

DRAFT

**APPLICATION TO THE
COUNCIL OF THE CITY OF
MARION, OHIO**

- FOR THE ESTABLISHMENT OF -

**DOWNTOWN MARION
DESIGNATED
OUTDOOR
REFRESHMENT AREA**

RC 4301.82

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I. INTRODUCTION AND SUBMITTAL OF APPLICATION

The DORA application must be filed with the City of Marion City Council. The application filing must be advertised once per week 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, City Council may approve or disapprove of the application by ordinance or resolution.

At a meeting on September 2, 2020, the City Administration directed staff to prepare an application for a DORA for downtown Marion that bounds S. Prospect Street on the west, Center Street on the north, the north/south alley between S. Main St and S. State Street on the east and Church Street on the south for City Council formal action.

Therefore, the following application is being respectfully submitted to City Council for their consideration.

The application includes the following:

- Section II.** A creation of a DORA that bounds S. Prospect Street on the west, Center Street on the north, the north/south alley between South Main St and South State Street on the east and Church Street on the south.
- Section III.** A list of first floor businesses located in the proposed DORA district and a general description of their business.
- Section IV.** A list of all liquor permit holders in the proposed DORA district. The ORC requires a minimum of four.
- Section V.** Zoning map of the proposed DORA district.
- Section VI.** A preliminary design of the signs that will be placed at the DORA district boundaries and business participation decals.
- Section VII.** A preliminary design of official DORA cup
- Section VIII.** The Public Health and Safety Plan for the DORA district.
- Section IX.** The hours of operation for the DORA.
- Section X.** Additional rules and requirements.
- Section XI.** The proposed DORA ordinance.

II. BOUNDARIES

- A. In accordance with RC 4301.82(B)(1) and (F)(1)(a), the boundaries of the DORA are graphically depicted below and further described as follows:



- B. The legal description of the DORA is expressed as follows:

Situated in the City of Marion, County of Marion, State of Ohio and being known as part of an area of land bounded by S. Prospect Street on the west, Center St. on the north, the north/south alley between S. Main St. & S. State St. on the east, and Church Street on the southern boundary.

The above described area of land will be the designated as the Downtown Outdoor Refreshment Area (DORA). See above graphic depiction of the limits

- C. Said description contains approximately 6.7 acres.

D. Street Boundaries

Street Name	Range	Even/Odd
S. Main Street	114-152; 111-153 to Founders Park	Even & Odd
W. Center Street	131-149 to Busby Park	Odd
E Center Street	117-127	Odd
W. Church St.	114 to Parking Lot A	Even
E Church St.	Founders Park to mid-block alley	Even
S. Prospect S.	Busby Park, 126-142 to Parking Lot A	Even

E. The parcels of real property located within the DORA are as follows:
Attached spreadsheet of properties.

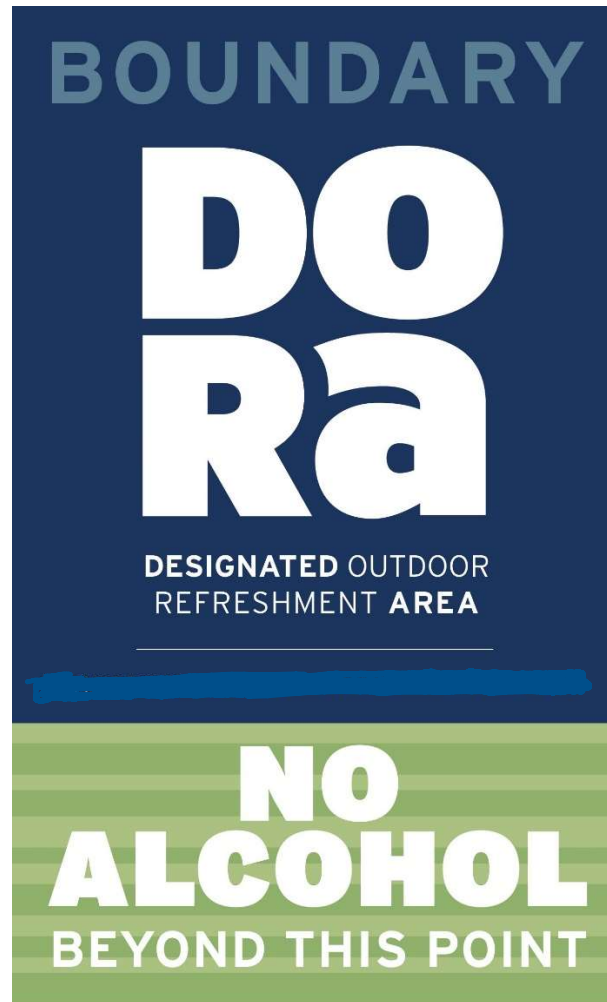
SOURCE: Evelyn Warr-Cummings, Marion City/County Regional Planning Commission &
based upon the Marion County, OH Auditor's GIS website on 9/4/2020

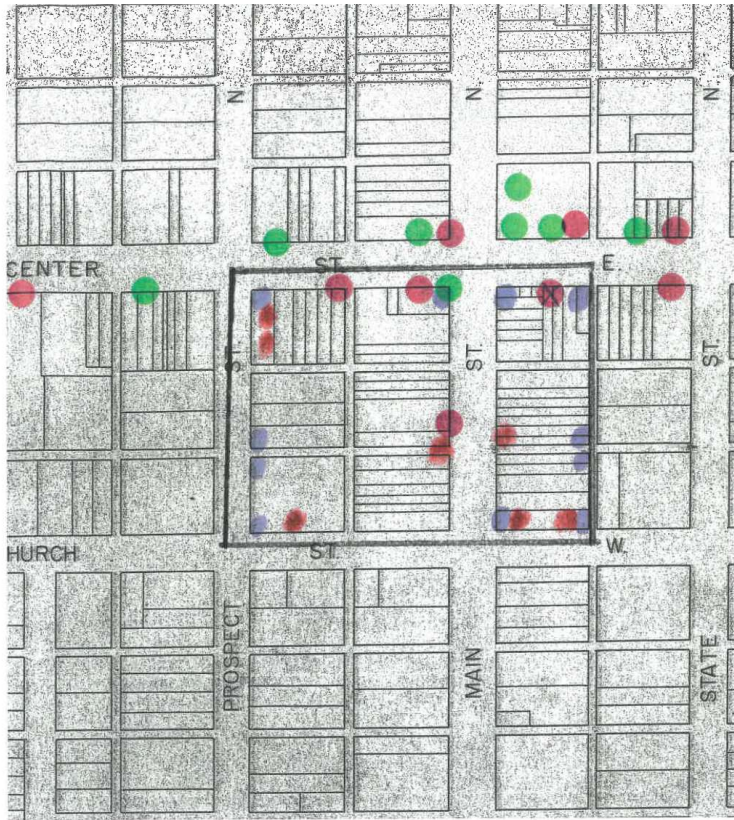
FID	PIN	City Taxing Ward	Owner1:	Owner2:
11120	1.2301E+11	3	HENSEL REGAN J &	PATRICIA E SURV
11121	1.2301E+11	3	DECKER COMPANY LLC	
11122	1.2301E+11	3	740 PARK PLACE LLC	
11123	1.2301E+11	3	MARION CITY OF	
11124	1.2301E+11	3	ROUSH LYNN D ETAL SURV	
11125	1.2301E+11	3	HENRY PROPERTIES LIMITED MRION COUNTY BRD OF	
11126	1.2301E+11	3	ALCOHOL DRG	ADDICTN &MENTAL HEALTH
11127	1.2301E+11	3	MARION CITY OF	
11128	1.2301E+11	3	KAT/JO/KEL/LLC	
11129	1.2301E+11	3	BRITE LITE MEDIA GROUP LLC	
11130	1.2301E+11	3	MARION BREWING COMPANY	
11131	1.2301E+11	3	GIANERO E CARL JR &	LOA M TRUSTEES
11132	1.2301E+11	3	CURIOSITY RENTALS LLC	
11133	1.2301E+11	3	BRICKYARD ON MAIN LLC THE	
11134	1.2301E+11	3	BRICKYARD ON MAIN LLC THE	
11135	1.2301E+11	3	BAIRES DELI LLC	
11136	1.2301E+11	3	MCNEAL-WOLFORD LLC MAIN STREET REIMAGINED LLC	
11137	1.2301E+11	3	UNION BANK COMPANY	
11138	1.2301E+11	3	UNION BANK COMPANY	
11139	1.2301E+11	3	UNION BANK COMPANY	
11140	1.2301E+11	3	UNION BANK COMPANY	
11141	1.2301E+11	3	UNION BANK COMPANY	
11142	1.2301E+11	3	UNION BANK COMPANY	
11143	1.2301E+11	3	UNION BANK COMPANY	
16267	1.2401E+11	4	MATHEWS THOMAS A ETAL	
16268	1.2401E+11	4	WASHEK MARK TRUSTEE	
16269	1.2401E+11	4	MATHEWS THOMAS A ETAL	
16270	1.2401E+11	4	WASHEK MARK TRUSTEE	
16271	1.2401E+11	4	CENTER STREET COMMUNITY	CLINIC INC
16272	1.2401E+11	4	CENTER STREET COMMUNITY	CLINIC INC
16273	1.2401E+11	4	CENTER STREET COMMUNITY	CLINIC INC
16274	1.2401E+11	4	CENTER STREET COMMUNITY	CLINIC INC
16275	1.2401E+11	4	CENTER STREET COMMUNITY	CLINIC INC

16276	1.2401E+11	4	KIMBERLING TONI TRUSTEE MAIN STREET REIMAGINED II
16277	1.2401E+11	4	LLC MAIN STREET REIMAGINED
16278	1.2401E+11	4	LLC MAIN STREET REIMAGINED
16279	1.2401E+11	4	LLC MAIN STREET REIMAGINED II
16280	1.2401E+11	4	LLC
16281	1.2401E+11	4	HARRIS DOROTHY L
16282	1.2401E+11	4	INVISIBLE BARS LLC
16283	1.2401E+11	4	INVISIBLE BARS LLC
16284	1.2401E+11	4	MARION CITY OF
16285	1.2401E+11	4	MARION CITY OF
16286	1.2401E+11	4	MARION CITY OF
16287	1.2401E+11	4	MARION CITY OF
16288	1.2401E+11	4	MARION CITY OF

III SIGNAGE

- In accordance with RC 4301.82(F)(1)(b), and as determined by the City Director of Public Works, the City will ensure that sufficient signage designating the specific boundaries of the DORA area are placed throughout the City.
- The Director of Public Works of the City of Marion has determined that approximately ten (10) signs describing the boundaries of the DORA are necessary and shall be spaced between 50 feet and 500 feet apart. (See map below)
- These signs shall be visible to the general public, with the content and style of this signage being similar to the following:





Blue dots = DORA signs

Red dots = Trash cans

Green dots = planters

Example of signage to be placed at each business within the DORA boundaries.



IV. HOURS OF OPERATION

In accordance with RC 4301.82(F)(1)(c), the hours of operation for the DORA shall be as follows:

- Monday through Saturday, 11 AM to 10 PM *
- *Excluding the period of the Popcorn Festival which is held annually the first Thursday, Friday and Saturday after Labor Day.

V. SAFETY PLAN

In accordance with RC 4301.82(B)(5) and (F)(1)(d), the requirements for the purpose of ensuring public safety within the DORA, the Safety Plan that will help maintain public safety within the DORA, and the number of personnel needed to execute the Safety Plan, are as follows:

The Marion Police department provides 24-hour patrol coverage to City of Marion.

Downtown Marion Inc (DMI) or any group organizing an event in the DORA district shall contract for the provision of a minimum of two (2) off-duty Marion Police Officers to patrol the DORA.

- a. The Police Department will direct patrol to the DORA, during hours of operations, as resources allow. The Police Department will respond to calls for service within the DORA as needed.
- b. Downtown Marion Inc (DMI) or any group organizing an event in the DORA district shall contract for the provision of a minimum of two (2) off-duty Marion Police Officers to patrol the DORA.
- c. To supplement the efforts of the Marion Police Department in providing a safe and welcoming environment, upon the request of a local group or the request of Marion City Police and acceptance by the CPAAA , Safety Ambassadors shall walk through the DORA and the surrounding downtown area. CPAAA provides for a Safety Ambassador to circulate through the DORA
- d. The Director of Public Safety or Chief of Police of the City of Marion, in his or her discretion and consistent with the Codified Ordinances of the City of Marion, may temporarily supplement, modify, or add to these requirements as may be required for any special events within the DORA, or as other circumstances may require.
- e. Each month after the commencement of operation of the DORA, continuing for a period of six (6) consecutive months, and then once every three (3) months thereafter, the Director of Public Safety of the City of Marion, the Chief of Police of the City Marion,

and/or their designees, and DMI shall meet and review the requirements herein for the purpose of determining whether updates, modifications, or supplementation to these requirements may be advisable or required, and in said event, such changes shall be presented to Marion City Council for consideration and implementation.

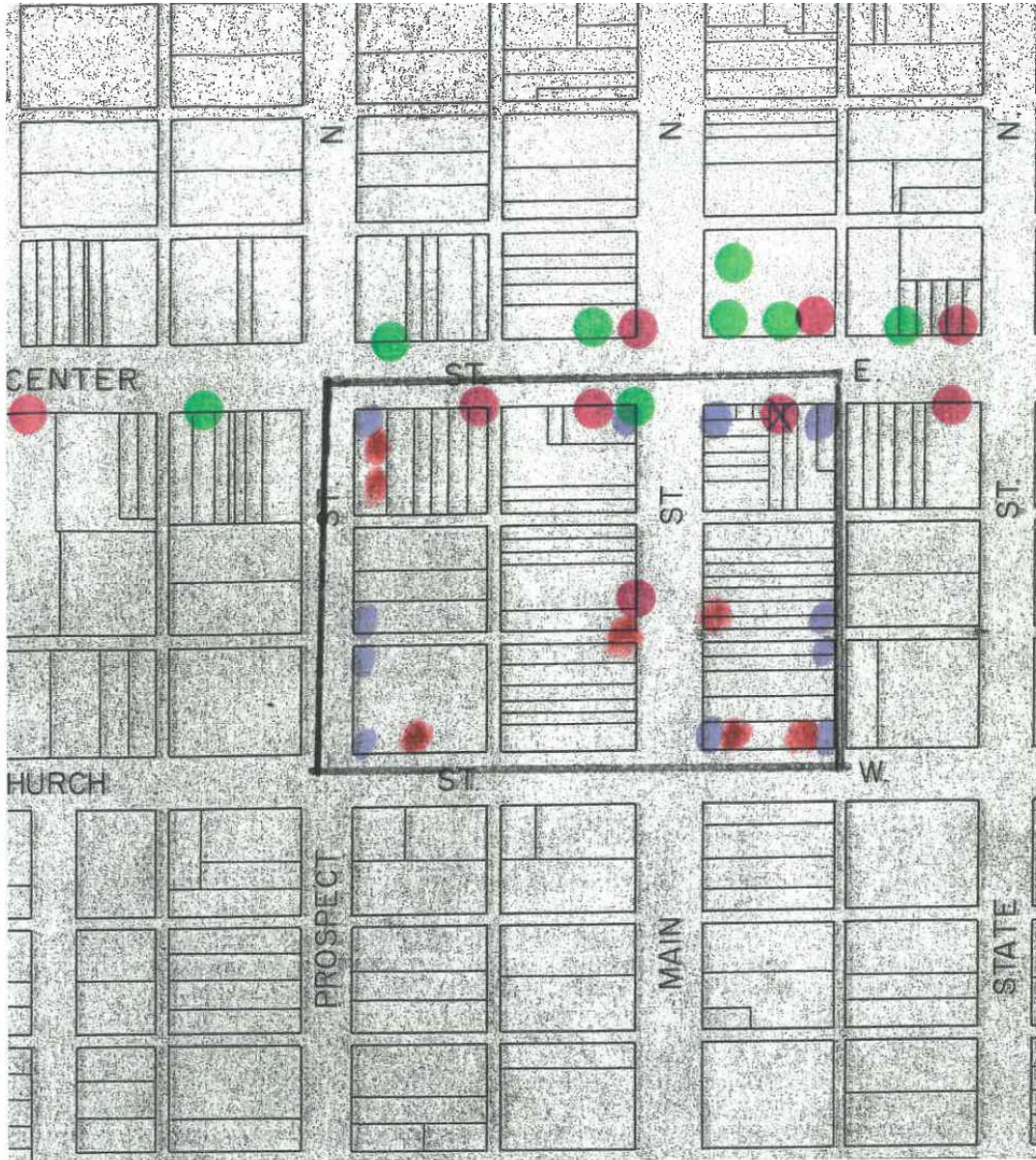
- f. The speed limits of all streets in the DORA shall not exceed 15 MPH, which shall be maintained from the commencement of operation of the DORA until its dissolution. The Director of Public Works and/or Engineer of the City of Marion shall also evaluate the signage and visibility of all crosswalk markings within the DORA, and, if needed or advisable, implement changes or modifications to such signage or markings.
- g. The Director of Public Safety, Chief of Police, and Director of Public Works/ Engineer of the City of Marion have respectively determined that the Safety Plan described herein is sufficient to maintain public safety within the DORA. This Safety Plan can be executed with the existing personnel of the City of Marion and the additional personnel described above.

VI. SANITATION PLAN

In accordance with RC 4301.82(B)(5), (F)(1)(e), and (F)(1)(f), the requirements for the purpose of ensuring public health within the DORA, the Sanitation Plan that will help maintain the appearance and cleanliness of the DORA, and the number of personnel needed to execute the Sanitation Plan are as follows:

- a. There are currently ten (10) trash receptacles located throughout the DORA that are serviced daily by the City of Marion Department of Public Service's Street Cleaning Division. This service shall continue after commencement of the operation of the DORA. (see map below)
- b. Additional trash receptacles may be added within the DORA by: i) the City of Marion Department of Public Service; ii) Downtown Marion Inc. (DMI); or iii) any qualified permit holder in alignment with the downtown streetscape plan. The servicing of such additional receptacles shall remain the sole responsibility of the installing entity.
- c. To supplement the efforts of the Marion Sanitation and Street Cleaning Divisions in providing a clean and welcoming environment, Liquor Permit holders and DMI Cleaning Ambassadors will walk through and service the DORA and the surrounding downtown area.
- d. Litter is currently controlled within the area that will comprise the DORA on a daily basis by the City's Sanitation Division, in conjunction with City Street Cleaning Division employees and the City Parks Department. This litter control shall continue after the commencement of the operation of the DORA. In addition, 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. Compliance with this requirement shall be monitored by DAP and the Sanitation Department. The Director of Public Service may evaluate the need for further/other litter control in the DORA.
- e. The City Street Cleaning Division currently sweeps the streets within the area that will comprise the DORA sweeping the street and flushes sidewalks on an as-needed basis. The Street Cleaning Division will continue this current schedule of street sweeping and flushing within the DORA after commencement of its operation. Upon request of DMI, or as otherwise may be required for the appropriate appearance and public health of the DORA, the Director of Public Service may evaluate the need for further/other street sweeping/flushing in the DORA.

- f. The Director of Public Service of the City of Marion has determined that the Sanitation Plan described herein is sufficient to help maintain the appearance and public health within the DORA. This Sanitation Plan can be executed with the existing personnel of the City of Marion and the additional personnel described above.



Blue dots = DORA signs

Red dots = Trash cans

Green dots = planters

VII. QUALIFIED PERMIT HOLDERS

In accordance with RC 4301.82(B)(3), the DORA will encompass not fewer than four qualified permit holders as defined by RC 4301.82(A), each of which are further identified as follows:

Permit Holder	Address	Classes	Permit Number
Baires Deli LLC	131 S. Main St. 1 st floor only Marion, Ohio 43302	D1, D2	0379138
Brickyard on Main LLC	135 S. Main Street Marion, Ohio 3302	D1,D2, D3	0945545
Petrovski Brothers LLC	138 S Main Street Marion, Ohio 43302	D1, D2, D3	68620990005
Ross Co. LLC	137-139 W. Center St. Marion, Ohio 43302	D5	7532565

VIII. OFFICIAL CUP

In accordance with RC 4301.82(F)(1)(g), beer, wine, and intoxicating liquor shall only be consumed within the DORA as follows:

- a. Beer, wine, and intoxicating liquor shall be served and consumed in the DORA only in the specifically designated cup produced and provided by each participating license holder. (the "Official Cup"). No other container will be permitted. All DORA beverages must be served in a new, unused, Official Cup. Only one (1) Official Cup per person will be permitted in the DORA. Used Official Cups must be disposed of before entering any establishment in the DORA. Official Cups shall hold no more than sixteen (16) fluid ounces and shall be composed of plastic. The content and style of the Official Cup shall be like the following:



IX. ADDITIONAL RULES AND REQUIREMENTS

In accordance with RC 4301.82(B)(5), and in conjunction with all other rules, standards, and requirements set forth in this Application, additional rules and requirements for the purpose of ensuring public health and safety within the DORA are as follows:

- a. A person may have in the person's possession one open container of beer, wine, or intoxicating liquor at an outdoor location within the DORA if the opened container of beer, wine, or intoxicating liquor was purchased from a qualified permit holder to which both of the following apply:
 - i. The permit holder's premises is located within the DORA; and
 - ii. The permit held by the permit holder has an outdoor refreshment area designation.
- b. No person shall do any of the following:
 - i. Enter the premises of an establishment within the DORA while possessing an opened container of beer, wine, or intoxicating liquor acquired elsewhere; or
 - ii. Possess an opened container of beer, wine, or intoxicating liquor while being in or on a motor vehicle within the DORA, 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 division (D) or (E) of section of RC 4301.62.
- c. Beer, wine, and intoxicating liquor may be served and consumed only in/from the Official Cup in the DORA. Official Cups are to be used for one (1) beverage only and may not be reused by individuals or qualified permit holders.
- d. In addition to all other applicable standards and penalties, any person that violates the rules and requirements of the DORA is guilty of a minor misdemeanor punishable pursuant to law.
- e. In addition to all other rights and remedies pursuant to law, noncompliance by any qualified permit holder with any rule, standard, or requirement set forth in this Application shall constitute a failure to satisfy the public health and safety requirements of the DORA, and shall constitute adequate grounds for Marion City Council to request the Ohio Department of Commerce, Division of Liquor Control, to revoke or otherwise fail to renew the outdoor refreshment area designation issued to such permit holder pursuant to RC 4301.82(E).
- f. If any provision of this Application is judged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of the provisions.

X. AREA IMPACT

Pursuant to RC 4301.82(B)(2) and (B)(4), a general statement of the nature and types of establishments that will be located within the DORA, and evidence that the uses of land within the DORA are in accord with the master zoning map of the City of Marion and the pending Comprehensive Plan of the City of Marion, are as follows:

- a. The types of establishments located within the DORA are primarily businesses in the retail, dining, services, or governmental sectors. Examples include:

Establishment Name	Address
Union Bank Co.	111 S. Main St.
Topped Ice Cream	129 S. Main St.
Baires Deli	131 S. Main St.
The Brickyard (Event Hall)	135 S. Main St.
The Union (Event Hall)	122-124 S. Main St.
Taste of Memphis BBQ	138 S. Main St.
Curiosity Shop (Retail)	141 S. Main St.
The Way We Were Antiques	147 S. Main St.
Marion Brewing Company	151 S. Main St.
The Root Salon (Barber & Hair salon)	153 S. Main St.
Shamrock Insurance	114 W. Church St.
City of Marion - Founders Park (pocket park)	NE corner of S. Main and E. Church St.
City of Marion - Parking Lot A (public parking)	NE corner of S. Prospect & W. Church Sts.
City of Marion - Busby Park	SE corner of W. Center and S. Prospect Sts.
Gotham City Tavern	137-139 W. Center St.
Amato's Pizza & North High Brewery	143 W. Center St.
Marion County ADAMH Board	142 S. Prospect St.

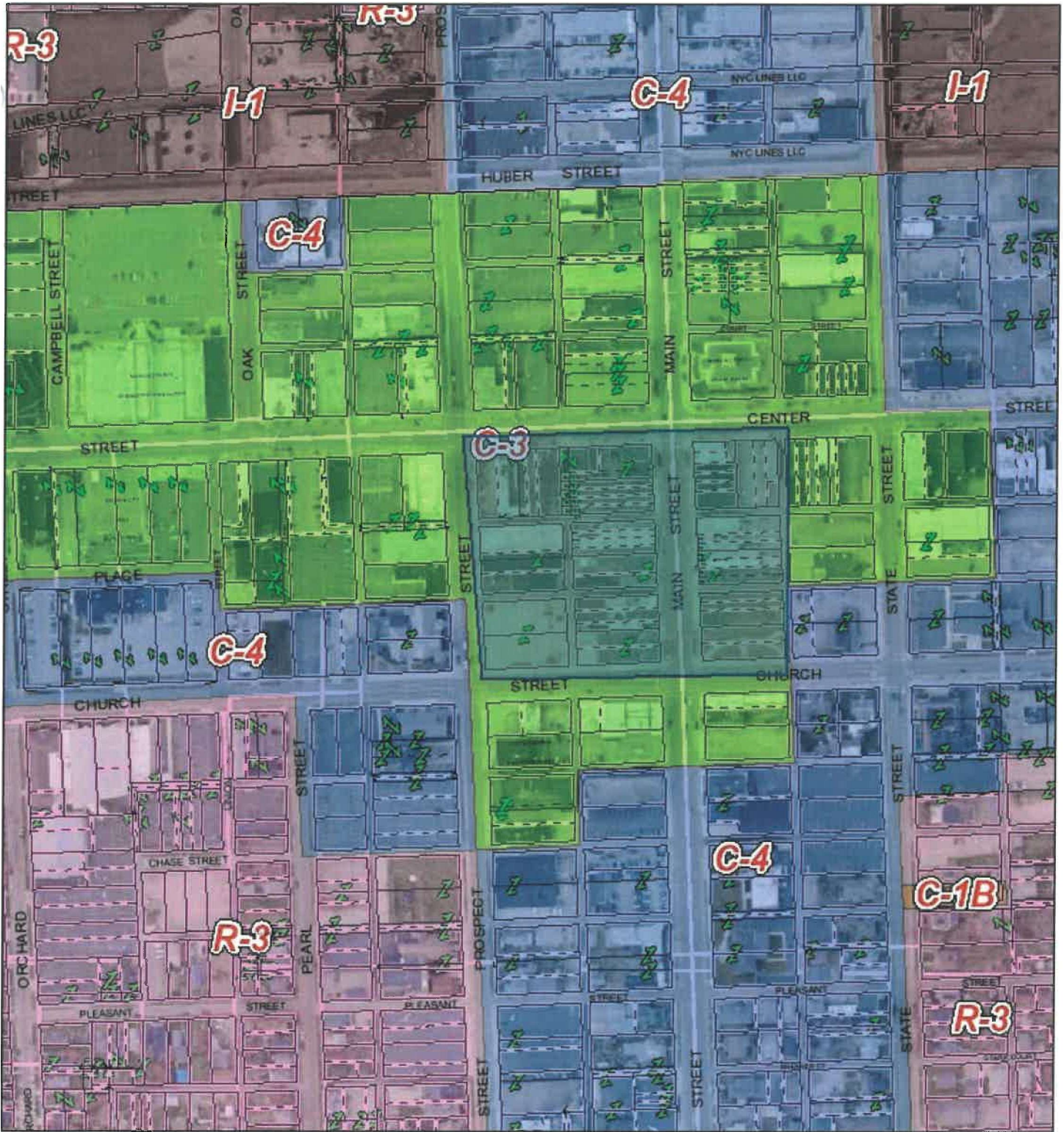
- b. The zoning description of the DORA is expressed as follow:

"Downtown."

Zoning within the DORA is Central Core Commercial District (C-3) for the entire DORA area. Retail uses are permitted within this use district designation.

- c. The Office of the Mayor is confident that the DORA will not only enhance the entertainment and cultural appeal of Downtown Marion as a destination, but it will also serve to enhance the economic appeal of Downtown and make the area more attractive to businesses in the creative, service, and technology sectors.

DORA Zoning C-3 District



9/4/2020 3:58:50 PM

1:3,333

Zoning Type

0 155 310 620

C-3 Central Core
Business District
Chapter 1143

XI. PROPOSED ENACTING LEGISLATION

ORDINANCE AUTHORIZING THE
CREATION OF A DESIGNATED OUTDOOR
REFRESHMENT AREA (DORA) WITHIN
DOWNTOWN MARION

ORDINANCE NO. _____-2020 creating and designating an outdoor refreshment area within the City of Marion; establishing requirements to ensure public health and safety within the designated area; and declaring an emergency.

WHEREAS, R.C. § 4301.82 permits the City of Marion to create and approve an application for a “Designated Outdoor Refreshment Area” (“DORA”) within its corporate limits; and

WHEREAS, Mayor Scott Schertzer has submitted and filed an application with Marion City Council in compliance with R.C. § 4301.82(B), in order to have certain property designated as an outdoor refreshment area; and

WHEREAS, notice concerning this application has been published in compliance with R.C. § 4301.82(C) and (F)(2); and

WHEREAS, the purpose of a DORA is to create potential for more entertainment and social options for residents of the City and others; and

WHEREAS, Council has reviewed this application and determined that the application is in compliance with R.C. §4301.82(B), and that the contemplated DORA would be in compliance with R.C. §4301.82(D).

NOW, THEREFORE, BE IT ENACTED by the Council of the City of Marion, Ohio:

Section 1. That pursuant to R.C. §4301.82, there is hereby established and designated the Downtown Marion Designated Outdoor Refreshment Area (the “Marion DORA”) with the boundaries of the area, including the street addresses, as described in the application being attached hereto as **Exhibit A** and incorporated herein.

Section 2. That it is hereby found and determined by Marion City Council for the purpose to ensure the public health and safety within the area that: (1) there will be sufficient signage designating the boundaries of the area; (2) the hours of operation for the area; (3) the number of personnel needed to ensure public safety in the area; (4) the sanitation plan that will help maintain the appearance and public health of the area; and (5) the number of personnel needed to execute the sanitation plan, as identified in **Exhibit A**, are approved, adopted, and incorporated herein.

Section 3. That all beer, wine, and intoxicating liquor in the Marion DORA shall be served solely in plastic bottles or other plastic containers, as further described in **Exhibit A**.

Section 4. That Council hereby finds and determines that: the business, artistic, cultural and entertainment establishments located within the Marion DORA will be enhanced hereby; the Marion DORA will encompass no fewer than four (4) qualified liquor permit holders; the uses of land within the proposed Marion DORA are in accord with the Zoning Code requirements of the City of Marion; and the hours and rules of the Marion DORA set forth in **Exhibit A** and incorporated herein, will ensure public health and safety. Council reserves the right to modify the public health and safety requirements as needed pursuant to state law.

Section 5. That each rule, requirement, and standard set forth in **Exhibit A** and incorporated herein is necessary to ensure the public health and safety, and the same is hereby adopted in its entirety, and Council therefore approves the application filed with it.

Section 6. That pursuant to R.C. §4301.82(I), Council shall periodically review the operation of the Marion DORA, and shall either approve the continued operation of the DORA or dissolve the area. The initial review of the Marion DORA shall occur five (5) years after its creation, and subsequent reviews of continued operation (if any), shall occur within five (5) years of each renewal. Subject to notice requirements, Council reserves the right, pursuant to state law, to dissolve all or part of the Marion DORA at any time.

Section 7. That the Mayor, Director of Public Service, Director of Finance, Director of Law, and other City officials, as appropriate, be and are hereby authorized to execute, certify, and/or furnish other such documents and do all other actions as are necessary to establish the Marion DORA referred to in Section 1, and which are incidental to carrying out the purpose of this ordinance.

Section 8. That the Clerk of Council is hereby directed, upon adoption of this ordinance, to provide notice as required by R.C. §4301.82 of the establishment of this Downtown Marion DORA to the Superintendent of the Ohio Department of Commerce Division of Liquor Control, and to the investigative unit of the Department of Public Safety.

Section 9. That notwithstanding any other provision of the Codified Ordinances of the City of Marion, any ordinance (or part thereof) that conflicts with the purposes of the Marion DORA shall not be applicable to activity within the DORA. If any provision of this ordinance is subsequently adjudicated as invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remaining portions of this ordinance.

Section 10. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety for the reason that immediate passage of this ordinance is necessary to allow adequate time for state approval and issuance of DORA designations as soon as possible, and provided this ordinance receives the

affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed _____, 2020

Todd Schneider
President of Council

APPROVED:

Mayor Scott Schertzer

ATTEST:

Tarina R. Rose
Clerk of Council