



Community Support, Public Notice, and Legislative Approval Process

To date, there has been significant community support expressed for the DORA. Please see Exhibit D for submitted letters.

Following filing of this application with the Clerk of Council and in accordance with ORC 4301.82(C), the Clerk will publish public notice of this application in the Cincinnati Enquirer. The notice will indicate that the application is on file and available for inspection in the Clerk's Office. Additionally, the application will be available for review on Council Online. Further, the notice will indicate the date and time of the identified City Council committee hearing to which the authorizing legislation has been referred to provide for a public hearing on the proposal.

Exhibit A

Parcel IDs and Street Addresses:

PARCEL ID			ADDRESS		
210	0074	0129	3435	EPWORTH	AV
210	0074	0045	3447	EPWORTH	AV
210	0074	0126	3447	EPWORTH	AV
208	0056	0094	2990	HARRISON	AV
			2998-		
208	0056	0259	3002	HARRISON	AV
208	0056	0078	3006	HARRISON	AV
208	0056	0256	3010	HARRISON	AV
208	0056	0135 90	3011	HARRISON	AV
210	0075	0091 90	3017	HARRISON	AV
			3018-		
210	0075	0108	3032	HARRISON	AV
210	0075	0103	3040	HARRISON	AV
210	0075	0097	3042	HARRISON	AV
210	0075	0126	3042	HARRISON	AV
210	0075	0094	3044	HARRISON	AV
210	0075	0142	3050	HARRISON	AV
210	0075	0133	3064	HARRISON	AV
210	0074	0123	3077	HARRISON	AV
210	0074	0043	3081	HARRISON	AV
210	0074	0124	3081	HARRISON	AV
210	0074	0108	3101	HARRISON	AV
210	0074	0029	3103	HARRISON	AV
210	0074	0116	3104	HARRISON	AV
210	0074	0028	3107	HARRISON	AV
210	0074	0021	3110	HARRISON	AV
210	0074	0027	3113	HARRISON	AV
210	0074	0020	3118	HARRISON	AV
			3120-		
210	0074	0019	3124	HARRISON	AV
210	0074	0106	3128	HARRISON	AV
210	0074	0026	3131	HARRISON	AV
210	0074	0011	3134	HARRISON	AV
210	0074	0122	3139	HARRISON	AV
210	0074	0024	3143	HARRISON	AV
210	0074	0023	3149	HARRISON	AV
208	0056	0912	2945	MONTANA	AV
208	0056	0005	2951	MONTANA	AV
208	0056	0217	2951	MONTANA	AV
210	0075	0102	2952	MONTANA	AV

210	0075	0106	2954	MONTANA	AV
208	0056	0006	2955	MONTANA	AV
210	0075	0107	2956	MONTANA	AV
208	0056	0007	2963	MONTANA	AV
210	0075	0114	2911	RUEHLMANN	PL
210	0074	0042	3009	URWILER	AV

Street Address Ranges:

Street Name	Range	Even/Odd
Epworth Avenue	3435-3447	Odd
Harrison Avenue	2990-3134	Even
Harrison Avenue	3017-3149	Odd
Montana Avenue	2956	Even
Montana Avenue	2945-2963	Odd
Ruehlmann Place	2911	Odd
Urwiler Avenue	3009	Odd

Exhibit B

Example Signage



1ft wide
sidewalk graphic
smallest recommended size

4ft minimum
sidewalk width

FULL COLOR
Original



Exhibit D

Letters of Support

[Attached]

PCL XL error
Error: IllegalOperatorSequence
Operator: ReadImage
Position: 9548