

RESOLUTION NO. 10-2024

A RESOLUTION BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO, APPROVING THE CREATION OF A DESIGNATED OUTDOOR REFRESHMENT AREA FOR THE CONSUMPTION OF ALCOHOL IN SPECIFIED PUBLIC AREAS OF NEW PHILADELPHIA, ENACTING REGULATIONS THEREFOR; AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Law, through Revised Code Section 4301.82, permits a municipal corporation with a population of thirty-five thousand or less to create on Designated Outdoor Refreshment Area (“DORA”) if the proposed DORA will include at least four qualified State of Ohio liquor permit holders and be composed of one hundred fifty or fewer contiguous acres; and

WHEREAS, Ohio Law requires that the legislative authority of a municipal corporation must adopt a resolution that establishes requirements for the proposed DORA to ensure public health and safety within the DORA and Ohio law further specifies certain information that is to be included in said authorizing resolution; and

WHEREAS, on August 19, 2024, this Council received an application to approve the creation of a DORA in the New Philadelphia area (the “Application”), and said Application is attached to this Resolution and incorporated herein by reference as if fully rewritten; and

WHEREAS, the attached Application includes the specific boundaries of the DORA, including street addresses, the number, spacing, and type of signage designating the DORA, the hours of operation of the DORA, the number of personnel needed to ensure public safety in the DORA, a sanitation plan that will help maintain the appearance and public health of the DORA, the number of personnel needed to execute the sanitation plan, and a requirement that beer and intoxicating liquor be served solely in plastic containers in the DORA; and

WHEREAS, the public notices required by the Revised Code Section 4301.82 have been provided, and a public hearing was held on August 19, 2024 after a two week advertisement; and

WHEREAS, approval of the proposed DORA will serve to enhance the experience for both residents and visitors to the New Philadelphia area.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO, THAT:

SECTION 1. This Council approved the Mayor’s DORA application as having met the requirements of Revised Code Section 4301.82 and approves the establishment of a New Philadelphia Designated Outdoor Refreshment Area comprised of the area depicted in the Application attached to this Resolution and incorporated herein by reference as if fully rewritten.

SECTION 2. The DORA approved herein shall be operated as set forth in the Application attached to this Resolution and incorporated herein by reference as if fully rewritten, or as it may be amended from time to time, with the approval of this Council.

SECTION 3. This Council finds and determines that all public notice requirements of Revised Code Section 4301.82 have been met prior to the passage of this Resolution.

SECTION 4. Council shall review the requirements of DORA, as established herein, in January 2025 to determine whether to continue DORA under the same or modified terms and conditions or dissolve it according to statutory provisions.


SECTION 5. The Clerk of Council is hereby authorized to forward a copy of this Resolution to both the Ohio Division of Liquor Control and to the Investigative Unit of the Ohio Department of Public Safety, all in accordance with Revised Code Section 4301.82.

SECTION 6. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Resolution were taken in an open meeting of this Council or its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

SECTION 7. This Ordinance is hereby declared to be an emergency measure and its immediate passage is necessary in order to preserve, protect and maintain the health, safety and welfare of the citizens of the City of New Philadelphia, Ohio.

SECTION 8. This Ordinance shall take effect and be in force immediately upon its passage.

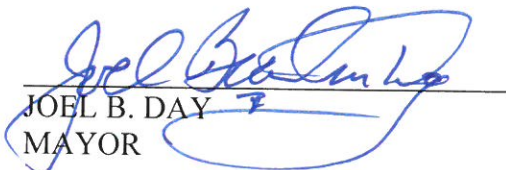
PASSED: Aug 26, 2024


DONALD C. KEMP
PRESIDENT OF COUNCIL

ATTEST:


JULIE COURTRIGHT
CLERK OF COUNCIL

APPROVED:


JOEL B. DAY
MAYOR

SPONSORED BY: COMMITTEE OF THE WHOLE

**APPLICATION TO THE
NEW PHILADELPHIA CITY COUNCIL**
for the establishment of a
**DOWNTOWN NEW PHILADELPHIA
DESIGNATED OUTDOOR REFRESHMENT AREA**
O. R. C. 4301.82



Office of the Mayor

The Office of the Mayor of the City of New Philadelphia, Ohio, respectfully submits the following application to the New Philadelphia City Council to approve and enact the Downtown New Philadelphia Designated Outdoor Refreshment Area, in accordance with O. R. C. 4301.82

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I. INTRODUCTION AND SUBMITTAL OF APPLICATION

The City of New Philadelphia intends to support revitalization of the downtown area through establishment of a Designated Outdoor Refreshment Area, or “DORA”, as authorized by Section 4301.82 of the Ohio Revised Code (ORC) for municipalities under 35,000 in population. A DORA allows establishments to have outdoor dining and alcohol service in the public right-of-way abutting their properties without the need for fencing and allows patrons to legally walk around the designated area with an alcoholic beverage that has been served by a liquor-permit-holding establishment. Benefits of establishing a DORA include creation of an inviting entertainment district, reduction of sidewalk clutter, and increased revenue for businesses.

In order to consider creation of a DORA, the Mayor must file an application with the New Philadelphia City Council which meets certain statutory requirements. The application filing must be advertised for two consecutive weeks in a newspaper of general circulation. Not earlier than 30 days, but not later than 60 days, after the initial publication of the notice, the City Council may approve or disapprove of the application by ordinance or resolution.

On Wednesday, July 17, 2024, the Mayor of the City of New Philadelphia submitted a letter requesting for City Council to adopt legislation to create a DORA in Downtown New Philadelphia. The Mayor expressed that enactment of such legislation would encourage more residents and visitors to shop and dine in the historical areas of Downtown New Philadelphia by enhancing outdoor dining and special events.

The DORA would ease or make more accessible outdoor dining in front of or outside of liquor permit holding establishments. It would allow such establishments to serve alcoholic beverages in a plastic cup pursuant to the law within the designated area during certain hours. Creation of the DORA would relieve these establishments of current requirements for fencing around a dining area. Signage, sanitation and safety requirements would be established by permits issued by the City. The DORA would permit individuals to walk within the DORA boundaries with an alcoholic beverage purchased from a liquor permit holding establishment during permitted hours.

For the purposes of this designation, New Philadelphia’s population is measured by the most recent regular federal decennial census (2020) at which the population was 17,677, permitting one DORA within the municipality not to exceed 150 contiguous acres.

In summary, this application includes the following:

- Creation of a DORA in New Philadelphia bounded by the territory described in Section II Proposed Boundary
- Description of the nature and types of establishments within the proposed DORA
- Relevant land use and zoning regulations
- Proposed public health and safety requirements

II. PROPOSED BOUNDARY

In accordance with O.R.C. 4301.82(B)(1)(b), the boundaries of the DORA are depicted below:



New Philadelphia DORA Boundary



The Designated Outdoor Refreshment Area for the City of New Philadelphia has the following geographical boundaries:

- Starting above the corner of 2nd Street NW and Fair Avenue NW
- Extending south below the corner of 2nd Street SW and Front Avenue SW
- Continuing east along Front Avenue SW to 1st Drive SE, including all of the parcels along Front Avenue SW
- Heading north above the corner of 1st Drive NE and Fair Avenue NE
- Continuing west along Fair Avenue NE to 2nd Street NW, including all of the parcels along Fair Avenue NE

This area forms a connected loop for the designated refreshment zone.

III. NATURE OF ESTABLISHMENTS

In accordance with O.R.C. 4301.82(B)(2), the nature and types of establishments that will be located within the DORA. The proposed boundary encompasses the downtown core. The types of establishments located within the DORA are primarily commercial properties in the retail, dining or services sectors, as well as some government establishments. Within the downtown segment of the DORA, the majority of buildings are mixed-use with retail and restaurants on the first floor and a mix of office space and apartments on the upper floors. Examples of the nature of establishments include:

Establishment Name	Address
Retail	
Around the Corner Frames and Gallery	128 Allen Lane SE
OTW Music	138 E High Avenue
Wargear	165 N Broadway Street
Nutrition Corner	132 N Broadway Street
Kool Ragz	118 S Broadway Street
Quaker Cinema	158 W High Avenue
House of Stones	108 E High Avenue
Modern Men's Wear	130 W High Avenue
Be Unique Studio	118 W High Avenue
Broadway Tattoo	106 Fair Avenue NE
Alley Cats Marketplace	115 Allen Lane SW
Miller's Clothing and Shoes	159 W High Avenue
Dining	
Michael's Restaurant	134 E High Avenue
Daily Grind Cafe	153 W High Avenue
What's Cooking Cafe14	139 2 nd Street NW
Craft Bistro Lounge	104 Fair Avenue
Gavins Grill	110 S Broadway Street
Broadway Brewhouse	127 S Broadway Street
China Wok	121 S Broadway Street
Mary Zifer's Pizza in New Philly	145 2 nd Street NW
Ricardo's Restaurant and Banquet Gall	115 Front Avenue SW
Services	
Unified Bank	141 N Broadway Street
Tuscarawas Medical Clinic	152 N Broadway Street
Finish Line Coin Laundry	139 Front Avenue
Mancan Temporary Staffing Agency	100 S Broadway Street
Government	
Tuscarawas County Courthouse	125 E High Avenue
Tuscarawas County Convention and Visitors Bureau	124 E High Avenue

City of New Philadelphia John Knisely Municipal Centre	150 E High Ave
New Philadelphia Municipal Court	166 E High Ave
Other	
Shell Gas Station	162 S Broadway Street

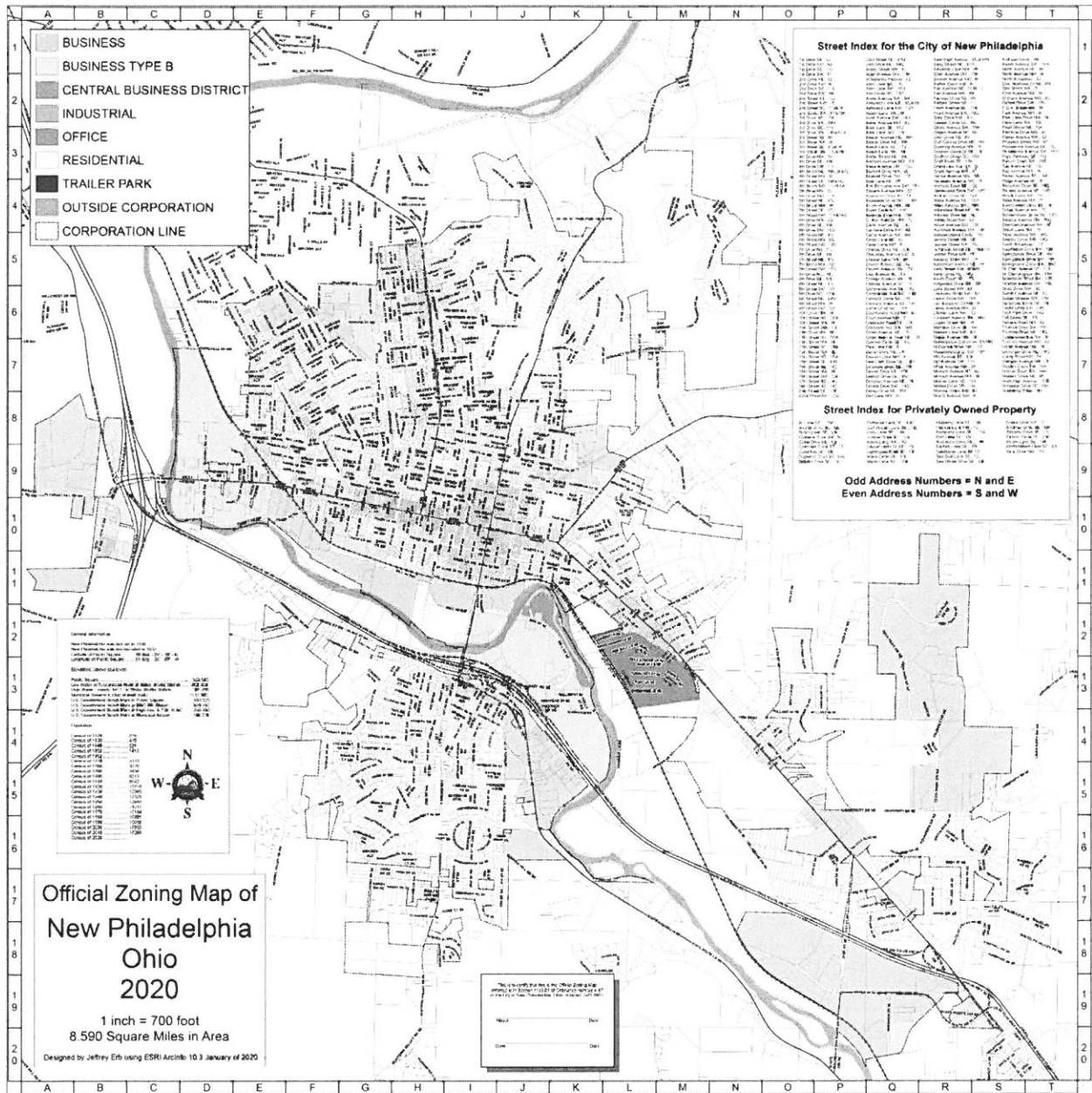
IV. QUALIFYING PERMIT HOLDERS

In accordance with O.R.C. 4301.82(B)(2), the DORA will encompass not fewer than four qualified permit holders. The City of New Philadelphia has identified eight (8) qualified permit holders that will likely be included in the DORA.

Permit Number	Permit Name	DBA	Class	Address
0701140	BIGFOOT ACQUISITION S INC	Gavins Grill	D1, D2, D3	110 S BROADWAY & PATIO
0965659	BROADWAY BREWHOUSE INC	Broadway Brewhouse	D1, D2, D3, D3A, D6	123 & 127-29 S BROADWAY 1ST FL
1790848	COYOTE MORGAN HOLDINGS LLC	Ricardo's Restaurant and Banquet Hall	D5	115 FRONT AVE SW
1799497	CRAFT BISTRO & LOUNGE LLC	Craft Bistro and Lounge	D5	104 FAIR AVE NE 1ST FOYER & 2ND FL BSMT
6032300 0005	MINISHOP INC	The Wine Rack/Mustard's	D1, D2, D6	150 S BROADWAY
7144805	RR INVESTMENT S NOW LLC	JNG Grill	D5, D6	114 FRONT AVE SW
7528318	ROSENTHAL INVESTMENT S NOW LLC	The Venue	D5	126 FRONT AVE SW
9663100	WHITTINGHAM REAL ESTATE PROPERTIES LLC	The Delaware	D1, D3, D3A, D5	112 FAIR AVE NE

V. LAND USE AND ZONING

In accordance with O.R.C. 4301.82(B)(4), the majority of parcels within the proposed Downtown New Philadelphia DORA are zoned Central Business District. The land uses are in accord with New Philadelphia’s zoning plan or map.



VII. PUBLIC HEALTH AND SAFETY

In accordance with O.R.C. 4301.82(B)(5), the proposed requirements for the purpose of ensuring public health and safety within the DORA shall include:

Outdoor Dining in Right of Way:

Qualifying permit holders that desire to sell alcoholic beverages as part of providing an outdoor dining area in the City of New Philadelphia's right of way adjacent to the establishment, must obtain a right of way permit and meet the requirements of the Codified Ordinances for right of way use. The permit holder must submit sanitation and signage plans and a physical layout of the tables, chairs, and other facilities. It is anticipated that bussing of tables will be required and/or adequate trash cans be in place. Additionally, the permit review will ensure that there are adequate pedestrian passageways and that ingress/egress for emergency services is adequate. Failure to comply with the requirements of the permit can result in revocation.

Administration:

The DORA will be administered by the City of New Philadelphia with guidance from the DORA Board. The DORA Board will include the following members appointed by the Mayor:

- City of New Philadelphia Safety Director
- Downtown business owner
- City Council member
- Tuscarawas County Convention and Visitors Bureau representative
- A representative of VFW Post 1445
- Public Health Expert from the City Health Department (Alternate)

Sanitation Plan:

Outdoor dining tables are required to be bussed by establishment staff after each patron departs. Trash receptacles will be emptied before and after each event with additional receptacles placed within the DORA as needed. Outside of special events noted in the special event section of this application, current sanitation staffing levels will be sufficient to execute the sanitation process.

Hours of Operation:

The DORA will be in effect during special events. Organizers of special events must submit an application to the DORA Board to be included.

Any additional events and/or amended hours must be approved by the DORA Board.

Special Events:

The City of New Philadelphia requires that each special event receives a permit. As is the City's practice, each event will be reviewed by the City Safety Director and City Service Director. Permit requirements may differ between events depending on the size, layout, use of right of way and program. However, each event will be reviewed to ensure that adequate sanitation, signage, and public safety requirements are established. The necessity for portable bathrooms, handicap accessibility, pedestrian boundary management and trash management (dumpsters, cans, pick-up, etc.) will be addressed. Event organizers may be required to pay for special duty officers or overtime from public service or safety workers, if necessary, to ensure adequate public health and safety requirements.

Outdoor Dining and/or Events on Private Property within the DORA:

Each of the qualifying permit holders whose private property abuts the DORA boundary currently operates pursuant to a Conditional Use Permit. To the extent necessary, the Conditional Use Permit could be amended to allow for these establishments to operate in compliance with DORA regulations. Notwithstanding including within the DORA, such establishments also must comply with ADA requirements regulating pedestrian passage along the sidewalk adjacent to the businesses if they wish to offer outdoor dining.

Safety and Emergency Services:

The New Philadelphia Police Department is contracted to provide law enforcement protection for the City of New Philadelphia. The New Philadelphia Fire Department will provide fire & rescue service. The estimated response time for law enforcement, fire, and medical rescue would be less than 5 minutes. Outside of special events noted in the special event section of this application, current public safety staffing levels will be sufficient to ensure public safety.

Drink Containers in the DORA:

Requirements for containers in the DORA are as follows: All beer and intoxicating liquor must be served in plastic cups, designed by the City of New Philadelphia to designate they are for use in the DORA. Cup labels consistent with DORA branding will be purchased and distributed by Veterans of Foreign Wars (VFW) Post 1445 in New Philadelphia.

Signage:

Boundary Signage:

- Signs shall be designed and installed by the City of New Philadelphia to indicate DORA boundaries and preserve public safety.
- All boundary signs shall include the following language: "New Philadelphia DORA" and "No alcohol beyond this point".
- A total of 60 signs shall be placed along the boundary of the DORA. Sign locations are depicted on the map on page 9.

Door Signage:

Each establishment must place a sticker or sign on the building's frontage signaling participation in the DORA. Stickers and signs shall be designed by the City of New Philadelphia in accordance with DORA branding.

Signage Locations:



New Philadelphia DORA Boundary Signage



- End of Boundary on 2nd Street NW
- SE & NE corner of 2nd Street NW & Fair Ave NW
- SE & NE corners of 2nd Street NW & Ashwood Lane NW
- SE & NE corners of 2nd Street NW & W High Ave
- SE & NE corners of 2nd Street NW & Allen Lane SW
- SE & NE corner of 2nd Street NW & Front Ave SW
- End of Boundary on 2nd Street SW
- End of Boundary on west & east side of 1st Drive SW
- End of Boundary on west and east side of S Broadway Street

- End of Boundary on 1st Drive SE
- SW & NW corner of Front Avenue SE & 1st Drive SE
- SW & NW corners of 1st Drive SE & Allen Lane SE
- SW & NW corners of 1st Drive SE & E High Ave
- SW & NW corners of 1st Drive SE & Ashwood Lane NE
- SW & NW corners of 1st Drive SE & Fair Avenue NE
- End of Boundary on 1st Drive NE
- End of Boundary on west and east side of N Broadway Street
- End of Boundary on west and east side of 1st Drive NW
- SW & NW corners of 1st Drive NE & Ashwood Lane NE
- SW & NW corners of 1st Drive NE & Fair Avenue NE
- NE, SE, & SW corners of N Broadway Street and Fair Avenue NE
- SW & SE corners of 1st Drive NW & Fair Avenue NW



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