

RESOLUTION NO. 12-2012

To Establish Policy and Procedures for the Approval of Community Entertainment Districts in the City of Worthington, Ohio.

WHEREAS, the City of Worthington is and has been engaged in various programs to enhance the quality of our business community by employing economic development initiatives; and,

WHEREAS, the City has identified categories of businesses, particularly retail food establishments, which might benefit from having a Community Entertainment District within the City; and,

WHEREAS, the State of Ohio has recently amended Section 4303.181 of the Ohio Revised Code making the City of Worthington eligible to create and receive the benefits of Community Entertainment Districts ("CED"); and,

WHEREAS, the City has prepared Community Entertainment District Policy and Procedures, including an application fee, to administer the creation of any CED; and,

WHEREAS, the City will administer the provisions of Section 4301.80 of the Ohio Revised Code with respect to each and every provision thereof except for the references to the Mayor of the City who is without authority to discharge his duties because of the provisions of the Worthington City Charter; and,

WHEREAS, the Mayor of the City is without authority to perform the duties required of him or her as set forth in the Statute; and,

WHEREAS, the City will amend, by substitution, the provisions which impose any duties of the Mayor and substitute, therefore, the City Manager with regard to compliance with requirement.

NOW THEREFORE, BE IT RESOLVED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That the provisions of Sections 4301.80 and 4303.181 of the Ohio Revised Code are acknowledged in their entirety except that all references to the term "Mayor" shall be substituted with the term "City Manager."

SECTION 2. That the City hereby adopts the attached Community Entertainment District Policy and Procedures for purposes of administering the application for and creation of any CED within the City of Worthington.

SECTION 3. That the Clerk of Council be instructed to record said Resolution in the appropriate record book.

Adopted April 16, 2012

[Signature on File]
President of Council

Attest:

[Signature on File]
Clerk of Council



Worthington Community Entertainment District Policy & Procedures

The Community Entertainment District (“CED”) concept under Ohio law allows for discrete boundaries to be drawn within a municipality that contain land uses including entertainment, retail, social, cultural or other establishments in close proximity to restaurants, hotels, enclosed shopping centers and related facilities – all in the same defined area or zone.¹ Cities like Worthington can create one or more such CED’s, thereby signaling that these areas or zones are primed for economic development investment and activity. Ohio law limits the use of these CED’s to certain types of cities.²

A CED is a valuable economic development tool because it directly causes specialized liquor permits to be made available to food establishments located within the area or zone. Ohio law creates “D-5j” liquor permits that can be issued only in the CED. One “D-5j” liquor permit can be issued to retail food establishments – including restaurants and nightclubs – for each five acres of land contained within a CED. As such, a food establishment within a CED in Worthington may obtain a D-5j liquor permit from the Ohio Department of Commerce, Division of Liquor Control, to sell beer, wine, mixed cocktails and spirituous liquors for on-premises consumption until 2:30 a.m. (sales for off-premises consumption can occur until 1:00 a.m.).

Community Entertainment District D-5j liquor permits are issued in addition to, and separate from, traditional quota-based liquor permits (e.g., D-1, D-2, D-3 and D-5 permits), the latter of which are allocated under Ohio law according to the population size of a municipality. By way of example, Worthington’s 2012 population-based quota is seven D-5 liquor permits for the sale of beer, wine and liquors for on-premises consumption until 2:30 a.m. A business obtaining a CED-based D-5j liquor permit can do so irrespective of whether any traditional, quota-based permits are available within Worthington. However, D-5j permits are issued only for use within each CED,³ while traditional quota-based permits may be actively bought and sold among businesses within the entire City of Worthington

¹ Ohio Revised Code (ORC) §4301.80(A).

² See ORC §4303.181(J)(5). A CED may be created in Worthington and make liquor permits available by virtue of the City possessing a population of approximately 14,000; having been incorporated as a village in 1835; possessing a downtown business district listed on the National Register; and being in Franklin County.

³ ORC §4303.181(J).

According to Ohio law, property owners initiate the designation of CED's.⁴ That is, an owner of real property applies to the City to create a CED that includes his or her property. Thereafter, the City Manager reviews the application and submits a recommendation to Worthington City Council for a vote to approve or deny the owner's application. The City will exercise its responsibilities to review and approve CED applications with the utmost care and consideration.

Section 1: General policy concerning Community Entertainment Districts

It is the City's stated policy that it wishes to make liquor permits readily available and affordable to businesses that will create economic development opportunities within the City. The City intends to look favorably upon applications that are consistent with the Codified Ordinances and adopted land use planning documents of the City. An applicant shall demonstrate how the CED would generate investment, foster in-fill development, and enhance the sense of place within key strategic areas of the City. For example, the City would favorably consider those CED applications that increase the available number and quality of restaurants.

A CED application should outline how the CED will achieve the economic and redevelopment goals and objectives of the City of Worthington. Such a demonstration of the impact of the CED may include proposed new investment in commercial real property within its defined boundaries.

A CED application shall propose a contiguous area of at least 20 acres which allows for four (4) liquor permits. A maximum of 15 liquor permits are allowed per CED, with one permit per five (5) acres. Thus, acreage beyond 75 acres will not result in additional permits beyond 15.

The City expects that CED's, as proposed and once created, should not result in widespread transfers of existing traditional permits (i.e., D-5s sold by existing permit holders) in favor of obtaining CED-based D-5j permits. A CED application will only be considered if there is new investment proposed within the CED or it can be otherwise demonstrated that it will achieve the economic and redevelopment goals and objectives of the City. An application will not be approved if its primary purpose is to accommodate existing businesses to privately sell their rights in quota-based permits.

Section 2: Application process

Any owner of property located in Worthington seeking to have that property, or that property and other surrounding property, designated as a CED must submit an application to the Worthington City Manager. It is strongly advised that a property owner intending to submit an application for CED designation meet with City staff before submitting his or her application. To the extent possible, the property owner is further encouraged to discuss his or her plans to submit an application for CED designation with neighboring property owners, businesses and/or residents. After an application is filed, the City will notify the real property owners and occupants encompassed within the proposed CED of the City Council's scheduled public hearing to discuss and vote on the application to designate a CED.

⁴ See generally ORC §4301.80(B).

The applicant shall submit an application in the form of a cover letter and numbered/lettered attachment(s) with the following information.

- (1) Information Supplied in an Application for CED Designation. An application must include the following:⁵
- a. Name and address of the real property owner making the application (“Applicant”), whose property is included in the proposed CED;
 - b. A map or survey of the proposed CED, in such detail as to identify its boundaries, acreage and the Applicant’s real property;
 - c. A certificate from a surveyor or engineer licensed under Chapter 4733 of the Ohio Revised Code indicating that the area encompassed by the proposed CED contains no less than twenty contiguous acres;
 - d. A complete description of any hotels, restaurants, retail stores, enclosed shopping centers, museums, performing arts theaters, movie theaters, night clubs, convention and sports facilities, and entertainment facilities that are located – or will be located – within the proposed CED;
 - e. A complete description of any other establishments, not already listed, that are located within the proposed CED, if applicable;
 - f. A detailed analysis of the number and type of liquor permits held by existing real property owners or businesses within the proposed CED, including a description of each such permit holder’s plans and intentions with regard to his or her existing liquor permits if the CED is designated;
 - g. Evidence that the uses of land planned within the proposed CED are in accordance with the City’s master zoning plan or map;
 - h. A complete description of how the designation of the CED will achieve the economic and redevelopment goals and objectives of the City of Worthington. Included in this description should be the stated cash value of any investments to be made, if any, in commercial real property as a result of the creation of the CED, site plans and renderings drawn to scale showing such improvements to be made within the CED, and the proposed time frame for completing the development of facilities proposed within the CED that have not yet been developed. Further, the Applicant must include in its description a thorough analysis of how the CED’s creation complies with, and moves forward, the stated goals and objectives outlined in one or more of the following:
 - City of Worthington Codified Ordinances;
 - City of Worthington 2005 Comprehensive Plan Update and Strategic Plan;
 - City of Worthington Wilson Bridge Road Corridor Plan; and
 - Other planning documents adopted by the City of Worthington.
- (2) The City of Worthington is not obligated to approve submitted CED applications. Worthington City Council may approve or deny applications for CED after considering whether (i) application requirements under Ohio law have been satisfactorily met; (ii) the proposed project is feasible; (iii) the project as described conforms, as appropriate, to the City’s planning documents; (iv) the project otherwise satisfies community and taxpayer

⁵ See generally ORC §4301.80(B).

interests; and (v) the City believes the proposed CED will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the City.

(3) An Applicant for CED designation will pay a fee in the amount of two thousand five hundred dollars (\$2,500.00). This fee is non-refundable and due at the time of submission of a completed CED application, payable to the City of Worthington.

When an application for CED designation is submitted to the Worthington City Manager:⁶

Within 30 days	Worthington City Manager submits the CED application and recommendation to City Council
Within 60 days	City Council must publish notice of the CED application in a general circulation newspaper (once each week for two consecutive weeks)
Within 75 days	City Council must pass an ordinance that approves or denies the CED application
If City Council denies the application	Applicant may make changes to the application to secure approval
If City Council approves the application	Area constitutes a CED

Section 3: Annual review

The City retains the right to dissolve a CED if all or part of the area or zone fails to meet the standards under Ohio law or achieve the representations made in the application for the CED.⁷ As such, the City intends to conduct an annual review of each CED.

⁶ See ORC §4301.80(C).

⁷ ORC §4301.80(D).