

ORDINANCE NO. 2024-02-03

**AN ORDINANCE AMENDING CHAPTER 18 OF
THE CITY CODE OF WARSAW, INDIANA**

WHEREAS, new legislation was recently passed by the State of Indiana as I.C. § 7.1-3-31 et. seq. ("DORA Act") which authorizes the City of Warsaw ("City") to establish not more than seven (7) Designated Outdoor Refreshment Area ("DORA") provided that the Common Council of the City of Warsaw ("Council") adopts an ordinance with certain findings and provisions adhering to the DORA Act; and

WHEREAS, the Common Council believe it is in the best interests of the citizens of the city to establish a designated DORA to support growth, investment, walkability, vendor flexibility, recreation, customer spending, and overall revenue while ensuring that the DORA is administered in an orderly fashion in accordance with state and local laws and regulations.

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the City of Warsaw, Indiana, as follows:

Section 1.

18.101 Definitions

18.102 Effect of Chapter

18.103 Application of State and Local Laws

18.104 Insurance and Public Liability

18.105 DORA Regulations

18.199 Penalty

§ 18.101 DEFINITIONS.

(A) *Definitions.* All definitions in I.C. §7.1-3-31 et seq., as amended, shall apply to this Ordinance. The following terms shall also have the meanings ascribed to them herein:

- (1) **CRAFT MANUFACTURER.** An entity that holds:
 - a. A small brewery permit under I.C. 7.1-3-2-7(5); or
 - b. A farm winery permit under I.C. 7.1-3-12; or
 - c. An artisan distiller's permit under I.C. 7.1-3-27.
- (2) **DESIGNATED PERMITTEE.** A retailer permittee that operates a Licensed Premises which is located within and has received all applicable approvals to participate in a DORA.
- (3) **DESIGNATED OUTDOOR REFRESHMENT AREA ('DORA').** An area established pursuant to I.C. §7.1-3-31 et seq, where an individual may:
 - (i) exit the Licensed Premises of a Designated Permittee or Vendor with not more than two (2) open containers of an alcoholic beverage at a time, and
 - (ii) consume the alcoholic beverages within such area.

- (4) **LICENSED PREMISES.** A building, or part of a building, in which alcoholic beverages are authorized to be kept, manufactured, or sold, pursuant to all applicable laws and regulations.
- (5) **RETAILER PERMITTEE-** Retail establishments licensed by the Indiana Alcohol and Tobacco Commission ("ATC") to sell individual drinks of beer, wine and liquor for consumption on the retailer's premises.
- (6) **VENDOR.** An entity issued a temporary vendor designation pursuant to all applicable laws and regulations and either: (i) a temporary beer or wine permit, or (ii) a supplemental catering permit.

§ 18.102 EFFECT OF CHAPTER

- A. This Chapter is applicable to Retailer Permittees and Vendors who wish to participate in any DORA established by the City and any person(s) who consume or wish to consume alcoholic beverages within a DORA.
- B. Any Retailer Permittee or Vendor wishing to participate in any DORA established by the City shall abide by state and local laws.
- C. It shall be unlawful for any person, sole proprietor, partnership, company, corporation, applicant, vendor, restaurant, establishment, or venue to operate as a Designated Permittee or Vendor within a DORA unless registered as such with the City as provided in this Chapter.

§ 18.103 APPLICATION OF STATE AND LOCAL LAWS

- A. Any Designated Permittee shall follow any and all other applicable state and local laws and regulations, not otherwise outlined herein, including, but not limited to, littering laws, noise nuisance laws, and alcoholic beverage consumption laws.
- B. Any person, sole proprietor, partnership, company, corporation, applicant, vendor, restaurant, establishment, or venue who violates any state or local law may be fined accordingly.
- C. In accordance with I.C. 7.1-3-31-11, Council may adopt an ordinance dissolving a DORA at any time. The Council shall notify the chair of the ATC that the DORA is dissolved.

§ 18.104 INSURANCE AND PUBLIC LIABILITY

As a condition of registration and applicant approval by the City, the City may require an owner or operator of an establishment wishing to participate as a Designated Permittee or Vendor to furnish annual certificates of insurance to the Planning Department naming the City as an additional insured, primary and non-contributory with coverages deemed to be acceptable to the City.

§ 18.105 DORA REGULATIONS

- A. The following regulations are intended to be in substantial compliance with LC. § 7.1-3-31 et. seq., which may be amended from time to time.
- B. Upon the City's designation of a DORA, a person may:
 - a. Exit the Licensed Premises of a Designated Permittee with not more than two (2) open containers of an alcoholic beverage at a time; and
 - b. Consume the alcoholic beverage(s) within the DORA.
- C. Council may not establish more than seven (7) DORAs and at least one (1) Designated Permittee shall be established by Council for each DORA approved by the ATC and the City.
- D. To designate a DORA, Common Council must adopt an ordinance that includes at least the following in each ordinance for a proposed DORA:
 - a. A map of the proposed DORA in sufficient detail to identify the boundaries;
 - b. The boundaries of the proposed DORA, by street addresses, including street and/or block descriptions;
 - c. The locations of the proposed Designated Permittees and Vendors within the proposed DORA;
 - d. A statement conforming that the proposed DORA is consistent with the City of Warsaw Zoning Code;
 - e. The number, spacing and type of signage designating the DORA; and
 - f. The dates and hours of operation for the DORA, which may not violate LC. § 7.1-3-1-14.
- E. Prior to any submission by the City to the ATC, the City, by and through its Planning Department, shall collect the below-described application, which may include a processing fee, and shall review all applications for completion, accuracy, proper execution, and inclusion of all necessary documentation identified on the application form and/or as determined by the City based on specific circumstances of the particular application or the particular DORA. When an application form and/or packet is complete, the City shall submit the following to the ATC:
 - a. The application for approval of the DORA;
 - b. The completed applications received by the City from retailer permittees to participate in the DORA as Designated Permittees; and
 - c. The designating ordinance adopted by the City under LC. § 7.5-3-31-8, which designating ordinance shall be reviewed by the ATC for compliance.
- F. If the designating ordinance is approved, the ATC shall issue a DORA designation to each Retailer Permittee whose application was submitted to the City and approved by the ATC. The ATC may approve a DORA and issue DORA designations to Retailer Permittees without publication of notice or investigation before the local Alcoholic Beverage Commission ("Local Commission").

- G. A Vendor who is not a Designated Permittee may participate in an event or festival held within a DORA as long as it has complied with LC. § 7.1-3-31-5. A Craft Manufacturer may participate in an event or festival held within a DORA as provided in the Craft Manufacturer's scope of permit. The ATC may issue the permit and designation without publication of notice or investigation before the Local Commission.
- H. A Designated Permittee may allow a person to exit the Licensed Premises with not more than two (2) open containers of an alcoholic beverage at a time. The contents of an open container of alcoholic beverage may not exceed the following:
 - a. Beer or flavored malt beverage of not more than sixteen (16) ounces.
 - b. Wine, cider, or hard seltzer of not more than twelve (12) ounces.
 - c. A mixed drink of not more than ten (10) ounces containing not more than two (2) ounces of liquor.
- I. A person may consume an alcoholic beverage purchased from a Designated Permittee or Vendor anywhere within the DORA, subject to the right of any Designated Permittee or business within the DORA to refuse to allow individuals to enter the Licensed Premises or business with an alcoholic beverage. The City may designate an "official cup", "official logo" or other means of identification for purposes of administering this ordinance. Each DORA may have its own means of identification as determined by the City.
- J. A person may not consume an alcoholic beverage within a DORA that was purchased outside of the DORA.
- K. If a Designated Permittee in a DORA includes outdoor dining:
 - a. The Designated Permittee may serve alcoholic beverages in open containers during the hours of operation and in the areas authorized by the retailer permit; and
 - b. Glass containers may be allowed in the outdoor dining areas but may not be removed from those areas into the DORA; and
 - c. No fencing or other enclosure of the outdoor dining area is required.
- L. A sign must be posted at each exit of a Designated Permittee and on the Licensed Premises that informs the public of the following:
 - a. Any open alcoholic beverage containers purchased within the DORA must remain within the DORA;
 - b. Possessing an open container of alcoholic beverages in a motor vehicle may constitute a Class C infraction under IC 9-30-15; and
 - c. The dates the DORA will be open if the DORA has date restrictions.
- M. The City maintains full authority and control over the sidewalks and common public areas regardless of an area's status within a DORA for purposes of enforcement of applicable state and local laws such as, but not limited to, public intoxication, disturbing the peace, soliciting, open containers in a moving vehicle, maintaining a common nuisance, or other forms of disruptions of the public being able to legally traverse upon sidewalks or public ways. The City may further temporarily limit the hours of operation of the DORA or temporarily limit

areas where open alcoholic beverages are allowed within the DORA

- N. Nothing herein prohibits a business or establishment from prohibiting open containers of alcoholic beverages to enter its establishment or premises nor from prohibiting food or beverages purchased from another establishment to enter its premises.

§ 18.199 PENALTY

- A. Any person, entity, applicant, vendor or permittee who violates any provision of this Chapter may be subject to the fines as follows:
 - a. Up to \$2,500 for the first violation; or
 - b. Up to \$5,000 for the second or subsequent violation.
- B. Each day of the existence of any violation of this Chapter shall be a separate offense.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage, any and all necessary approval by the Common Council.

	Aye	Nay	Abstain	Absent
Cindy Dobbins	✓	_____	_____	_____
Jack Wilhite	✓	_____	_____	_____
Juergen Voss	✓	_____	_____	_____
Josh Finch	✓	_____	_____	_____
Michael Klondaris	✓	_____	_____	_____
William G. Frush	_____	_____	✓	_____
Diane Quance	✓	_____	_____	_____

Attest:


Lynne Christiansen, Clerk-Treasurer


Jeff R. Grose, Mayor

APPROVED as to form and legality.

 3-4-24
Scott E. Reust, Attorney for the City of Warsaw, Indiana

ORDINANCE NO. 2024-02-04

**A SPECIAL ORDINANCE OF THE COMMON COUNCIL
OF THE CITY OF WARSAW, INDIANA, DESIGNATING A DORA NO. 1 AS
"DOWNTOWN DORA" PURSUANT TO WARSAW CITY CODE CHAPTER 18**

WHEREAS, Indiana Code § 7.1-3-31 et seq. was recently passed by the Indiana Legislature which authorizes the establishment of a Designated Outdoor Refreshment Area ("DORA");

WHEREAS, on March 04, 2024, the Common Council of the City of Warsaw ("Council") passed an establishment ordinance containing certain findings in order to set up state and local requirements and guidelines to be incorporated into Warsaw City Code Chapter 18 for the lawful establishment of up to seven (7) DORAs within the City of Warsaw ("City") which may be approved by local ordinance pursuant to LC. § 7.1-3-31 et seq.; and

WHEREAS, Council and the City Administration believe it is in the best interests of the citizens of the City to establish a DORA comprising a portion of the downtown in order to promote economic development, vitality, and activity within the downtown, while ensuring that the DORA is administered in an orderly fashion in accordance with state and local laws and regulations.

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the City of Warsaw, Indiana, as follows:

(A) *Definitions*. All definitions in IC § 7.1-3-31 et seq., as amended, shall apply to this Ordinance. The following terms shall also have the meanings ascribed to them herein:

- (1) **CRAFT MANUFACTURER**. A entity that holds:
 - a. A small brewery permit under IC 7.1-3-2-7(5); or
 - b. A farm winery permit under IC 7.1-3-12; or
 - c. An artisan distiller's permit under IC 7.1-3-27.
- (2) **DESIGNATED PERMITTEE**. A retailer permittee that operates a Licensed Premises which is located within and has received all applicable approvals to participate in a DORA.
- (3) **LICENSED PREMISES**. A building, or part of a building, in which alcoholic beverages are authorized to be kept, manufactured, or sold, pursuant to all applicable laws and regulations.
- (4) **REFRESHMENT AREA**. An area established pursuant to IC 7.1-3-31 et seq, where an individual may: (i) exit the Licensed Premises of a Designated Permittee or Vendor with not more than two (2) open containers of an

alcoholic beverage at a time, and (ii) consume the alcoholic beverages within such area.

- (5) **VENDOR.** An entity issued a temporary vendor designation pursuant to all applicable laws and regulations and either: (i) a temporary beer or wine permit, or (ii) a supplemental catering permit.

- (B) *Establishment of DORA.* Council establishes a DORA to be known as the Downtown Warsaw DORA (the "Downtown DORA"), which shall comprise certain land located within the City which is described in Exhibit A, attached hereto and made a part hereof.
- (C) *Map.* A map of the Downtown DORA (the "Map") depicting the boundaries described in paragraph B is hereby approved and attached as Exhibit B. The Map shall be available for public inspection upon reasonable request at the Department of Community Development offices. In the event of a conflict between the Map and the boundary description contained in paragraph B, the boundary description shall govern.
- (D) *Consistency with Zoning Code.* The Common Council finds that the Downtown DORA is consistent with the City of Warsaw Zoning Code.
- (E) *Minimum Signage Standards.* The Common Council hereby approves and adopts the following minimum signage standards for the Downtown DORA:
- (1) Signs shall be posted at locations that are conspicuous from the public right-of-way at each pedestrian exit of the DORA.
 - (2) Signs identifying exits to the Downtown DORA will be spaced no further than one block apart.
 - (3) Additional outdoor signs within the Downtown DORA not located at exits to the district shall be placed in areas of high pedestrian activity.
 - (4) Outdoor signs shall be composed of high-quality, all-weather, durable material, and shall be no smaller than 36 square inches.
 - (5) Notwithstanding any provision to the contrary, signs shall be placed in a conspicuous location at each exit of a Designated Permittee and on a Vendor's premises, and must contain the following information:
 - a. Any open alcoholic beverage containers purchased within the DORA must remain within the DORA.
 - b. Possessing an open container of alcoholic beverages in a motor vehicle may constitute a Class C infraction under IC 9-30-15

c. The Downtown DORA shall be in effect during all authorized times pursuant to IC §7.1-3-1-14, as amended from time to time by the Indiana General Assembly, and as may be further modified by the Mayor or his or her designee in accordance with Indiana Code.

(6) Designated Permittees must post in a conspicuous location approved by the City at each entrance a sign prepared by the City stating that they are participating in the Downtown DORA and whether a person may enter the business with an open container of alcohol.

(F) *Additional Signage.* Council acknowledges that the sign standards contained in Section F hereof are minimum requirements, that additional signage designating the Downtown DORA may be warranted and necessary, that additional signage may be required by the Indiana Alcohol and Tobacco Commission ("Commission"), and that installation of additional signage designating the Downtown DORA shall be allowed under this ordinance provided the minimum signage standards contained in paragraph E hereof are maintained.

(G) *Times of Operation.* The Downtown DORA shall be in effect during all authorized times pursuant to IC §7.1-3-1-14, as amended from time to time by the Indiana General Assembly, and as may be further modified by the Mayor or his or her designee in accordance with Indiana Code.

(H) *Designated Permittees.*

(1) Businesses located at the following addresses have submitted completed applications to the City to participate as Designated Permittees within the Downtown DORA, subject to approval by the Commission:

- a. Mad Anthony Brewing Company - 113 E Center St, Warsaw, IN 46580
- b. Paradiso - 101 E Center St. Warsaw, IN 46580
- c. Anthology Whiskey Room – 105-109 E Center St, Warsaw, IN 46580
- d. Oku Roji - 106 N Buffalo St, Warsaw, IN 46580
- e. B+B Courthouse Market - 108 N Buffalo St, Warsaw, IN 46580
- f. Rocksteady Pizza Parlour - 108 E Market St, Warsaw, IN 46580
- g. Rex's Rendezvous - 204 S Buffalo St, Warsaw, IN 46580
- h. Downtown Eatery & Spirits - 205 W Center St, Warsaw, IN 46580
- i. One Ten Craft Meatery - 110 N Buffalo St, Warsaw, IN 46580
- j. Ghost Spot - Mi Lindo Acapulco - 307 W Market St, Warsaw, IN 46580
- k. Biryani Kitchen – 114 S Buffalo St, Warsaw, IN 46580

(2) Any additional business located within the Downtown DORA who desires to be a Designated Permittee shall submit an application for approval by the Mayor or his or her designee and recommendation to the Commission.

(3) A Designated Permittee within the Downtown DORA may allow, but shall not be required to allow open containers of alcohol to be carried into their Licensed Premises.

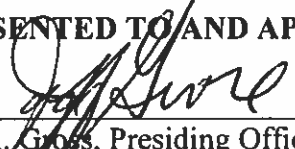
(I) *Compliance with Chapter 18.* Compliance with all provisions of Chapter 18 shall be and are required within the Downtown DORA.

This Ordinance shall be in full force and effect upon its passage, approval, and publication pursuant to Indiana law.


ALL OF WHICH IS ORDAINED by the Common Council of Warsaw, Indiana, this 4th day of March, 2024.

	Aye	Nay	Abstain	Absent
Cindy Dobbins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jack Wilhite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Juergen Voss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Josh Finch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael Klondaris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William G. Frush	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Diane L. Quance	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

PRESENTED TO AND APPROVED BY me on this 4th day of March, 2024.



Jeff R. Gross, Presiding Officer
of the Common Council of the
City of Warsaw

Attest:


Lynne Christiansen, Clerk-Treasurer

APPROVED as to form and legality



Scott E. Reust, City Attorney

EXHIBIT A
BOUNDARY DESCRIPTION OF DESIGNATED OUTDOOR REFRESHMENT AREA

A tract of land in the Southwest Quarter of Section 8, Township 32 North, Range 6 East in Wayne Township of Kosciusko County, Indiana, more particularly described as follows:

Beginning at the southeast corner of Lot 342 in the original plat of Warsaw as recorded in Old Book Page 26, Plat Book #1 Page 21 in the Office of Recorder in Kosciusko County, Indiana;

**thence N 89-40-1 W 280.505 feet to the southwest corner of lot 395 of said plat;
thence N 89-40-1 W 33.003 feet to the centerline of Columbia Street on said plat;
thence N 0-23-15 E 726.016 feet to a point on the centerline of Columbia Street and lot 387 extended of said plat;**

**thence S 89-40-9 E 33.024 feet to the southwest corner of lot 387 of said plat;
thence S 89-40-9 E 280.495 feet to the southeast corner of lot 350 of said plat;
thence S 89-40-0 E 82.502 feet to the southwest corner of lot 325 of said plat;
thence S 89-40-16 E 280.505 feet to the southeast corner of lot 299 of said plat;
thence N 0-23-12 E 363.009 feet to the southeast corner of lot 303 of said plat;
thence S 89-40-0 E 82.521 feet to the southwest corner of lot 273 of said plat;
thence S 89-40-16 E 280.495 feet to the southeast corner of lot 10 of said plat;
thence S 89-39-54 E 85.522 feet to the southwest corner of lot 49 of said plat;
thence S 89-40-9 E 280.524 feet to the southeast corner of lot 62 of said plat;
thence S 89-40-9 E 32.985 feet to the centerline of Indiana Street**

**on said plat;
thence S 0-23-11 W 1088.966 feet to a point on the centerline of Indiana Street and lot 74 extended of said plat;**

thence N 89-40-6 W 33.041 feet to the southeast corner of lot 74 of said plat;

thence N 89-40-16 W 280.495 feet to the southwest corner of lot 37 of said plat;

thence N 89-39-54 W 85.522 feet to the southeast corner of lot 18 of said plat;

thence N 89-40-23 W 280.515 feet to the southwest corner of lot 282 of said plat;

thence S 87-9-54 W 82.905 feet to the southeast corner of lot 291 of said plat;

thence N 89-40-23 W 280.505 feet to the southwest corner of lot 333 of said plat;

thence N 86-30-17 W 82.349 feet to the southeast corner of lot 342 of said plat and the point of beginning encompassing a total of 30.36 acres.

EXHIBIT B
Map of DORA



--- DORA Boundary

■ DORA_FeatureToPolygon1

1 in = 300 feet
Date: 2/13/2024

