

EMERGENCY

City of Cincinnati

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An Ordinance No. 44 - 2021

REPEALING AND REPLACING Ordinance No. 23-2021, passed by Cincinnati City Council on January 21, 2021, in order to APPROVE an application for the creation of a designated outdoor refreshment area to be known as the “DORA at The Banks,” pursuant to Chapter 838 of the Cincinnati Municipal Code, “Outdoor Refreshment Areas,” and to AUTHORIZE the City Manager to take all necessary and proper actions to provide for the operation and maintenance of the designated outdoor refreshment area.

WHEREAS, the City Council enacted Ordinance No. 23-2021 on January 21, 2021, prior to the conclusion of the 30-day public notice period mandated by Ohio Revised Code (“R.C.”) Section 4301.82; and

WHEREAS, the Council has determined that it is appropriate to repeal the entirety of Ordinance No. 23-2021 and to enact this ordinance in replacement thereof, such public notice period having concluded; and

WHEREAS, pursuant to 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, the 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, the City Manager has submitted a proper application pursuant to R.C. Section 4301.82 and CMC Chapter 838 requesting the creation of a DORA within the area commonly known as The Banks (the “Application”) to be known as the “DORA at The Banks,” and Council has received the Application; and

WHEREAS, notice of the Application was published once in a newspaper of general circulation within the City, which notice indicated that the Application is on file with the Clerk of Council and is available for inspection; and

WHEREAS, the Application demonstrates that the creation of the proposed DORA will strengthen the Central Business District and encourage further economic growth at The Banks; and

WHEREAS, Council deems it necessary and advisable to create the DORA at The Banks to aid in the attraction and retention of new patrons and visitors to the establishments at The Banks and to encourage economic growth within the district; and

WHEREAS, the Mayor and Council have reviewed the Application and determined that the creation and designation of the DORA at The Banks conforms 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 Application and create the DORA at The Banks; and

WHEREAS, the proper operation and management of the DORA at The Banks 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; and

WHEREAS, accordingly, the City desires to enter into one or more agreements necessary to provide for and obtain operational and management services for the DORA at The Banks, subject to any and all terms and conditions that the City Manager or his or her designee finds appropriate; now, therefore,

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

Section 1. That Ordinance No. 23-2021, passed by Council on January 21, 2021, is hereby repealed.

Section 2. That Council hereby approves the City Manager's application for the creation of a designated outdoor refreshment area ("DORA"), attached hereto as Attachment A and incorporated herein by reference ("Application"), upon finding that the Application contains all information required by Ohio Revised Code ("R.C.") Section 4301.82 and Cincinnati Municipal Code ("CMC") Section 838.03, and upon further finding that the Application meets the requirements of those sections in all respects, including the requirement that the proposed DORA contain no fewer than four qualified permit holders and the requirement that the Application provide evidence that the uses of land within the proposed DORA are in accordance with the City's master zoning plan.

Section 3. That, accordingly, Council designates the area depicted on page 1 of the Application and incorporated herein by reference as a DORA for the purposes of R.C. Sections 4301.62 and 4301.82, and CMC Chapter 838, which DORA shall be known as the "DORA at The

Banks,” and which DORA shall contain all of the street addresses and parcels listed on Exhibit A of the Application, incorporated herein by reference.

Section 4. That the DORA shall be identified by signage sufficient to define its boundaries and to put the public on notice of the special laws, rules, and regulations governing it, which signage shall be comprised of no less than 30 signs placed strategically, spaced no more than 1,000 feet apart along the DORA’s border, and made conspicuous to drivers and pedestrians.

Section 5. That the DORA’s hours of operation shall be fixed at 11:00AM to 1:00AM the following day, Monday through 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 6. That Council finds the initial estimated number of personnel needed to ensure public safety within the DORA is forty patrol officers and supervisors, which personnel consists of existing patrols that service the area and which personnel is estimated to include at least one patrol officer dedicated to patrolling the DORA during its hours of operation; provided, however, that this estimate shall not in any way limit the City Manager’s authority to authorize personnel levels that deviate from this estimate as necessary to meet actual operational and public safety needs.

Section 7. That Council adopts the sanitation plan set forth on page 2 of the Application and incorporated herein by reference to maintain the appearance and public health of the area, and Council finds that the initial estimated number of personnel need to implement the sanitation plan is one staff member per truck per day with one to two truck runs required per day; provided, however, that the City Manager may adjust the sanitation plan and authorize personnel levels that

deviate from the staffing estimate to meet actual operational needs and to provide for the public health, safety, and welfare.

Section 8. That all beer and intoxicating liquor served within the DORA for off-premises consumption within the DORA may only be served in official plastic bottles or other plastic containers approved by the City Manager or his or her designee and provided by qualified permit holders. No other container may be used to serve beer or intoxicating liquor for off-premises consumption within the DORA, unless previously approved in writing by the City Manager or his or her designee.

Section 9. That the City Manager or his or her designee is authorized to take all necessary and proper actions to ensure the DORA is operated and maintained in a clean and safe manner and with regard for the health, safety, and welfare of businesses, residents, visitors, and other persons who are impacted by the operation and maintenance of the DORA, which authorization specifically includes but is not limited to:

- a. taking all necessary and proper actions to install the signage authorized by Section 4 of this Ordinance; and
- b. taking all necessary and proper actions to enforce the hours of operation established by Section 5 of this Ordinance; and
- c. taking all necessary and proper actions to provide for public safety within the DORA as provided in Section 6 of this Ordinance; and
- d. taking all necessary and proper actions to implement the sanitation plan established by Section 7 of this Ordinance; and
- e. establishing additional rules and regulations for the operation of the DORA as deemed necessary for public health, safety, or operational purposes; and
- f. subject to any and all terms and conditions that the City Manager or his or her designee finds appropriate, executing any and all agreements or documentation as are necessary to provide for and obtain operational and management services for the DORA at The Banks and to accept donations of monies, goods, or in-kind services used to provide such services, which agreements may include, but are not limited to, one or more

agreements with the Banks Community Authority for the provision of operational or management services within the area.

Section 10. That, pursuant to CMC Section 838.05(A) and R.C. Section 4301.82(I)(1), within five years following the effective date of this Ordinance, Council shall review the operations of the DORA to determine whether to permit its ongoing operation, under either the same or modified requirements, or whether to dissolve it in accordance with CMC Section 838.05(A) and R.C. Section 4301.82(I)(1).

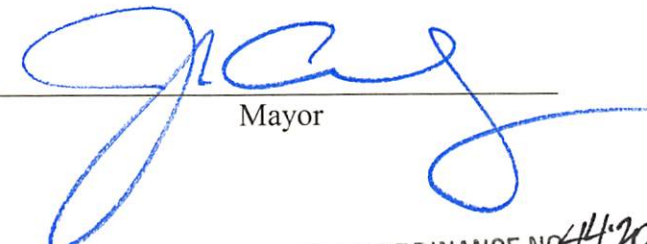
Section 11. That the Clerk of Council is hereby instructed forthwith to provide notice of the creation of the DORA at The Banks, as required by R.C. Section 4301.82(C), to the Ohio Division of Liquor Control and the Investigative Unit of the Department of Public Safety.

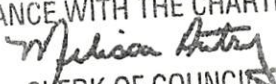
Section 12. That Council authorizes the proper City officials to take all necessary and proper actions to fulfill the terms of this ordinance.

Section 13. 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 create the "DORA at The Banks" in order for qualified license holders and businesses to prepare for the operational and maintenance needs of the new designated outdoor refreshment area.

Passed: February 10, 2021

Attest: 
Clerk


Mayor

I HEREBY CERTIFY THAT ORDINANCE NO. 44 2021
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 2-23 2021

CLERK OF COUNCIL