

# ALCOHOL AND TOBACCO COMMISSION

## Nonrule Policy ATC # 31

**1. NOTICE:** Under [IC 4-22-7-7](#), this document is required to be published with the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Indiana Alcohol and Tobacco Commission's (Commission) official position concerning a specific issue.

**2. DISCLAIMER:** This nonrule policy is being established by the Commission consistent with the authority under [IC 7.1-2-3-7](#). It is intended solely as guidance and shall be used in conjunction with applicable rules or laws. It does not replace applicable rules and laws, and, if it conflicts with these rules or laws, the rules or laws shall control.

**3. AUTHORIZED:** Jessica Allen, Chairwoman

**4. SUPERSEDES:** New

**5. SUBJECT:** The purpose of this nonrule policy is to outline the process municipalities and permittees must follow in enacting a Designated Outdoor Refreshment Area ("DORA") in accordance with IC §§ 7.1-3-31.

**6. SCOPE:** The Indiana General Assembly in the 2023 legislative session passed SEA 20, which provides authority to a municipality, defined as a city or town, to enact an ordinance creating a DORA. Retailer permittees and temporary permittees located in a DORA may allow persons twenty-one and over to leave their premises with open containers of alcohol up to a certain threshold, which the person may consume anywhere in the DORA.

SEA 20 allows each municipality to establish by ordinance up to seven (7) DORAs in their jurisdiction. A municipality does not have to renew DORA authorization, and it may revoke an established DORA at any time. The municipality, in its ordinance, may limit the hours or days during the week or calendar year that the DORA is in effect. However, regardless of any time limits in place, each DORA that is operational at any point during the year counts toward the maximum seven allowed.

## 7. POLICY:

7.1 A municipality seeking to enact a DORA need first determine its boundaries. The area encompassing a proposed DORA is subject to IC § 7.1-3-21-11, which limits proximity of alcohol to a church or a school. Generally speaking, a DORA may not be established if a church or a school is located within 200 feet of a proposed boundary of a DORA, unless there is at least eighty-five (85) feet and a two (2) lane road of at least thirty (30) feet in width between the boundary and the church or school. In order to proceed with establishing the proposed boundary, the municipality must obtain a written statement from an authorized representative of the church or school stating expressly that it does not object to the approval of the DORA and provide that written statement to the Commission as a part of its application. **If the Commission approves a DORA application and it is later determined that IC § 7.1-3-21-11 was violated when the DORA was approved, the Commission shall revoke its approval of the DORA, as well as all designations issued within the dissolved DORA.**

7.2 In order to establish a DORA, there must be at least one (1) retailer permittee operating a licensed premises within the boundaries, which the Commission approves as a “Designated Permittee.” When a municipality prepares to submit its application to the Commission for approval, the municipality must collect completed designation form from **each** retailer permittee in the boundaries of the DORA who wishes to be designated and submit those forms to the Commission as a part of the application. *The designation form is contained as an attachment, and it will be posted on the Commission’s website on the Alcohol Permit Applications and Forms tab.*

7.3 The municipality must prepare a map that identifies in sufficient detail the DORA’s boundaries. The map may also contain the locations of proposed Designated Permittees and designated vendor (“Vendor”) locations in the DORA.

7.4 The municipality must design signage to be posted at each exit of a Designated Permittee and on a Vendor’s premises, as well as at other conspicuous areas in the DORA. The signage must contain the following information:

- Any open container of alcohol purchased within the DORA must remain within the DORA;
- Possession of an open container of an alcoholic beverage in a motor vehicle may constitute a class C infraction under IC §§ 9-30-15; and
- Contain dates in which the DORA is open, if the DORA is subject to date restrictions.

Additionally, as a best practice it is recommended that the signage contain a map of the DORA, any logo that the municipality may design to brand the DORA, and the hours of operation if the municipality limits the hours beyond IC § 7.1-3-1-14.

7.5.1 The municipality shall designate a DORA by enacting an ordinance to be submitted to the Commission for approval. By law, the ordinance must contain the following information:

7.5.2 The map of the DORA discussed in Section 7.3.

7.5.3 The boundaries of the DORA by street addresses. Please list the streets and addresses that constitute the borders of the DORA.

7.5.4 The locations of proposed Designated Permittees and vendors within the DORA. For Designated Permittees, please list the addresses of the businesses and mark them on the prepared map. A DORA *must* contain at least one Designated Permittee. **For proposed vendor locations in public spaces, please mark them on the prepared map and identify them by number.** Unless accompanied by a letter from the municipality explaining the circumstances of a specific event, the Commission will **only** approve temporary permit applications or supplemental caterer requests to operate as vendors in public spaces in a location that the municipality has identified in its ordinance.

7.5.5 A statement that the DORA is consistent with the municipality's zoning ordinance. Such statement may reference any order or resolution passed by the municipality's planning commission, if one is needed.

7.5.6 The number, spacing, and type of signage designating the DORA. Please refer to the signage designed consistent with Section 7.4 above. In this section, please lay out where the signage will appear in the DORA. Best practice may include posting signage on trash receptacles, at major areas of congregation, and at the extreme boundaries of the DORA.

7.5.7 The dates and hours of operation for the DORA. The Commission will only accept date limitations that are specifically listed by month and day.

7.6 Additionally, the law suggests the following other provisions that may be included in the ordinance:

- The posting of signs by retailer permittees and other businesses in the DORA indicating whether the business is participating in the DORA and whether a

person may enter the business with an open container of alcohol. If a municipality decides to include this in its ordinance, it may wish to design signs for the area's businesses to post.

- Requiring Designated Permittees and Vendors to use only non-breakable containers such as plastic bottles, plastic cups, cans, or paper cups for alcoholic beverages sold to be consumed in the DORA. (Note: another provision of SEA 20 mandates that glass containers may not be carried out from a designated permittee's premises into the DORA).
- Requiring bottles or cups be affixed with a logo that identifies the container for use only in the DORA.
- Providing a public safety plan for the DORA.
- Providing a sanitation plan for the DORA.

In addition to the items listed above, a municipality is invited to include any additional information or requirements that the community desires in an ordinance establishing a DORA.

7.7.1 The municipality shall submit its application for DORA approval to the Commission using its online My License One ("ML1") platform (link [here](#)). In order to access ML1, the municipality will need to create an Access Indiana profile (instructions [here](#)). After navigating to DORA application in ML1, the municipality will be prompted to provide the name of the point of contact and the municipality's address, and it will be asked to name the DORA. The municipality shall include the following documents in its submission:

7.7.2 The ordinance adopted by the municipality;

7.7.3 The map prepared in accordance with Section 7.3;

7.7.4 Any waivers prepared by a church or school in accordance with Section 7.1; and

7.7.5 Applications for retailer permittees to be approved as Designated Permittees;

7.8 The Commission shall review the application for approval, including confirming that the municipality has not already created seven (7) DORAs, completeness (including meeting all of the requirements listed in Section 7.5 above), and compliance with IC § 7.1-3-21-11. Upon approval, the Commission shall issue a letter to the municipality informing it of the approval of the ordinance and designations to the Designated Permittees.

7.9 Following ATC approval of the DORA, a retailer permittee operating in the DORA who wishes to receive a Designated Permittee status must complete the designation form and obtain approval by signature from the relevant authority of the municipality. Once signed, the form may be submitted to the ATC as part of the retailer's application process.

7.10 A person may apply to the relevant Indiana State Excise Police (Excise) district office for a temporary beer and wine permit for operation in the DORA to the same extent that they would otherwise be eligible. Additionally, a retailer permittee with catering privileges may serve in a DORA under its catering permit by following normal procedures and submitting a catering authority request form for approval. In each case, prior to submitting the temporary application or seeking catering approval, the person must complete the designation form seeking Vendor status and obtain approval in writing from the relevant authority of the municipality. When submitting a temporary permit application to the Excise district office, please include a copy of the DORA map (which shall include the vendor areas designated by the municipality in its ordinance) and indicate on the map the location where the Vendor will operate. **Temporary permittee applicants that complete the designation form as a vendor do not need to obtain the sheriff's signature on their temporary permit application.**

7.11 A Designated Permittee or a Vendor may allow a person to exit their premises into the DORA with not more than two (2) open alcoholic beverages. The maximum fill limits for an alcoholic beverage being sold for consumption within a DORA are as follows:

- Beer or flavored malt beverages: up to sixteen (16) ounces.
- Wine, cider, or a premixed cocktail<sup>1</sup>: up to twelve (12) ounces.
- Liquor or a liquor-based cocktail: up to ten (10) ounces, including up to two (2) ounces of liquor.

A person may not consume an alcoholic beverage in public areas of the DORA that was purchased outside of the DORA.

7.12 Craft manufacturers (including small brewers, farm wineries, and artisan distillers) may operate in a DORA using one of its forty-five (45) annual trade show or exposition days (a/k/a festival days) which are permitted under the scope of its manufacturing permit by seeking approval from the relevant Excise district office. The Excise district office will determine whether the permittee has demonstrated that

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<sup>1</sup> Also known as a ready-to-drink cocktail or RTD, these are liquor-based beverages that are premixed and packaged by the manufacturer.

a trade show or exposition event requirement has been met. The permittee must also obtain Vendor status as discussed in Section 7.10 prior to final approval to operate using a trade show or exposition day.

7.13 The carryout privileges that a Designated Permittee may have in their scope of permit is not impacted by being located within a DORA. Carryout of sealed original containers may occur, but these containers shall not be opened or consumed in the DORA.

7.14 A retailer permittee or other business located in a DORA may, on a nondiscriminatory basis, refuse to allow persons to enter their licensed premises or business with an alcoholic beverage.

7.15 Designated Permittees may serve alcoholic beverages on an outdoor patio or terrace portion of their licensed premises in any container. For patios located in a DORA, it is not required that the patio's perimeter be enclosed by fencing or other means. However, if the DORA enacted by the municipality is sufficiently limited in the number of days in a year that it is effective, the normal fencing requirements will be enforced during periods when the DORA is not in effect. A patio will need to be outlined on a retailer's floor plan and the retailer shall not serve alcoholic beverages beyond the patio premises.

## **ATTACHMENTS BELOW**



# DESIGNATED OUTDOOR REFRESHMENT AREA (DORA) DESIGNATION

State Form 57288 (6-23)

## INDIANA ALCOHOL AND TOBACCO COMMISSION

302 West Washington Street, Room E-114

Indianapolis, IN 46204

(317) 232-2430

<http://www.in.gov/atc>

- INSTRUCTIONS:**
1. Please type or print clearly.
  2. There is no charge or fee to be designated as part of a designated outdoor refreshment area (DORA).
  3. If you already hold a retail permit within a DORA and are requesting a DORA permittee designation, please complete Sections 1, 3, and 4 below.
  4. If you will be obtaining a temporary beer and wine permit, requesting supplemental catering authority, or are a craft manufacturer requesting to operate within a DORA on a temporary basis, please complete Sections 2, 3, and 4 below.

### SECTION 1: RETAIL PERMITTEES

Permittee name (as printed on permit)		Permittee number	
Doing business as (d/b/a)		Permit expiration date (mm/dd/yyyy)	
Permit address (number and street, city, state, and ZIP code)			
Name of person making application		Telephone number	E-mail address
Has the DORA already been approved by the ATC? <input type="checkbox"/> Yes <input type="checkbox"/> No		DORA Reference Number (approved DORAs only)	

### SECTION 2: TEMPORARY VENDORS, SUPPLEMENTAL CATERERS & CRAFT MANUFACTURERS

Please select one:

- Temporary beer and wine permit       Supplemental catering permit       Craft manufacturer (artisan distiller, farm winery, small brewer)

Permittee name		Permit number (catering and manufacturing permits only)	
Doing business as (d/b/a)		Permit expiration date (mm/dd/yyyy) (catering and manufacturing permits only)	
Address (number and street, city, state, or ZIP code) or description of designated vendor/caterer area			
Name of person making application		Telephone number	E-mail address
DORA Reference Number		Start date (mm/dd/yyyy)	End date (mm/dd/yyyy)

### SECTION 3: LOCAL JURISDICTION APPROVAL

Printed name of city or town official		Date (mm/dd/yyyy)
Signature		Title

### SECTION 4: CERTIFICATION AND SIGNATURE

I hereby certify that I have reviewed this application form prior to signing, and that all information provided herein is true and correct. I acknowledge and understand that it is a felony under Indiana law to misrepresent or falsify any portion of this application or attached documents.

Printed name of applicant		Date (mm/dd/yyyy)
Signature		Title

# Example map denoting DORA boundaries and Vendor locations



DESIGNATED PERMITTEES 1-4: Vendor Locations

- A: Scovies
- B: Town House Pump
- C: Whitney's
- D: The Villager