

TEMPORARY ORDINANCE NO. 15-21

PERMANENT ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LANCASTER TO EXPAND THE CURRENT DESIGNATED OUTDOOR REFRESHMENT AREA AND REPEAL AND REPLACE EXISTING LANCASTER CODIFIED ORDINANCE PART SEVEN – BUSINESS REGULATION CODE; CHAPTER 705 — “OUTDOOR REFRESHMENT AREAS” OF THE CODIFIED ORDINANCES OF THE CITY OF LANCASTER AND TO DECLARE AN EMERGENCY

WHEREAS, the City currently has a designated outdoor refreshment area (DORA) and would like to expand the boundaries in order to revitalize a larger portion of downtown Lancaster and promote economic development within the expansion area; and

WHEREAS, in order to expand the boundaries of the DORA, pursuant to Lancaster Codified Ordinance (LCO) 705.02(a) the Mayor is required to apply to City Council and demonstrate that the proposed DORA will conform with the requirements set forth in LCO 705.02(a)(1)-(5); and

WHEREAS, the DORA application on file with the Clerk of Council corroborates the expanded DORA will meet these requirements: and

WHEREAS, additional changes are needed to the existing Lancaster Codified Ordinance 705 to accomplish this.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LANCASTER, FAIRFIELD COUNTY, STATE OF OHIO:

SECTION 1. That Lancaster Codified Ordinance Part Seven Business Regulations Code; Chapter 705 – Outdoor Refreshment Areas – is hereby repealed and replaced and adopted to read as demonstrated by Exhibit “A” attached hereto.

SECTION 2. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Lancaster City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 3. That nothing in this ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance cited in Section 1 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

SECTION 4. That the Clerk of Council is hereby ordered and directed to cause this ordinance to be published.

SECTION 5. That in the interest of the health, safety, and welfare of the community and more specifically in furtherance of the economic development and revitalization of downtown Lancaster, City Council does hereby declare an emergency so that this ordinance shall take effect and be in full force immediately.

Passed: _____ after _____ reading. Vote: Yeas _____ Nays _____

Approved: _____

President of Council

Clerk: _____

Mayor

Offered by: _____

Second by: _____

Requested by Law Committee

I, _____, Clerk of Council do hereby certify that on _____, 2021 and _____, 2021 the Lancaster Eagle Gazette published the summary of this ordinance in accordance with Ohio Revised Code 731.24.

Clerk of Council

Chapter 705. Designated Outdoor Refreshment Areas.

Sec. 705.01. Definitions

As used in this Chapter:

- (a) “Qualified permit holder” means the holder of an A-1, A-1-A, A-1c, A-2, or D permit issued under Chapter 4303 of the Ohio Revised Code (“ORC”).
- (b) “**Designated** outdoor refreshment area” shall mean a designated territory in the city of Lancaster, no larger than one-half square mile, within which no fewer than four businesses with liquor permits may sell beer or intoxicating liquor for on-premises consumption and for consumption off-premises but within the outdoor refreshment area, in accordance with ORC §§ 4301.62 and 4301.82.

Sec. 705.02. Creation of Designated Outdoor Refreshment Areas.

- (a) The Mayor may file an application with city council to have property within the city of Lancaster designated as a **designated** outdoor refreshment area or to expand an existing **designated** outdoor refreshment area to include additional property within the city, in accordance with ORC §§ 4301.62 and 4301.82. The Mayor or his or her designee shall ensure that the application contains all of the following:
 - (1) A map or survey of the proposed **designated** outdoor refreshment area, which shall not exceed three hundred and twenty contiguous acres or one-half square mile, in sufficient detail to identify the boundaries of the area;
 - (2) A general statement of the nature and types of establishments that will be located within the proposed **designated** outdoor refreshment area;
 - (3) A statement that the proposed **designated** outdoor refreshment area will encompass not fewer than four qualified permit holders;
 - (4) Evidence that the uses of land within the proposed outdoor refreshment area is in accordance with the master zoning plan or map of the city; and
 - (5) Proposed requirements for the purpose of ensuring safety within the proposed **designated** outdoor refreshment area.
- (b) Notice and time requirements.
 - (1) Within forty-five days after the date the application is filed with city council, city council shall publish public notice of the application once a week for two consecutive weeks in one newspaper of general circulation in the city of Lancaster or as provided in ORC § 7.16. City council shall ensure that the notice states that the application is on file in the office of the clerk of council and is available for inspection by the public during regular business hours. City council also shall indicate in the notice the date and time of any public hearing to be held regarding the application by city council.
 - (2) Not earlier than thirty but not later than sixty days after the initial publication of notice, city council shall approve or disapprove the application by ordinance. Approval of an application requires an affirmative vote of a majority of city council.
- (c) Upon approval of the application by city council, the territory described in the application shall constitute a **designated** outdoor refreshment area. City council shall provide to the Ohio division of liquor control notice of the approval of the application and a description of the area specified in the application. If city

council disapproves the application, the Mayor may make changes in the application to secure its approval by city council.

- (d) The number of **designated** outdoor refreshment areas is limited as provided in ORC § 4301.82 or any successor statute.
- (e) As soon as possible after receiving notice that a **designated** outdoor refreshment area has been approved, the Ohio division of liquor control, for purposes of ORC § 4301.62, shall issue a **designated** outdoor refreshment area designation to each qualified permit holder located within the refreshment area that is in compliance with all applicable requirements under ORC Chapters 4301 and 4303. The division shall not charge any fee for the issuance of the designation. Any permit holder that receives such a designation shall comply with all laws, rules, and regulations that govern its license type and, if applicable, any safety requirements established for the **designated** outdoor refreshment area under division (F) of this section.
- (f) Safety requirements and modification of existing **designated** outdoor refreshment areas.
 - (1) At the time of the creation of a **designated** outdoor refreshment area or any time thereafter, city council may adopt an ordinance that establishes requirements city council determines necessary to ensure safety within the area. City council may, but is not required to, include in the ordinance any safety requirements proposed in an application under division (a) of this section to designate or expand the **designated** outdoor refreshment area. City council may subsequently modify the safety requirements as it determines necessary.
 - (2) Prior to adopting an ordinance under this subsection, city council shall give notice of its proposed action by publication once a week for two consecutive weeks in one newspaper of general circulation in the city of Lancaster or as provided in ORC § 7.16.
 - (3) City council shall provide to the division of liquor control notice of any safety requirements established or modified under this subsection.
- (g) ORC § 4399.18 applies to a liquor permit holder located within an outdoor refreshment area in the same manner as if the liquor permit holder were not located in a **designated** outdoor refreshment area.

Sec. 705.03. Review and Re-Approval of Existing **Designated Outdoor Refreshment Areas.**

- (a) Five years after the date of creation of a **designated** outdoor refreshment area, city council shall review the operation of the area and shall, by ordinance, either approve the continued operation of the area or dissolve the area.
 - (1) Prior to adopting the ordinance, city council shall give notice of its proposed action by publication once a week for two consecutive weeks in one newspaper of general circulation in Lancaster or as provided in ORC § 7.16.
 - (2) If city council dissolves the **designated** outdoor refreshment area, the outdoor refreshment area ceases to exist. City council then shall provide notice of its action to the Ohio division of liquor control, and the division shall revoke all **designated** outdoor refreshment area designations issued to qualified permit holders within the dissolved area.
 - (3) If city council approves the continued operation of the outdoor refreshment area, the area continues in operation.

- (b) Five years after the approval of the continued operation of an outdoor refreshment area under division (a)(3) of this section, city council shall conduct a review in the same manner as provided in division (a) of this section. The legislative authority also shall conduct such a review five years after any subsequent approval of continued operation under this subsection of this section.
- (c) At any time, city council may, by ordinance, dissolve all or a part of the outdoor refreshment area.
 - (1) Prior to adopting the ordinance, city council shall give notice of its proposed action by publication once a week for two consecutive weeks in one newspaper of general circulation in Lancaster or as provided in ORC § 7.16.
 - (2) If city council dissolves all or part of a **designated** outdoor refreshment area, the area designated in the ordinance shall no longer constitute an outdoor refreshment area. City council shall provide notice of its actions to the division of liquor control. Upon receipt of the notice, the division shall revoke all **designated** outdoor refreshment area designations issued to qualified permit holders within the dissolved area or portion of the area.

Sec. 705.04. Rules Governing Patrons in a Designated Outdoor Refreshment Area

- (a) A person may possess an opened container of beer or intoxicating liquor at an outdoor location within a **designated** outdoor refreshment area created under ORC § 4301.82 if the opened container of beer or intoxicating liquor was purchased from a qualified permit holder to which both of the following apply:
 - (1) The permit holder's premises ~~is~~ **are** located within the **designated** outdoor refreshment area; and
 - (2) The permit held by the permit holder has a **designated** outdoor refreshment area designation.
- (b) Subsection (A) of this section does not authorize a person to do either of the following:
 - (1) Enter the premises of an establishment within a **designated** outdoor refreshment area while possessing an open container of beer or intoxicating liquor acquired elsewhere; or
 - (2) Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within a **designated** outdoor refreshment area, unless the motor vehicle is stationary and is not being operated in a lane of vehicular travel or unless the possession is otherwise authorized under divisions (D), (E), or (F) of ORC § 4301.62.

Sec. 705.05. Safety Requirements and Application Process for Designated Outdoor Refreshment Area

- (a) Pursuant to 705.02(f)(1), in the interest of the safety of the city, city council authorizes the Service Safety Director to create and implement **safety requirements** ~~an application process for the designated outdoor refreshment area events. City council vests the authority to approve or deny applications for designated outdoor refreshment area events exclusively in the Service Safety Director.~~
- (b) City council authorizes the Service Safety Director to create and post appropriate signage designating the boundaries of the **designated** outdoor refreshment area.

- (c) City council authorizes the Service Safety Director to coordinate with designated permit holders to determine the type of cup that shall be used by all designated permit holders ~~during open~~ **in the designated outdoor** refreshment area ~~events~~.