

February 3, 2021

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager *CB f PBM*

202100574

Subject: **REPEAL AND REPLACE ORDINANCE APPROVING  
APPLICATION FOR THE CREATION OF A DESIGNATED  
OUTDOOR REFRESHMENT AREA**

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Attached is an Emergency Ordinance captioned as follows:

**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.

#### PURPOSE OF ORDINANCE

The purpose of this ordinance is to remedy a procedural issue with Ordinance No. 23-2021 passed by City Council on January 21, 2021 regarding an application for the creation of a designated outdoor refreshment area at The Banks. Ohio Revised Code 4301.82 requires the application for a designated outdoor refreshment area to be on file at the Clerk’s office for a period of thirty days following initial publication of notice prior to approval by a legislative authority. As notice for the DORA at The Banks was originally published on December 29, 2020, the January 21<sup>st</sup> ordinance did not fulfill the timing requirements. Therefore, this ordinance repeals and replaces the prior ordinance with a duplicate version. The only change from the original ordinance is to update the application address information for Qualified Permit Holders, which was requested by the Ohio Department of Commerce Liquor Division. The transmittal for Ordinance No. 23-2021 is attached as Attachment A for reference.

#### RECOMMENDATION

The Administration recommends approval of this Emergency Ordinance.

Copy: Markiea L. Carter, Interim Director, Department of Community & Economic Development

**Attachment A: Transmittal for Ordinance No. 23-2021**

[Attached]

December 16, 2020

To: Mayor and Members of City Council 202002309  
From: Paula Boggs Muething, City Manager  
Subject: **APPLICATION FOR THE CREATION OF A DESIGNATED  
OUTDOOR REFRESHMENT AREA AT THE BANKS**

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Attached is an Emergency Ordinance captioned as follows:

**APPROVING** an application for the creation of a designated outdoor refreshment area to be known as “DORA at The Banks,” pursuant to Chapter 838 of the Cincinnati Municipal Code, “Outdoor Refreshment Areas,” and **AUTHORIZING** the City Manager to take all necessary and proper steps to provide for the operation and maintenance of the designated outdoor refreshment area.

### **SUMMARY AND BACKGROUND**

Ohio Revised Code (“**ORC**”) 4301.82, initially enacted in 2015, allows the executive officer of a municipal corporation to submit an application to its legislative authority for establishment of a designated outdoor refreshment area (“**DORA**”). In 2015, City Council enacted Chapter 838 of the Cincinnati Municipal Code (“**CMC**”), “Outdoor Refreshment Areas,” to provide for the creation of DORAs within the City of Cincinnati.

This submitted legislation contains an application for the creation of a DORA at The Banks covering the area depicted in Attachment A, encompassing the Banks development, Great American Ball Park, Paul Brown Stadium, the National Underground Railroad Freedom Center, the Heritage Bank Center, and the soon to be completed Andrew J. Brady Icon Music Center.

### **PROJECT DESCRIPTION**

Approval of this DORA will allow participating bars, restaurants, and other vendors to sell alcoholic beverages in designated plastic cups, plastic bottles, or other plastic 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 area and with that beverage. The designated plastic cups (or other plastic 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 required liquor permits to sell alcohol 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 plastic cups, plastic bottles, or other approved plastic containers. Further, no outside alcoholic drinks are permitted—meaning only alcoholic drinks that are purchased in the designated plastic cup, plastic bottle, or other plastic containers and from a properly permitted vendor may be enjoyed outside in the DORA.

The DORA is being launched in partnership with the Banks Community Authority, a new community authority created by City Council under Resolution 49-2018, passed September 6, 2018 pursuant to ORC Chapter 349 (the “BCA”). The BCA, which was created to drive increased patronage and investment at the Banks, will contract with the City to provide operational and management services for the DORA. This will entail overseeing the production; distribution; and sale of designated plastic cups, plastic bottles, or other approved plastic containers and also will include provision of security and sanitation services to ensure a safe and clean public space. At this time, the BCA already provides a host of services and amenities to enhance the area and will generate revenues for operating through the sale of the designated cups. Therefore, by contracting with the BCA 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.

#### **APPROVAL PROCESS, PUBLIC NOTICE, AND COMMUNITY ENGAGEMENT**

In accordance with state and local law, this application is being introduced to City Council for consideration, and the City Administration will be publishing public notice of this application. Under state law, City Council is required to then approve or disapprove of the application no less than thirty days and no more than sixty days from publication of notice. The City Administration has been deeply engaged with stakeholders at the Banks in assembling the proposed application and will continue that engagement process with community groups and stakeholders prior to seeking Council approval on this application in early 2021.

#### **PROJECT RATIONALE**

The goal of the DORA is to further enhance the City’s riverfront area as a destination for urban living, tourism, work, and entertainment. By building off the synergy created by a thriving urban neighborhood adjacent to Paul Brown Stadium, Great American Ballpark, the Heritage Center, the National Underground Railroad Freedom Center, the brand new Andrew J. Brady Icon Music Center, and a world-class City Park, the DORA is intended to not only support existing businesses in the DORA but to attract additional business and investment to the area.

**RECOMMENDATION**

The Administration recommends approval of this Emergency Ordinance.

Copy: Markiea L. Carter, Interim Director, Department of Community & Economic  
Development

**Attachment A: Proposed DORA at The Banks Boundary**

