

ORDINANCE NO. 21-094

AN ORDINANCE CREATING A DESIGNATED OUTDOOR REFRESHMENT AREA; ESTABLISHING REQUIREMENTS TO ENSURE PUBLIC HEALTH AND SAFETY WITHIN SUCH AREA; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, Ohio Revised Code §4301.82 permits the City of Sandusky to create and approve an application for a Designated Outdoor Refreshment Area (DORA) with its corporate limits; and

WHEREAS, on May 12, 2021, the City Manager submitted an application to this City Commission for approval to establish a Designated Outdoor Refreshment Area within the City of Sandusky ; and

WHEREAS, pursuant to Ohio Revised Code §4301.82(C), notice of the filing of the Designated Outdoor Refreshment Area Application was published in a newspaper of general circulation in the City on May 14, 2021; and

WHEREAS, pursuant to Ohio Revised Code §4301.82(F)(2), notice of this action by City Commission was published in a newspaper of general circulation in the City on June 10, 2021; and

WHEREAS, approval of the Designated Outdoor Refreshment Area will serve to enhance the experiences of the patrons of the business establishments and special events within Downtown; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to immediately submit the application and Ordinance to the Ohio Division of Liquor Control so the DORA designations can be issued to the applicable permit holders and the DORA can be operational by the 4th of July weekend; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Community Development, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission hereby approves the Designated Outdoor Refreshment Area application submitted to this City Commission on May 12, 2021, a copy of which is attached and marked Exhibit "1" and specifically incorporated as if fully rewritten herein, as having met the requirements of Ohio Revised Code Section 4301.82, thereby creating the Designated Outdoor Refreshment Area.

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Section 2. In order to ensure public health and safety within the Designated Outdoor Refreshment Area, this City Commission establishes the following requirements:

(a) The specific boundaries of the Designated Outdoor Refreshment Area, including street addresses, are described in Section I of Exhibit "1" and Exhibits "A" and "B", copies of which are attached to this Ordinance;

(b) There will be signs designating the boundary of the Designated Outdoor Refreshment Area, including the number, spacing, and type of signage as described in Exhibit "2", a copy of which is attached to this Ordinance;

(c) The hours of operation for the Designated Outdoor Refreshment Area shall be Monday through Sunday from 9:00 a.m. to 12:00 midnight. The City Manager may temporarily suspend DORA operations in order to accommodate the permitting of special events that may occur within the boundaries of the DORA;

(d) A Sanitation Plan has been developed to maintain the appearance and public health of the Designated Outdoor Refreshment Area as described in Exhibit "C", a copy of which is attached to this Ordinance ;

(e) A Safety Plan has been developed to ensure public safety in the Designated Outdoor Refreshment Area as described in Exhibit "D", a copy of which is attached to this Ordinance; and

(f) For purposes of the Designated Outdoor Refreshment Area, beer, wine, and intoxicating liquor shall only be served and consumed within the DORA in a specifically designated plastic cup approved by the City Manager's Office; and

Section 3. Five (5) years from the effective date of the adoption of this Ordinance, City Commission shall review the operation of the Designated Outdoor Refreshment Area hereby created and shall either approve its continued operation or dissolve it and such review shall be repeated five (5) years after any subsequent approval of the Designated Outdoor Refreshment Area.

Section 4. This City Commission may, at any time, dissolve all or part of the Designated Outdoor Refreshment Area.

Section 5. The Clerk of the City Commission be instructed to forward a copy of this Ordinance to the Ohio Division of Liquor Control and to the Investigative Unit of the Ohio Department of Public Safety.

Section 6. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction,

such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 7. This Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 8. That for reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter upon its passage, and its due authentication by the President, and the Clerk of the City Commission of the City of Sandusky, Ohio.



RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION



ATTEST:

MCKENZIE E. SPRIGGS
CLERK OF THE CITY COMMISSION

Passed: June 14, 2021



**Application to the Sandusky City Commission for
the establishment of a
Designated Outdoor Refreshment Area (DORA)**

Submitted May 2021

The Office of the City Manager for the City of Sandusky, Ohio respectfully submits the following application to the Sandusky City Commission to approve and enact a Designated Outdoor Refreshment Area in downtown Sandusky in accordance with ORC 4301.82.

By: Eric Wobser, City Manager

Exhibit "1"

INTRODUCTION AND SUBMITTAL OF APPLICATION

The Office of the City Manager for the City of Sandusky respectfully submits this application to City Commission of Sandusky, Ohio to approve and establish a Designated Outdoor Refreshment Area (DORA), pursuant to Ohio Revised Code (ORC) 4301.82. The proposed application meets all the state requirements.

On April 30, 2015 Substitute House Bill 47 became effective to create a Designated Outdoor Refreshment Area. Codified in Ohio Revised Code 4301.82 the act allows the executive officer of a Municipal Corporation or the fiscal officer of a Township to submit an application to the corresponding Legislative Authority of the Municipal Corporation or Township to establish a Designated Outdoor Refreshment Area (DORA). Upon approval by the Legislative Authority, the DORA is created. The Division of Liquor Control is then responsible for issuing permits with the “Outdoor Refreshment Area” designation on it to all A-1, A-1-A, A-1c, A-2, A-2f, or D liquor permit holders, (except a D8 class that holds a C class permit) that are located in the DORA. Any person who is in a DORA and who is carrying an opened container of beer or intoxicating liquor if the container was purchased from an establishment with an “Outdoor Refreshment Area” designation on their liquor permit is exempt from the Open Container Law.

In order to consider the creation of a DORA, the executive officer of the City of Sandusky must file an application with the City Commission that meets certain statutory requirements outlined in the Table of Contents. Within forty-five days after the date the application is filed with the Legislative Authority of a Municipal Corporation, the Legislative Authority shall publish a public notice of the application in one newspaper of general circulation in the Municipal Corporation as provided in section 7.16 of the Revised Code. The Legislative Authority shall ensure that the notice states that the application is on file in the office of the clerk of the Municipal Corporation and is available for inspection by the public during regular business hours.

Not earlier than 30, but not later than 60, days after the initial publication of the notice, the Legislative Authority must approve or disapprove the application. To approve the application, it must pass an ordinance or resolution by an affirmative majority vote. If the application is approved, the proposed DORA is created. Upon creation of the DORA, the Legislative Authority must send notice of the approval and a description of the DORA to the Division of Liquor Control and the Investigative Unit in the Department of Public Safety. If the application is disapproved, the executive officer of the Municipal Corporation may make changes to secure approval.

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I. BOUNDARY MAP OF PROPOSED DORA

In accordance with the ORC 4301.82(B)(1)(a) and F(1)(a), the boundaries of the DORA are depicted in the Appendix. The DORA is approximately 121 acres.

DORA Street Boundary Listing

Street Name	Range	Even/Odd
Columbus Ave.	100-256	Even & Odd
Deatur St.	100-112	Even
E. Market St.	100-189	Even & Odd
E. Market St.	215-321	Odd
E. Shoreline Dr.	100-305	Even & Odd
E. Washington Row	100-165	Even & Odd
E. Water St.	100-337	Even & Odd
E. Water St.	411-605	Odd
E. Water St.	814	Even
Franklin St.	101-115	Odd
Hancock St.	100-122	Even & Odd
Jackson St.	100-265	Even & Odd
Meigs St.	100-225	Even & Odd
W. Market St.	100-220	Even & Odd
W. Market St.	327-433	Odd
W. Shoreline Dr.	100-409	Even & Odd
W. Shoreline Dr.	611	Odd
W. Washington Row	100-237	Even & Odd
W. Water St.	100-409	Even & Odd
Wayne St.	100-160	Even & Odd

II. POPULATION REQUIREMENT FOR DORA

The City of Sandusky, Ohio has a population of 25,793 according to the 2010 decennial census. This is less than 35,000 and therefore, in accordance with the ORC 4301.82(B)(1)(b) is eligible for consideration of one DORA district. Regulations also specify that the DORA shall not exceed 150 contiguous acres for communities with less than 35,000 population.

III. NATURE AND TYPES OF ESTABLISHMENTS

In accordance with 4301.82 (B)(2), the nature and types of establishments located within the DORA are as follows: The central business district is the primary hub of locally-owned small businesses, including retailers and restaurants, in addition to a mixture of office spaces, banks, apartments, hotels, and government establishments. Residential housing within the DORA consists primarily of upper-floor apartments and apartment towers.

IV. QUALIFIED PERMIT HOLDERS

In accordance with ORC 4301.82 (B)(3), the DORA will encompass not fewer than four qualified permit holders as defined by ORC 4301.82 (A), 28 of which are initially identified as follows as either issued or pending:

Establishment Name	Address	Permit Class	Permit Number
Amaron Italian Restaurant	160 Wayne St.	D5J	4220454
Bait House Brewery	223 Meigs St.	A1A, A1C, D6	0379495
Barra	142 Columbus Ave.	D5J	99116300005
Barrel House	105 E. Shoreline Dr.	D5J	0072120 007212000003
Small City Taphouse / CLAG Brewing Company	202-218 Columbus Ave.	A1A, A1C	8247685
Crowbar	206 W. Market St.	D5	7175545
Crush Wine Bar	139-145 Columbus Ave.	D5J	1839325
Dalys Pub	104 Columbus Ave.	D1, D2, D3, D3A	19091360005
Dockside Café	611 W. Shoreline Dr.	D5J	2223482
Goodtime I	109 W. Shoreline Dr.	D1, D2, D3, D3A	4975662
J Bistro	129 W. Market St.	D5J	5484929
Jax Bar LLC	123 Market St.	D5J	1968730
Jim's Pizza Box	301 W. Water St.	D5I	4920851
Landmark Kitchen & Bar	101 E. Water St.	D5I	3675208
Moseley's Public House	223 W. Water St.	D5J	7722345
Noble Axes	127 E. Market St.	D1, D2, D3, D3A	0892199
OH Taco	223 W. Water St.	D5J	772234500003
Paddle Bar	305 E. Water St.	D1, D2, D3, D3A, D5	6620544
Sandusky Sailing Club	814 E. Water St.	D5J	7724203
Sandusky Yacht Club	529 E. Water St.	D4	7724285 772428500003
Shorehouse Tavern	306 W. Water St.	D5J	59477500005
State Theatre	107 Columbus Ave.	D5H	7724258
Tony's	115 W. Water St.	D5J	3466260
Vita	256 Columbus Ave.	D5J	5402040
Volsted	316 E. Water St.	D5J	7073095
Wine Merchant	211 W. Water St.	D2	4975580
Zinc Brasserie	215-17 E. Water St.	D5J	73012480001 730124801003
Wake Up and Waffle	122 E. Water St.	D1, D2, D3	9359414

SOURCE: Ohio Department of Commerce, Division of Liquor Control

V. LAND USE AND ZONING

In accordance with 4301.82 (B)(4), the land uses within the DORA are zoned Downtown Business District (DBD) and are in accordance with the goals of the 2016 City of Sandusky Bicentennial Comprehensive Plan and the recently-completed Downtown Sandusky Master Plan.

The creation of a DORA in downtown Sandusky aligns with the goals of the aforementioned planning documents to define this area as a desirable destination within the City as it provides yet another opportunity to not only support small businesses downtown - bars, restaurants, and retailers - but also another opportunity for promotion of the City. This promotion will support the desire to maintain a strong local economy and provide ambience that is attractive to patrons of the central business district.

The City of Sandusky's Zoning Map can be found in Exhibit B in the Sandusky DORA Application Appendix.

VI. PUBLIC SANITATION

In accordance with ORC 4301.82 (B)(5), (F)(1)(e), and (F)(1)(f), a Public Sanitation Plan has been developed to ensure public safety in the DORA and help maintain the appearance and public health of the area within the DORA. The Public Sanitation Plan can be found in the Appendix of this application. The Public Sanitation Plan can be executed with existing staff.

VII. PUBLIC SAFETY

In accordance with ORC 4301.82 (B)(5) and (F)(1)(d), a Public Safety Plan has been developed to ensure public safety in the DORA and help maintain the appearance and public health of the area within the DORA. The Public Safety Plan can be found in the Appendix of this application. The Public Safety Plan can be executed with existing staff.

VIII. SIGNAGE PLAN

In accordance with the ORC 4301.82 (F)(1)(b), the City of Sandusky will install signage at all entry/exit points of the DORA. The signs will be mounted and located at all street intersections along the boundary of the DORA.

The content and style of this signage is still under development. At a minimum, the signage will clearly mark the DORA boundary as well as any stipulations surrounding permitted activities inside and outside the boundary area.

IX. SANDUSKY DORA RULES OF OPERATION

A. Hours of Operation

In accordance with ORC 4301.82 (F)(1)(c), the hours of operation for the DORA will be Monday-Sunday from 9:00am - midnight.

The applicant requests that City Commission reserve the right to allow the City Commission or City Manager to temporarily suspend DORA operations in order to accommodate the permitting of special events that may occur within the boundaries of the DORA.

B. Official DORA Cup

In accordance with ORC 4301.82 (F)(1)(g), beer, wine, and intoxicating liquor shall only be consumed within the DORA as follows: Beer, wine, and intoxicating liquor shall only be served and consumed within the DORA in the specifically designated plastic cup approved by the City Manager's Office (the "Official Cup"). No other container will be permitted. Used cups must be disposed of before entering any establishment of a qualified permit holder. The sales and distribution of the DORA cups will be managed by the City Manager's Office. The City Manager may, upon mutual agreement, designate another organization, such as a downtown organization, chamber of commerce, or convention and visitors bureau, to manage the sale and distribution of cups.

C. Additional Requirements

In accordance with ORC 4301.82 (B)(5), and in conjunction with other rules, standards and requirements set forth in this application, additional rules and

requirements for the purpose of ensuring public safety and health within the DORA are as follows:

1. A person may have in the person's possession an open container of beer, wine, or intoxicating liquor at an outdoor location within the DORA if the open container of beer, wine, or intoxicating liquor was purchased from a qualified permit holder to which both of the following apply:

- a. The permit holder's premises is located within the DORA; and
- b. The permit held by the permit holder has an outdoor refreshment area designation; and
- c. The open container consists of an official DORA cup.

2. No person shall do any of the following:

- a. Enter the premises of an establishment of a qualified permit holder within the DORA while possessing an open container of beer, wine, or intoxicating liquor acquired elsewhere, or
- b. Possess an open container of beer, wine, or intoxicating liquor while being in or on a motor vehicle within the DORA, unless the possession is otherwise authorized under division (D) or (E) of ORC 4301.62.

Appendix

**of the Application to the Sandusky City Commission for
the establishment of a Designated Outdoor Refreshment Area (DORA),
with specific boundaries, in downtown of Sandusky, Ohio**

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Exhibit A: DORA Boundary

Size: 121 acres

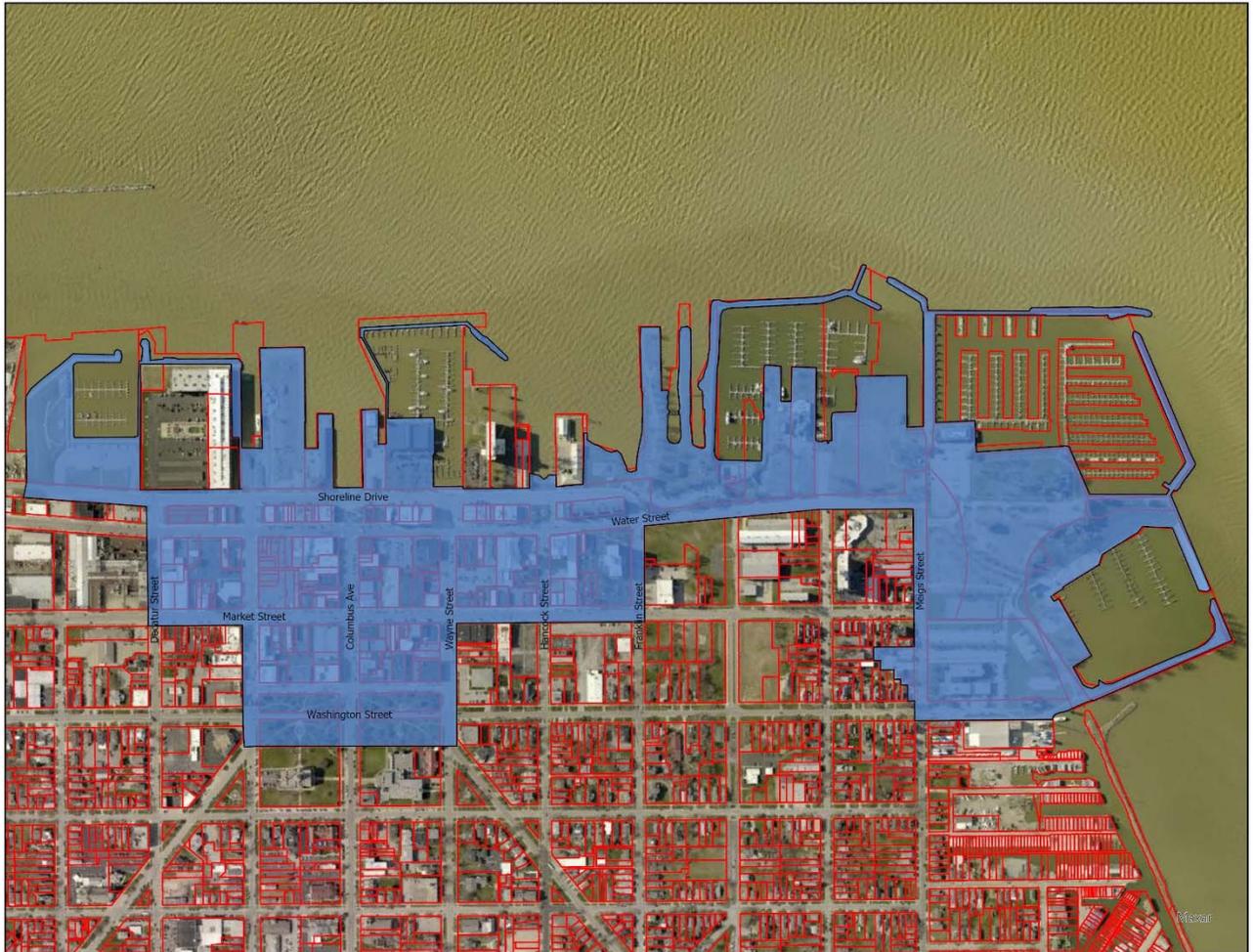


Exhibit B: Official Zoning Map

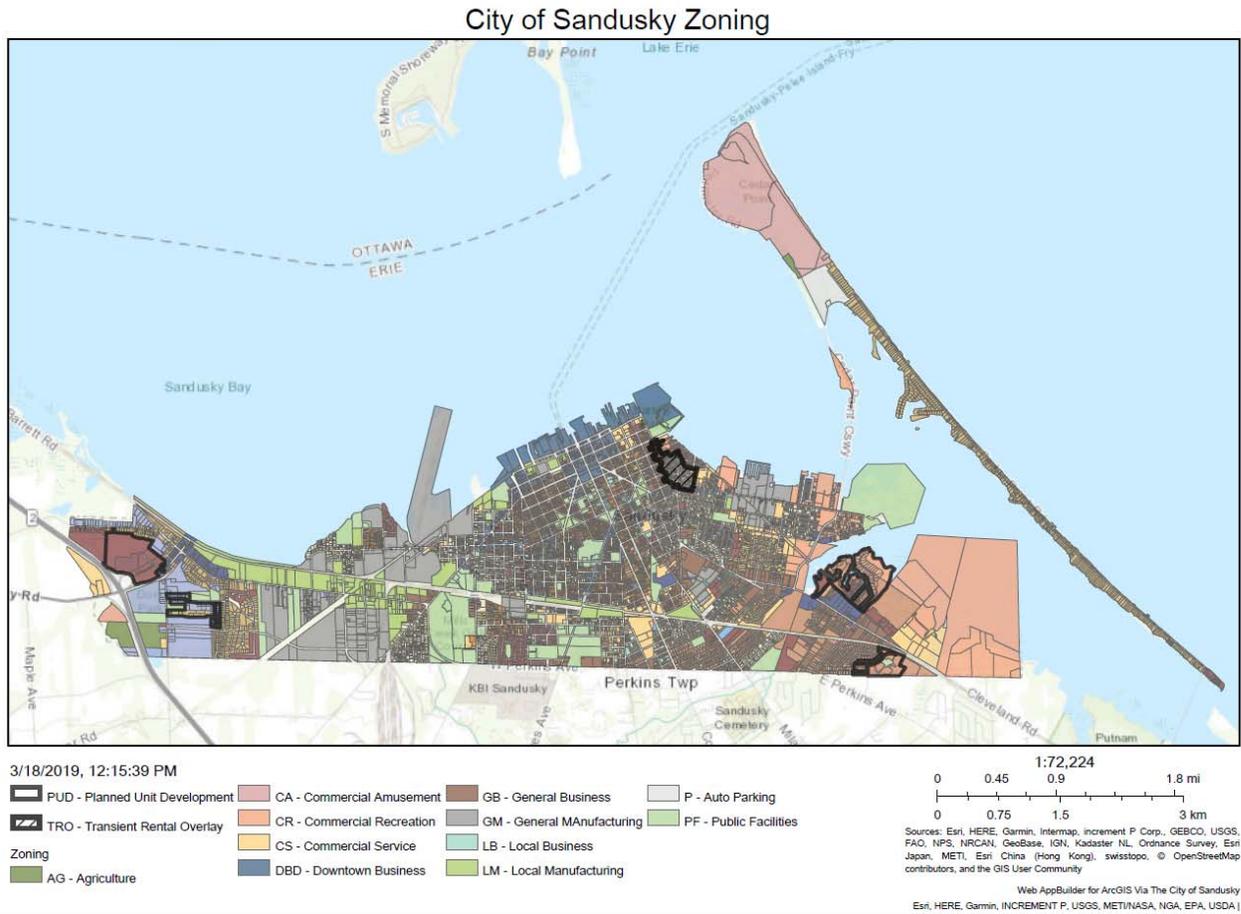


Exhibit C: DORA Public Sanitation Plan

The Public Sanitation Plan will provide a framework for maintaining the satisfactory appearance and public health of the proposed DORA, as well as the number of personnel needed to execute the Public Sanitation plan. The details are as follows:

- As of April 2021, there are currently 99 trash receptacles located in the proposed outdoor refreshment area. 87 trash cans are picked up daily, while the remaining 12 are picked up twice per week.
- Additional collections will be made on an as needed basis and will be serviced by the City's refuse collection contractor. The Department of Public Works will monitor the receptacles and coordinate additional collections, if needed.
- Trash receptacles may be relocated and additional trash receptacles may be added within the DORA at the discretion of the Department of Public Works. Upon approval of the City Commission, additional receptacles may be added by the City or any qualified permit holder, and the servicing of such additional non-City receptacles shall remain the responsibility of the installing entity.
- Each qualified permit holder located within the DORA shall be responsible for the collection of litter near or around the premises occupied by the permit holder.
- The Department of Public Works shall evaluate the need and frequency of street sweeping and servicing trash receptacles.

The City Manager and Director of Public Works have determined that the Public Sanitation Plan described herein is sufficient to maintain the appearance and public health expectations of areas within the DORA. This Public Sanitation Plan can be executed with the existing City of Sandusky personnel.

The City of Sandusky reserves the right to implement changes or modifications to the Public Sanitation Plan as needed from the commencement of the DORA until the dissolution of the DORA. Any significant changes will be communicated to all participating entities and stakeholders in DORA.

Exhibit D: DORA Public Safety Plan

The Public Safety Plan will help maintain public safety within the DORA. This will be accomplished in the following manner:

- The Sandusky Police Department shall provide law enforcement services for the Designated Outdoor Refreshment Area. The Sandusky Police Department is located adjacent to the boundary of the Area. Uniformed officers will patrol the Area as part of their regular patrol responsibilities and shall provide primary law enforcement services.
- The on-duty supervisor shall ensure that appropriate attention is provided to the Area during the hours of operation. In the event of the presence of an above-average number of people within the Area, the on-duty supervisor shall assign additional officers as deemed necessary.
- The Area may be patrolled by foot, bicycle or cruiser.
- For planned events within or adjacent to the DORA that may draw larger than normal attendance, the Chief of Police may assign additional officers to patrol the DORA area or may call in mutual aid.
- Large special events may require the organizers to provide additional security by hiring off-duty police officers or private security personnel.

The City Manager and Chief of Police have determined that the Public Safety Plan described herein is sufficient to maintain the appearance and public health expectations of areas within the DORA. This Public Safety Plan can be executed with the existing City of Sandusky personnel.

The City of Sandusky reserves the right to implement changes or modifications to the Public Safety Plan as needed from the commencement of the DORA until the dissolution of the DORA. Any significant changes will be communicated to all participating entities and stakeholders in the DORA.

Exhibit 2 – Signage

In accordance with ORC 4301.82 (F)(1)(b), the number, spacing, and type of signage designating the area will be as follows: City of Sandusky Public Works Department will install 26 boundary signs at the spacing and location depicted below. City of Sandusky anticipates the proposed signage locations will be adequate. Patron use will be monitored on an ongoing basis with additional signage installed where needed. Signage will clearly indicate with text that alcohol is not permitted beyond that point.

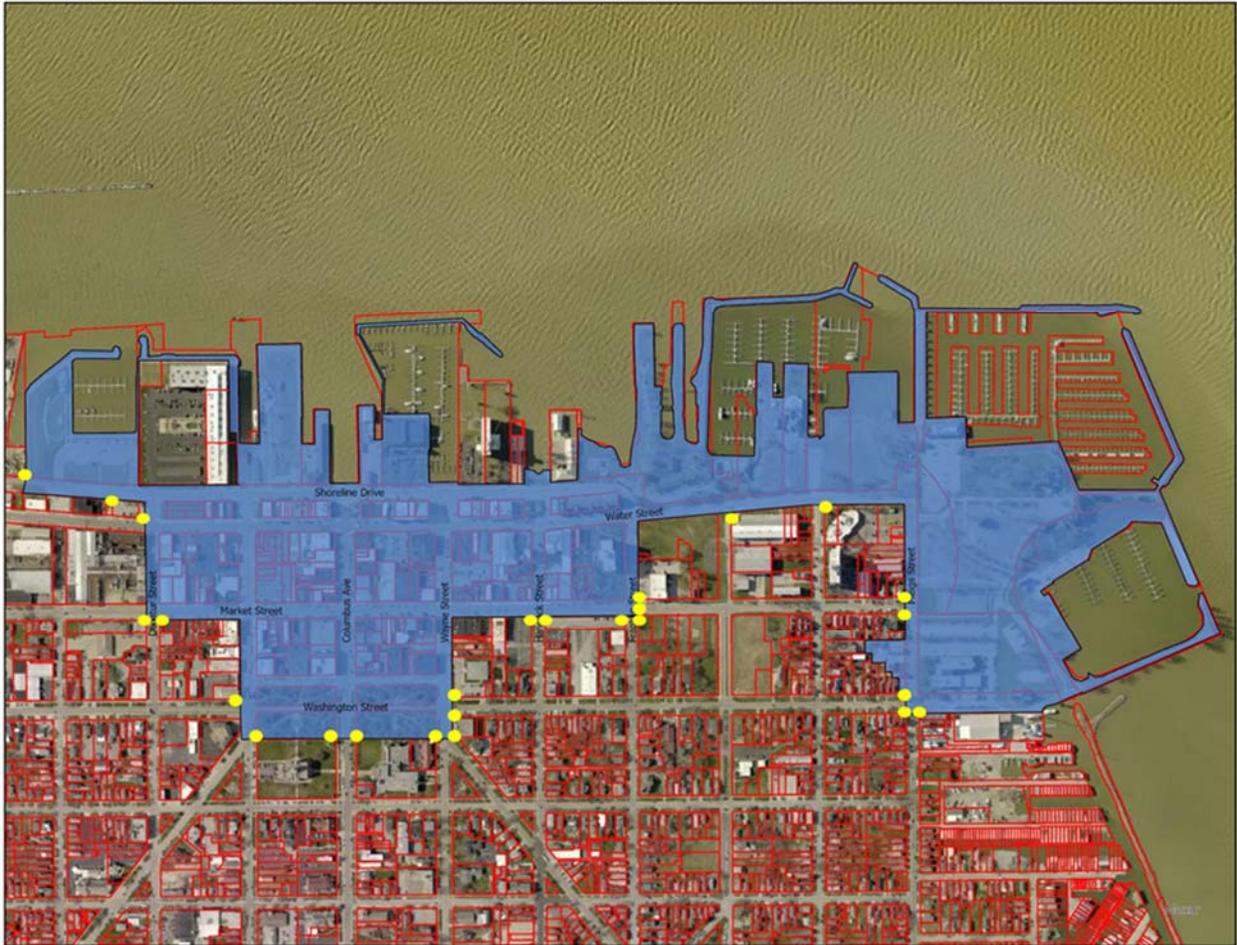


Exhibit "2"