

Ordinance No. 666-16

Council Member McCormack

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Sections 699B.01 to 699B.05 relating to designated outdoor refreshment areas; and to amend Section 617.07 of the codified ordinances, as amended by Ordinance No. 1011-95, passed August 23, 1995, relating to open containers.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections 699B.01 to 699B.05 to read as follows:

CHAPTER 699B DESIGNATED OUTDOOR REFRESHMENT AREAS

Section 699B.01 Definitions

(a) As used in this section, "qualified permit holder" means the holder of an A-1. A-l-A. A-lc. A-2. or D permit issued under Chapter 4303. of the Revised Code.

(b) "Outdoor refreshment area" shall mean a designated area in the city of Cleveland, which shall not exceed three hundred twenty contiguous acres or one-half square mile.

Section 669B.02 Application Submission

(a) Any owner of property seeking to have that property designated as an outdoor refreshment area or to expand an existing outdoor refreshment may file an application seeking this designation with the Mayor and the Directors of City Planning and Public Safety.

(b) An application to designate an area as an outdoor refreshment area shall contain all of the following:

(1) A map or survey of the proposed outdoor refreshment area in sufficient detail to identify the boundaries of the area, which shall not exceed three hundred twenty contiguous acres or one-half square mile;

(2) A general statement of the nature and types of establishments that will be located within the proposed outdoor refreshment area;

(3) A statement that the proposed outdoor refreshment area will encompass not fewer than four qualified permit holders;

(4) Evidence that the uses of land within the proposed outdoor refreshment area are in accord with the master zoning plan or map of the city;

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(5) Evidence that the proposed outdoor refreshment area does not include an area that may be hazardous to pedestrian use including, but not limited to, railroad tracks, an area with a steep grade or slope, or an area that abuts waters in this City. For purposes of this Section, "waters in this City" means all streams, rivers, lakes, ponds, marshes, water courses, waterways, and all other bodies of water, natural or human-made, which are situated wholly or partially within the jurisdiction of the City of Cleveland.

(6) Proposed requirements for the purpose of ensuring public health and safety within the proposed outdoor refreshment area.

(7) A petition of support with signatures from not less than seventy-five percent (75%) of the owners of property within a two hundred (200) foot radius of the outdoor refreshment area, indicating approval of the designation for the area. The Directors of City Planning and Public Safety may modify the petition boundaries when deemed appropriate and shall also certify the accuracy of the petition;

Section 669B.03 Application Processing

(a) *Action by Mayor.* After receiving an application under Section 669B.02, the Mayor may submit the application with the Mayor's recommendation to City Council to have the area described in the application designated as an outdoor refreshment area or to expand an existing outdoor refreshment area to include additional property within the city.

(b) *Public Notice by City Council.* Within forty-five days after the date the application is filed with the City Council, the City Council shall publish public notice of the application once a week for two consecutive weeks in one newspaper of general circulation in the municipal corporation. The City Council shall ensure that the notice states that the application is on file in the office of the clerk of council of the municipal corporation and is available for inspection by the public during regular business hours. The City Council also shall indicate in the notice the date and time of any public hearing to be held regarding the application by the City Council. The public hearing shall be held at a location within the proposed outdoor refreshment area.

(c) *Action by City Council.* Not earlier than thirty but not later than sixty days after the initial publication of notice, the City Council shall approve or disapprove the application by an affirmative vote of a majority of the City Council. Upon approval of the application by the City Council, the territory described in the application constitutes an outdoor refreshment area. The City Council shall provide to the division of liquor control and the investigative unit of the department of public safety notice of the approval of the application and a description of the area specified in the application. If the City Council disapproves the application, the Mayor may make changes in the application to secure its approval by the City Council.

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(d) The number of outdoor refreshment areas is limited as provided in RC 4301.82.

(e) Any qualified permit holder that receives an outdoor refreshment area designation from the division of liquor control, shall comply with all laws, rules, and regulations that govern its license type, and the applicable public health and safety requirements established for the area under Section 669B.04.

(f) Any person, including any qualified permit holder, is required to obtain a special event permit under Chapter 131 for organized events held in an outdoor refreshment area.

Section 669B.04 Requirements

(a) At the time of the creation of an outdoor refreshment area, the City Council shall establish the requirements that City Council determines necessary to ensure public health and safety within the area. The City Council shall include in the ordinance or resolution all of the following:

- (1) The specific boundaries of the area, including street addresses;
- (2) The number, spacing, and type of signage designating the area;
- (3) The hours of operation for the area;
- (4) The number of personnel needed to ensure public safety in the area;
- (5) A sanitation plan that will help maintain the appearance and public health of the area;
- (6) The number of personnel needed to execute the sanitation plan;
- (7) A requirement that beer and intoxicating liquor be served solely in plastic bottles or other plastic containers in the area;
- (8) A regulation prohibiting any qualified permit holder from installing, operating, or causing to be installed or operated any sound amplifying device on the outside of the premises of the qualified permit holder without first obtaining a permit;
- (9) A requirement that Applicant shall indemnify the City and provide one million dollars (\$1,000,000) of liability and property damage insurance which includes the City of Cleveland as an additional insured.

(b) The City Council may, include in the ordinance any public health and safety requirements proposed in an application under division (b) of Section 669B.02 to designate or expand the outdoor refreshment area. The City Council may

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subsequently modify the public health and safety requirements as determined necessary by the City Council.

(c) Prior to adopting an ordinance or resolution under this division, the City Council shall give notice of its proposed action by publication once a week for two consecutive weeks in one newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code.

(d) The City Council shall provide to the division of liquor control and the investigative unit of the department of public safety notice of the public health and safety requirements established or modified under this division.

(e) Section 4399.18 of the Revised Code applies to a liquor permit holder located within an outdoor refreshment area in the same manner as if the liquor permit holder were not located in an outdoor refreshment area.

Section 669B.05 Review of Outdoor Refreshment Areas

(a) Five years after the date of creation of an outdoor refreshment area, the City Council of the municipal corporation that created the area under this section shall review the operation of the area and shall, by ordinance or resolution, either approve the continued operation of the area or dissolve the area. Prior to adopting the ordinance, the City Council shall give notice of its proposed action by publication once a week for two consecutive weeks in one newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code.

(b) If the City Council dissolves the outdoor refreshment area, the outdoor refreshment area ceases to exist. The City Council then shall provide notice of its action to the division of liquor control and the investigative unit of the department of public safety. Upon receipt of the notice, the division shall revoke all outdoor refreshment area designations issued to qualified permit holders within the dissolved area. If the City Council approves the continued operation of the outdoor refreshment area, the area continues in operation.

(c) Five years after the approval of the continued operation of an outdoor refreshment area under division (a) of this section, the City Council shall conduct a review in the same manner as provided in division (a) of this section. The City Council also shall conduct such a review five years after any subsequent approval of continued operation under division (b) of this section.

(d) At any time, the City Council may dissolve all or a part of an outdoor refreshment area. Prior to adopting the ordinance or resolution, the City Council shall give notice of its proposed action by publication once a week for two consecutive weeks in one newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code. If the City Council dissolves all or part of an outdoor refreshment area, the area designated in the ordinance or resolution no longer constitutes an outdoor refreshment area. The City Council shall provide notice of its

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actions to the division of liquor control and the investigative unit of the department of public safety. Upon receipt of the notice, the division shall revoke all outdoor refreshment area designations issued to qualified permit holders within the dissolved area or portion of the area.

Section 2. That Section 617.07 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1011-95, passed August 23, 1995, is amended to read as follows:

Section 617.07 Open Container Prohibited; Exception

(a) As used in this section, "street", "highway", and "motor vehicle" have the same meanings as in RC 4511.01.

(b) No person shall have in his or her possession an opened container of beer or intoxicating liquor in any of the following circumstances:

(1) In a state liquor store;

(2) On the premises of the holder of any permit issued by the department of liquor control;

(3) In any other public place;

(4) While operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;

(5) While being in or on a stationary motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

(6) A. A person may have in the person's possession an opened container of beer or intoxicating liquor at an outdoor location within an outdoor refreshment area created under Chapter 699B if the opened container of beer or intoxicating liquor was purchased from a qualified permit holder to which both of the following apply:

1. The permit holder's premises is located within the outdoor refreshment area.

2. The permit held by the permit holder has an outdoor refreshment area designation.

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B. Division (b)(6) of this section does not authorize a person to do either of the following:

1. Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;

2. Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, 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 (c) of this section.

(c) This section does not apply to beer or intoxicating liquor which has been lawfully purchased for consumption on the premises where bought of a holder of an A-1-A, A-2, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-7, E, F, or F-2 permit, or to beer or intoxicating liquor consumed on the premises of a convention facility as provided in RC 4303.201.

(d) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

(RC 4301.62)

Section 3. That Section 617.07 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1011-95, passed August 23, 1995, is repealed.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected 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 from and after the earliest period allowed by law.

RC:nl
5-23-16

FOR: Councilmember McCormack

Resolution No. 667-16

Council Member Brancatelli

FOR ADOPTION
May 23, 2016

AN EMERGENCY RESOLUTION

Withdrawing objection to the transfer of ownership of a C1 and C2 Liquor Permit at 3850 East 65th Street, 1st floor east unit and repealing Resolution No. 341-16 objecting to said permit.

WHEREAS, this Council objected to a transfer of ownership of a C1 and C2 Liquor Permit to Shaker Jamil, Inc., DBA Mike's Food Mart, 3850 East 65th Street, 1st floor east unit, Cleveland, Ohio 44105, Permanent Number 8026805 by Resolution No. 341-16 adopted by the Council on March 14, 2016; and

WHEREAS, this Council wishes to withdraw its objection to the above permit and consents to said permit; and

WHEREAS, this resolution constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That objection to the transfer of ownership of a C1 and C2 Liquor Permit to Shaker Jamil, Inc., DBA Mike's Food Mart, 3850 East 65th Street, 1st floor east unit, Cleveland, Ohio 44105, Permanent Number 8026805, be and the same is hereby withdrawn and Resolution No. 341-16, containing such objection, be and the same is hereby repealed and that this Council consents to the immediate permit thereof.

Section 2. That this resolution is hereby declared to be an emergency measure and provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

cmb
For: Councilmember Brancatelli
May 23, 2016

Ordinance No. 668-16

AN EMERGENCY ORDINANCE

Authorizing the Director of the Department of Community Development to enter into agreement with Waterloo Arts for the Waterloo Arts Expo through the use of Ward 8 Casino Revenue Funds.

Council Member Polensek

FOR PASSAGE
May 23, 2016

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Director of the Department of Community Development is hereby authorized effective April 1, 2016 to enter into agreement with Waterloo Arts for the Waterloo Arts Expo for the public purpose of providing art education and art demonstration projects to city of Cleveland residents through the use of Ward 8 casino revenue funds.

Section 2. That the cost of said contract shall be in an amount not to exceed \$20,000 and shall be paid from Fund No. 10 SF 188.

Section 3. That the Director of Law shall prepare and approve said contract and that the contract shall contain such terms and provisions as he deems necessary to protect the City's interest.

Section 4. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected 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 from and after the earliest period allowed by law.

For: Council Member Polensek
MP/jhj
5/23/2016

Ordinance No. 669-16

Council Member Reed

FOR PASSAGE
May 23, 2016

AN EMERGENCY ORDINANCE

Authorizing the Director of the Department of Community Development to enter into an agreement with the Mount Pleasant NOW Development Corporation for the Neighborhood Beautification Program through the use of Ward 2 Casino Revenue Funds.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Director of the Department of Community Development is authorized to enter into an agreement with the Mount Pleasant NOW Development Corporation for the Neighborhood Beautification Program for the public purpose of eliminating slum and blight in Cleveland neighborhoods through the use of Ward 2 Casino Revenue Funds.

Section 2. That the cost of said contract shall be in an amount not to exceed \$2,750 and shall be paid from Fund No. 10 SF 188.

Section 3. That the Director of Law shall prepare and approve said contract and that the contract shall contain such terms and provisions as he deems necessary to protect the City's interest.

Section 4. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected 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 from and after the earliest period allowed by law.

For: Council Member Reed
ZR/jhj
5/23/2016

Resolution No. 670-16

AN EMERGENCY RESOLUTION

Calling upon people everywhere to Wear Orange on June 2, 2016, to commemorate the second annual National Gun Violence Awareness Day.

Council Member Kelley

FOR ADOPTION
May 23, 2016

WHEREAS, on January 21, 2013, Hadiya Pendleton, a Chicago high school student, marched in President Obama's 2nd inaugural parade; and

WHEREAS, one week later, Hadiya was shot and killed on a playground in Chicago; soon after, Hadiya's friends decided to commemorate her life by wearing orange – the color hunters wear in the woods to protect themselves and others; and

WHEREAS, last year, on June 2, 2015 - what would have been Hadiya's 18th birthday - a broad-based coalition asked people nationwide to wear orange, not only to honor Hadiya's life, but also the lives of more than 90 Americans taken by gun violence every day, as well as the hundreds more who are shot; and

WHEREAS, the #WearOrange message resonated globally, reaching over 220 million people in a single day; and

WHEREAS, this year on June 2, 2016, to commemorate the second annual National Gun Violence Awareness Day, the coalition is asking everyone who believes we can do more to save American lives from gun violence to Wear Orange; and

WHEREAS, Wear Orange acknowledges that America has a proud heritage of responsible gun ownership; the color orange also reflects the value of human life; and

WHEREAS, by wearing orange on June 2, 2016, we honor American lives stolen by gun violence, pledge to help keep firearms out of dangerous hands, commit to responsible gun ownership and promise to protect our children from gun violence; and

WHEREAS, this resolution constitutes an emergency measure for the immediate preservation of public peace, property, health or safety, now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That this Council hereby calls upon people everywhere to Wear Orange on June 2, 2016, to commemorate the second annual National Gun Violence Awareness Day.

Section 2. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.