



**Ordinance No. 20-02, by Mr. Zimmerman, to approve the creation of a revised Outdoor Refreshment Area as permitted by Ohio law for the consumption of alcohol in specified public areas of the Van Aken Shopping Center.**

Joyce Braverman, Director of Planning, stated that although this is being referred to as a revised Outdoor Refreshment Area (ORA), per state code this is actually a new ORA. The petition was submitted to Mayor Weiss who is submitting it to Council. This ORA is permitted per Ohio Revised Code Section 43.01.82 which allows open containers in entertainment and downtown districts. The ORA will now include the indoor Market Hall per an opinion from the State Department of Commerce which concludes that the Market Hall is within the ORA boundaries. The state code provides regulations for establishing the district, for things like signage, and hours of operation, which is included in the petition before Council. Council is required to approve an ORA to establish it and the process is dictated by state code. A public hearing is required, with two notices at least two weeks in advance, scheduled for January 27, 2020. Council has between 30 and 60 days to act from the first published notice which is why we have a schedule to stay within that timeframe. The City must also notify the State Department of Liquor Control and Public Safety once we have approved such district. Council must also review this every five years and has the authority to dissolve such a district with proper notice. The second reading and public hearing is scheduled for January 27, 2020.

Jason Russell, RMS Van Aken District General Manager, stated that he came before Council back in July 2019 when the ORA was approved last time. It has always been a complaint that alcoholic beverages could not be carried into the Market Hall. They have been trying to solve that issue for some time. They are fortunate to get a favorable ruling from the Department of Commerce to use the ORA within the interior and common areas of the Market Hall. However, the ORA passed by the City of Shaker Heights limited the use of the ORA between November 1, 2019 and March 31, 2020, seasonally, assuming it would only be outside. In order for this to be allowed year round we would have to create a new ORA to permit it. In working with the Planning and Police Departments they have incorporated a few other changes as well. The ORA allows bar and restaurant patrons to legally walk into the designated ORA with an alcoholic beverage which is essentially an exception to the open container law. Patrons must stay within the designated boundary of the ORA. The proposed Designated Outdoor Refreshment Area (DORA) would be year round, and the DORA cup would be permitted inside retail or merchant stores if the owner of the establishment allows it. Store owners could clearly display signs to inform patrons whether they allow beverages in the store. The hours of operation would also change to begin at 11:00 a.m. each day. They decided to break this up into two phases from a management standpoint. For RMS as a landlord trying to manage this and properly enforce the sanitation and safety plan, they would like to propose that during the months of November 1, through March 31 they will only distribute cups to the merchants in the Market Hall itself, unless there was a special event. As a customer you would only get a cup within the Market Hall but you could legally walk outside within the boundaries of the ORA. The state made it very clear that we cannot create two separate doors in the same area and the rules should apply to everyone, but we can manage it however we choose based on the legislation Council enacts and sends to the state. This was also discussed with merchants so that they would understand their responsibilities as liquor permit holders. He displayed some of the signage and decals that would be placed on the entrance to every establishment. It is a good reminder to the customer of the rules throughout the DORA whether regular patrons from the City of Shaker Heights or those visiting for the first time. The hours of operation will start at 11:00 a.m. and go through 10 p.m., Sunday through Thursday; and 11:00 a.m. to midnight Friday and Saturday. It was moved up to 11:00 a.m. as those are the business hours for most of the liquor permit holders and they wanted to make it consistent in response to their merchants. The safety plan provides for one security officer. The Shaker Heights Police Department only gets involved when

someone leaves the boundary area with an open container. They have increased the number of trash cans in the district. The official cup is compostable and has the logo on one side with the rules of the ORA on the other which will be revised to include the Market Hall. Since the last time the ORA was created, Manifest and Sawyer's have gotten a liquor license. Lyndhurst, Canton, Lorain, Middleton, Toledo and Worthington have ORAs. Legacy Village only operates their ORA during special events. Toledo has two districts. Some frequently asked questions include whether you can carry a drink inside the Market Hall and the answer is yes. The only caveat to that is if you purchase alcohol at Brassica you cannot go into Craft Collective. You must stay within the common areas. You cannot go into other liquor premises. There was a discussion today to color code cups to help with enforcement. The patio is a neutral space. You cannot bring outside beverages into the ORA. You must purchase it from inside the ORA.

Council member Mrs. Moore asked about the hours of the ORA versus business hours.

Mr. Russell stated that if you purchase alcohol from Craft Collective at 11:59 p.m. in a DORA cup, they will be asked to discard it right away.

William M. Ondrey Gruber, Law Director, asked about the signage allowing patrons inside retailers with alcoholic beverages.

Mr. Russell stated that establishments may choose whether they will allow patrons to bring in alcoholic beverages. RMS will not force merchants to display signs but they are offering signs to help educate consumers. The enforcement is solely up to the store.

Council member Mrs. Moore stated that many non-profits have been enthusiastic about allowing them to be servers in the Beer Garden. She wonders with the increase in permit holders and ORA, if RMS foresees the continuation of the Beer Garden.

Mr. Russell stated that the Beer Gardens have been very successful. They discussed whether there is fatigue from the events, spacing them out more, and making them more robust. They also talked about having other brewers or distributors with unique products. The current retailers are not interested in being the sole providers. They need to have a special distributor of some sort on site to meet the demand of participants.

Council member Mr. Zimmerman asked about this being a new ORA.

Mr. Russell stated that the Planning Director or Law Director would be in a better position to determine whether this is more of a repeal and replacement of the prior ORA.

Mr. Gruber stated that it is a modification of what already exists.

Council member Mr. Zimmerman stated that we are kind of starting over again with a bigger, broader platform.

Mr. Gruber stated that the changes are listed at the end of the memo which was distributed.

Mayor Weiss stated that we always had the ability to make changes at any point, but the difference here is that we cannot make the changes without going through the process.

Director Braverman added that these are significant changes to the hours. The City, the Mayor and Chief of Police do have the right to make allowances for special events or permits.

Mr. Gruber stated that they cannot however expand the area to include Shaker Plaza.

Council member Mrs. Moore asked about the notification to surrounding neighborhoods about the public hearing. She asked staff to address any questions about spillover behavior at the public hearing.

Director Braverman stated that the requirement is to do a published notice.

Council member Mr. Malone stated that although we have the authority to review this in five years, he would like to know if we could do this much sooner. He also wanted to clarify that previously non liquor selling organizations were not required to enforce the ORA.

Mr. Russell stated that the signage clearly stated that patrons were not permitted in the Market Hall with alcoholic beverages. After getting the opinion from the state that an ORA does allow for that we are giving the merchants the ability to decide. The retailers are supportive, but he is not sure which businesses will allow patrons with alcoholic beverages. Those who ban it will not impact other retailers from allowing it. During an event in December there were security issues with patrons bringing their beverages inside because it was cold outside. This will alleviate that.

Mayor Weiss stated that this item would remain on first reading.

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At 7:33 p.m. it was moved by Mr. Earl Williams, and seconded by Mrs. Moore that Council go into an executive session to discuss the purchase, sale or the development of real property where premature disclosure of information would give an unfair competitive or bargaining advantage to a person, or otherwise adversely affect the general public interest; and personnel matters, including the appointment, employment, dismissal, discipline, promotion, demotion or compensation of one or more public employees or officials.

Roll Call:	Ayes:	Mr. Malone, Mrs. Moore, Mr. Roeder Ms. Anne Williams, Ms. Carmella Williams Mr. Earl Williams, Mr. Zimmerman
	Nays:	None

Motion Carried

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At 8:31 p.m. Council returned to the special meeting.

There being no further business before Council, the Mayor adjourned the meeting at 8:35 p.m.

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DAVID E. WEISS, Mayor

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JERI E. CHAIKIN, Clerk of Council