

DATE: AUGUST 21, 2023

CLERK: DIANE ROLLAND

MASSILLON CITY COUNCIL  
CITY OF MASSILLON, OHIO  
CLAUDETTE O. ISTNICK, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE BRANCH

**"AMENDED"**  
ORDINANCE NO. 82 – 2023

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE creating a Designated Outdoor Refreshment Area (DORA) and establishing requirements to ensure public health and safety within such area.

**WHEREAS**, RC. § 4301.82 permits the City of Massillon to create and approve an application for a "Designated Outdoor Refreshment Area" (DORA) within its corporate limits; and

**WHEREAS**, The Mayor has submitted and filed an application with Massillon City Council in compliance with R.C. § 4301.82(B) to have certain property designated as an outdoor refreshment area on August 14, 2023; and

**WHEREAS**, a public hearing concerning this application was held in Massillon City Council Chambers on October 2, 2023, a notice of which was published not less than 30 days prior to the date of said hearing in The Massillon Independent, a newspaper of general circulation in the City of Massillon, once a week for two separate weeks in compliance with RC. § 4301.82(C) and (F)(2); and

**WHEREAS**, Massillon City Council finds that the application is in compliance with R.C. § 4301.82(B) and that the DORA to be created would be in compliance with R.C. § 4301.82(C); and

**WHEREAS**, municipalities have the power to enact laws that preserve the health, safety, and welfare, comfort and peace of the municipality;

**NOW, THEREFORE**, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

**Section 1.**

Pursuant to RC. § 4301.82, there is hereby established and designated the Massillon Designated Outdoor Refreshment Area (DORA) with the boundaries of the area, including the street addresses, as described in the application being attached hereto as Amended Exhibit "A" and incorporated herein.

**Section 2.**

It is hereby found and determined by Massillon City Council for the purpose to ensure the public health and safety within the area that (1) the number, spacing, and type of signage designating 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 are identified in the Amended Exhibit "A" and incorporated herein.

**Section 3.**

It is hereby further found and determined by Massillon City Council that all beer, wine, and intoxicating liquor served and consumed in the area shall be solely in approved plastic containers.

**Section 4.**

- It is hereby further found and determined by Massillon City Council that the business, artistic, cultural and entertainment establishments located within the area will be enhanced hereby; that the area will encompass no fewer than four (4) qualified liquor permit holders; that the uses of land within the proposed area are in accord with the Official Zoning Map of the City of Massillon and that the hours and rules of the area set forth in the Amended 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.**

It is hereby further found and determined by Massillon City Council that each rule, requirement, and standard set forth in the Amended 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 of the application filed on August 14, 2023.

**Section 6.**

It is hereby further found and determined by Massillon City Council that, five years from the date of the adoption of this Ordinance, Massillon City Council shall review the operation of the Massillon DORA hereby created and shall either approve its continued operation or dissolve it, and such review shall be repeated five years after any subsequent approval of the Massillon DORA in the same manner. Council reserves the right, pursuant to state law, to dissolve all or part of the DORA at any time, subject to notice requirements.

**Section 7.**

The Clerk of Council is hereby instructed upon adoption to provide notice as required by R.C. § 4301.82 of the establishment of this Massillon 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 8.**

The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Director, to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

**Section 9.**

All Ordinances or parts of Ordinances in conflict with this Ordinance are repealed. If any provision of this Ordinance is judged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder.

**Section 10.**

Provided this Ordinance receives the affirmative vote of two-thirds of the elected and/or appointed members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS 6<sup>th</sup> DAY OF November, 2023

ATTEST: Diane Rolland  
DIANE ROLLAND, CLERK OF COUNCIL

Claudette O. Istnick  
CLAUDETTE O. ISTNICK, PRESIDENT

APPROVED: November 7, 2023 Kathy Catazaro-Perry  
KATHY CATAZARO-PERRY, MAYOR

I, Diane Rolland, Council Clerk for the City of Massillon, Ohio, do hereby certify that the foregoing Ordinance was duly published in the Massillon Independent on September 25, 2023, and October 2, 2023, as required by law.

I hereby certify that the foregoing ordinance is a true copy of the original, as passed by the Council of the City of Massillon, Ohio, and approved as noted thereon:

Diane Rolland  
Diane Rolland  
Council Clerk

Diane Rolland  
Clerk of Council

Date 11/7/23

**"AMENDED"**

**Exhibit A**

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

*for the establishment of*

**DOWNTOWN MASSILLON DESIGNATED OUTDOOR REFRESHMENT AREA**

R.C. § 4301.82

SUBMITTED AUGUST 14, 2023

**I. INTRODUCTION**

The Mayor for the City of Massillon, Ohio respectfully submits the following application ("Application") to the Council of the City of Massillon, Ohio to approve and enact the Massillon Designated Outdoor Refreshment Area ("DORA"), in accordance with R.C. § 4301.82 and Sub. H.B. No. 47 (2015).

Council approval of the DORA as set forth in this Application would create Massillon's first and only Outdoor Refreshment Area, meeting or exceeding all of the requirements of R.C. § 4301.82, for the cultural and economic betterment of the businesses, residents, and property owners within the DORA, as well as the whole of Massillon by further establishing the Downtown area as a destination for entertainment, culture, and activity.

We recognize that Downtown and the immediate surrounding areas are a core asset of the City of Massillon, and providing a DORA would assist in driving economic and social growth and development.

The City has experience in providing adequate security, public health measures, and leadership for large and small events held in the Downtown Massillon area, and would use that experience to assist the City of Massillon in the management, administration, and enforcement of the rules and of the DORA. The police, fire and service departments have provided the necessary services in making events a success. They have provided the needed services for a variety of Community Events which has involved the blocking off of streets and the consumption of alcohol within a designated area.

**II. POPULATION, BOUNDARIES and PARCELS with ADDRESSES**

In accordance with R.C. § 4301.82(B)(1)(b) and (F)(1)(a), the boundaries of the DORA are detailed on the map in Exhibit 1 that encompasses an area of 36.7 acres.

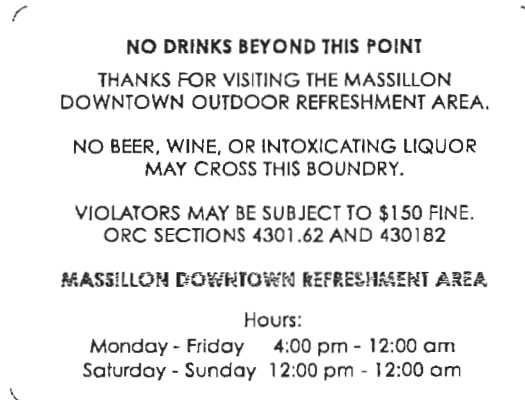
The parcels of real property located within the DORA are listed in Exhibit 2.

According to the 2020 Census the population of the City of Massillon is 33,007.

**III. SIGNAGE**

In accordance with R.C. § 4301.82 (F)(1)(a), the number, spacing, and type of signage designating the DORA are described as follows:

The Safety and Service Director of the City of Massillon has determined that approximately 11 signs (see Exhibit 3 locations) will be produced in a style consistent with the City of Massillon signage and are necessary to describe the DORA. The content and style of this signage shall, in sum or substance, consist of the following:



SOURCE: David Maley, Economic Development Director, City of Massillon

**IV. HOURS OF OPERATION**

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

Monday-Friday	4:00pm – 12:00am
Saturday-Sunday	12:00pm – 12:00am

\*May be modified by Mayor for special events.

**V. SAFETY PLAN**

In accordance with R.C. § 4301.82 (B)(5) 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:

1. At the commencement of the DORA, the Massillon Police shall regularly patrol the DORA using minimum staffing levels during all DORA hours of operation as may be practicable and as otherwise permitted in light of the patrol Officer(s)'s responsibility to respond to calls for service of reported crime throughout the City of Massillon. These assignments may be tailored as adequate and sufficient for public safety in the City of Massillon in an efficient, ongoing basis.
2. The Mayor of the City of Massillon, in his or her discretion and consistent with the Codified Ordinances of the City of Massillon, 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.
3. Each month after the commencement of the DORA, continuing for a period of six (6) consecutive months, and once every three (3) months thereafter, the Mayor, Safety Service Director, and the Chief of Police of the City of Massillon 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 Council for consideration and implementation.
4. The Safety Service Director for the City of Massillon shall 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.
5. The Mayor, Chief of Police, and Safety Service Director of the City of Massillon have 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 Massillon and the additional personnel described above.

Source: Kathy Catazaro-Perry, Mayor of the City of Massillon  
Jason Saintenoy, Chief of the Massillon Police Department  
Barbara Sylvester, Safety Service Director of the City of Massillon

## **VI. SANITATION PLAN**

In accordance with R.C. § 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 public health of the DORA, and the number of personnel needed to execute the Sanitation Plan, are as follows:

1. There are currently 30 trash receptacles located throughout the DORA along with one person assigned to clean three times a week. In addition, Street Department staff will be utilized for trash pick-up or clean-up as needed, including weekends.
2. Additional trash receptacles may be added within the DORA at the discretion of the Safety Service Director.
3. Litter is currently controlled within the DORA by the Street Department of the City of Massillon, in conjunction with Street Department employees. This litter control shall continue upon the commencement 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 the Safety Service Director. The Safety Service Director shall evaluate the need and frequency of litter control in the DORA.
4. The City of Massillon's Street Department currently does sweeping services within the City and will continue to do so. The Safety Service Director shall evaluate the need for any additional street sweeping in the DORA.
5. The Safety Service Director and Mayor of the City of Massillon have 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 Massillon.

SOURCE: Kathy Catazaro-Perry, Mayor of the City of Massillon  
Barb Sylvester, Safety Service Director of the City of Massillon  
David Maley, Economic Development Director, City of Massillon

**VII. QUALIFIED PERMIT HOLDERS**

In accordance with R.C. § 4301.82(D)(1), the DORA will encompass not fewer than four qualified permit holders as defined by R.C. § 4301.82(A), each of which are further identified as follows:

Permit Holder	Address	Classes	Permit Number
Buffalo Wild Wings	235 LINCOLN WAY W, MASSILLON OH 44647	D5, D6	5617365
Kozmo's	23 1ST ST SW, MASSILLON OH 44647	D1, D2, D3, D6	6073799
Rockne's	155 LINCOLN WAY W, MASSILLON, OH, 44647	D1, D2, D3, D3A, D6	6548560
Margaritas	121 LINCOLN WAY W, MASSILLON OH 44646	D5, D6	8219593
Sangria Stand	39 LINCOLN WAY E, MASSILLON OH 44646	D2, D3	7730220
Downtown Hecks	43 LINCOLN WAY E, MASSILLON OH 44646	D2, D4	7730220
Hideaway Lounge	34 DIAMOND CT SE, MASSILLON OH 44646	D5	3300034 OR 3304225
Benders	50 LINCOLN WAY E, MASSILLON OH 44646	D5	9690921
Alibi	37 ERIE ST N, MASSILLON OH 44646	D5	8871301
Paradigm Shift Brewing	128 NORTH AVE NE, MASSILLON OH 44646	A1A, A1C, D6	6693950
Village Tavern	146 1ST ST NE, MASSILLON OH 44646	D2, D2X, D3, D3A	4739175
Chloe's Diner	112 1ST ST NE, MASSILLON OH 44646	D5	3069595
Print Bar	45 1ST ST NW, MASSILLON OH 44647	D1, D2, D3	9248305- 0005
Oriole's Nest #270	42 ERIE ST N, MASSILLON OH 44646	D5	3473584
Krackpots Comedy Club	14 LINCOLN WAY W, MASSILLON OH 44647	D5	4615460
Smitty's Steak House	47 Lincoln Way E Massillon Ohio 44646	D3A	5384549
Rohr's Wine Room,	28 CHARLES AVE SE, MASSILLON OH 44646	A1, B2A, S	OH-W-21288
Ed & Berts Smokehouse	48 2ND ST SE, MASSILLON OH 44646	D1, D2, D3, D3A	7246998

SOURCE: Ohio Department of Commerce, Division of Liquor Control  
David Maley, Economic Development Director, City of Massillon



## VIII. OFFICIAL CUP

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

1. Beer, wine, and intoxicating liquor shall be served and consumed in the DORA in the specifically designated cup (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 serving alcohol 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, in sum or substance, consist of the following and including the rules of operation within the Massillon DORA:



2. Each qualified permit holder will purchase Official Cups upon commencement of the DORA for their use.

SOURCE: R.C. § 4301.82(F)(1)(g)

## **IX. ADDITIONAL RULES AND REQUIREMENT**

In accordance with R.C. § 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:

1. A person may have in the person's possession an opened 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:
  - 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.
2. No person shall do any of the following:
  - a. Enter the premises of an establishment with an opened container of beer, wine, or intoxicating liquor acquired elsewhere; or
  - b. 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 R.C. § 4301.62.
  - c. Enter Veteran's Plaza with an open container of beer, wine, or intoxicating liquor.
3. Beer, wine, and intoxicating liquor may be served and consumed solely in approved plastic containers in the DORA.
4. 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.
5. 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 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 R.C. § 4301.82(E).
6. If any provision of this Application is judged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder.

**X. AREA IMPACT**

Pursuant to R.C. § 4301.82(B)(2) and (B)(4), a general statement of the nature and types of establishments that will be located within DORA, and evidence that the uses of land within the DORA are in accord with the master zoning map of the City of Massillon:

The types of establishments located within the DORA are primarily businesses in the retail, dining, services, or government sector. Examples include:

<u>Establishment Name</u>	<u>Address</u>
<b>Retail</b>	
Erie Street Vinyl	46 Erie St. N
CJ Duncan Jeweler	24 Lincoln Way E
Wolf Games & Models	125 Erie St. N
Linde's Bridal & Prom	23 Lincoln Way E
<b>Dining and Food Service</b>	
Benders Food & Spirits	50 Lincoln Way E
Rockne's	155 Lincoln Way W
Healthalicious	32 Erie St. S
<b>Services</b>	
Farmers Insurance	13 Lincoln Way E
Re/Max Edge Services	31 Lincoln Way E
Ventura's	24 Lincoln Way W
Chase Bank	11 Lincoln Way W
<b>Government</b>	
Massillon Municipal Administration	151 Lincoln Way E
Massillon Government & Justice Center	2 James Duncan Plaza
Massillon Senior Center	39 Lincoln Way W
Stark County Law Enforcement Training Center	143 1 <sup>st</sup> St. NE

The entire area of the DORA is mostly zoned B-2, "Central Business District"; with several parcels P-1 and B-3, "General Business District"; pursuant to Massillon Cod. Ord. Chap. 1151. Residential uses are limited to apartments over retail shops.

The City of Massillon is confident that the DORA will provide a positive environment to assist in enhancing the community and economic development efforts being made in Downtown. This will create an additional recreational opportunity for people to gather in the downtown while expanding the customer base of the businesses located in and around the DORA.

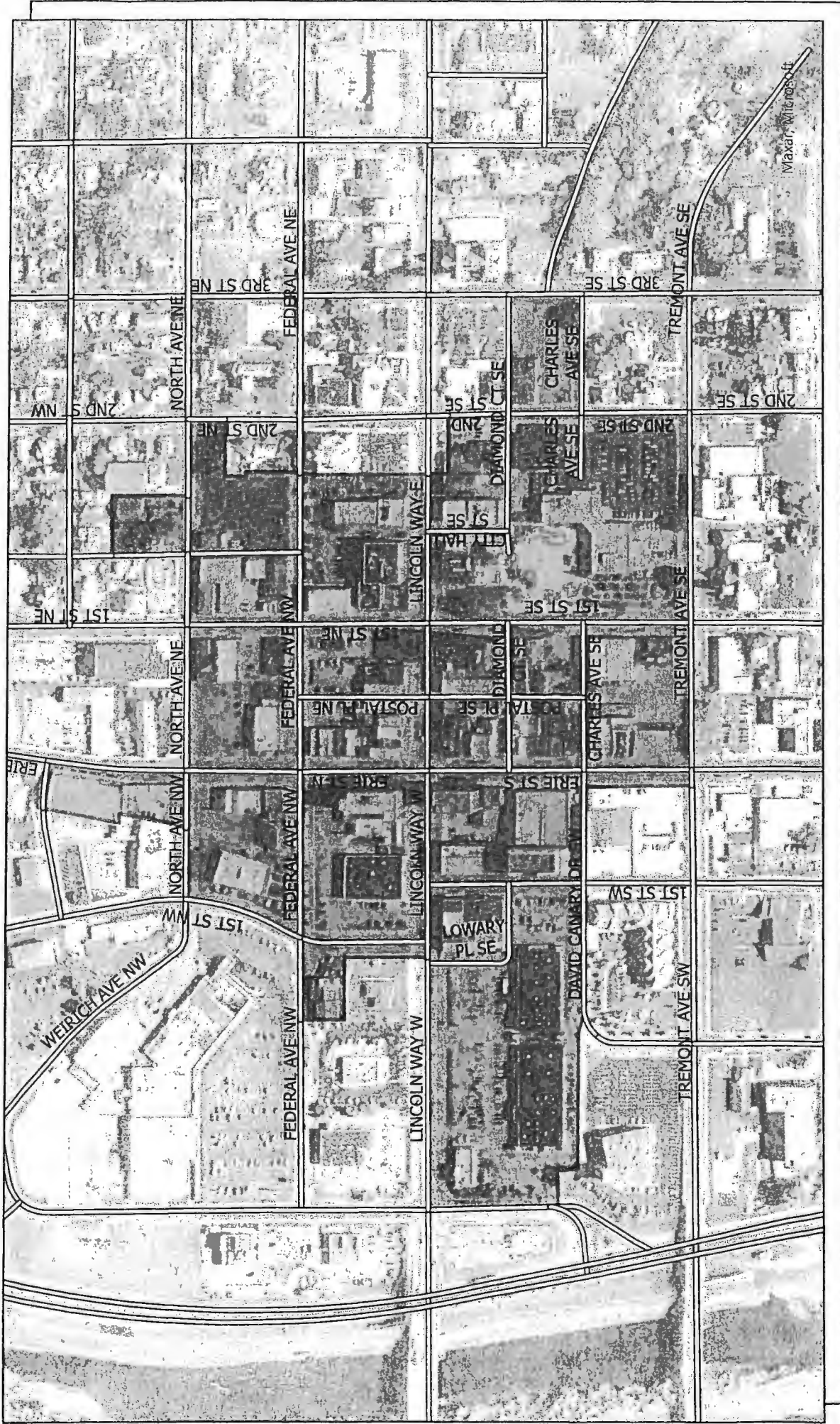
Downtown and adjacent area has a broad mix of uses. The area includes public and private sector offices, retail businesses, an arts institution, nonprofit organizations, religious institutions, restaurants and an open public assembly space.

Strategies already employed in the downtown include the following;

- A Community Reinvestment Area
- Promoting mixed use development opportunities
- Increasing civic presence in the Downtown Area
- Increased number of Community Events in partnership with the West Stark Chamber of Commerce, Downtown Massillon Association, Massillon Museum, Massillon Public Library, Massillon Main Street, and Massillon City School District.

SOURCE: David Maley, Economic Development Director, City of Massillon

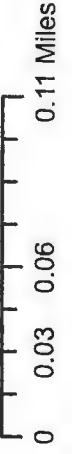
DESIGNATED OUTDOOR REFRESHMENT AREA  
MASSILLON, OHIO



**LEGEND**

 Designated Outdoor Refreshment Area's  
 36.7 Acres

  
 Alex Pitts, PE  
 Massillon City Engineer



**Exhibit 2**  
**Street Boundary Listing**

STARK

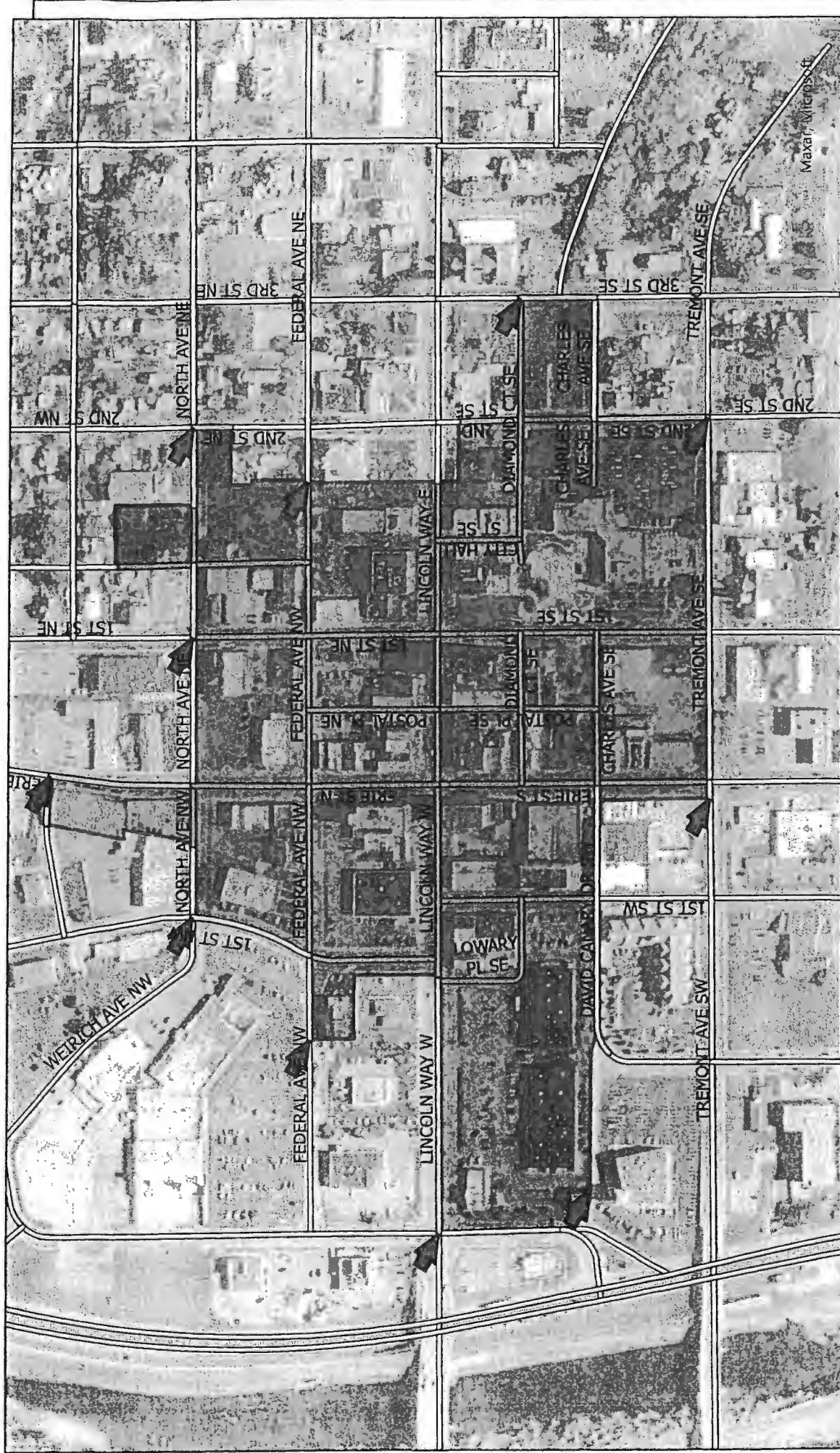
CITY OF MASSILLON

MASSILLON DOWNTOWN DESIGNATED OUTDOOR REFRESHMENT AREA


June 2, 2023

<b>Street Name</b>	<b>Even</b>	<b>Odd</b>
North Ave NW	0-50	1-99
North Ave NE	118-130	1-199
Federal Ave NW	0-139	0-199
Federal Ave NE	0-186	1-185
Lincoln Way W	0-110	0-299
Lincoln Way E	0-170	1-169
Lowry Pl SW		
David Canary Dr SW	0-8	1-100
Charles Ave SE	0-300	1-199
Charles Ave SW	0-100	1-99
Diamond Ct SE	0-200	1-300
Tremont Ave SW	0-8	none
Tremont Ave SE	0-200	none
1st St NW	0-200	1-99
1st St SW	0-100	1-99
Erie St N	0-200	1-299
Erie St S	0-200	1-199
Postal Pl NE	0-100	1-99
Postal Pl SE	0-100	1-99
City Hall St SE	0-200	1-199
2nd St NE	none	145-199
2nd St SE	20-90	35-199
3rd St SE	50-90	none

# MASSELLON, OHIO



## LEGEND

 DORA SIGN

 Designated Outdoor Refreshment Area's

