

# COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2015-80

By Jim Maxwell Sponsored By Mayor Cyril M. Kleem

## AN ORDINANCE

**AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO ENTER INTO A LICENSE AGREEMENT WITH THE BEREA ANIMAL RESCUE FUND, INC. FOR ITS USE AND MAINTENANCE OF A STRUCTURE AND FACILITIES ON THE PROPERTY OF THE CITY SERVICE GARAGE, AND DECLARING AN EMERGENCY.**

WHEREAS, the City of Berea has long been the location of the facilities and operation of the Berea Animal Rescue Fund, Inc.; and

WHEREAS, the Berea Animal Rescue Fund, Inc. desires to continue its use of facilities located on the property of the Berea Service Garage in furtherance of its programs; and

WHEREAS, the City of Berea and the Berea Animal Rescue Fund, Inc. are desirous of entering into a License Agreement providing for the City of Berea to allow use of its facilities located on the property of the Berea Service Garage pursuant to limitations and requirements provided for in a License Agreement; and

WHEREAS, the City of Berea and the Berea Animal Rescue Fund, Inc. have agreed to enter into a License Agreement for this property which is to be to the benefit of both parties.

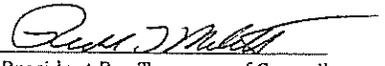
**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Berea, State of Ohio:

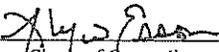
**SECTION 1.** That the Mayor or his designee be, and he is hereby authorized and directed to, enter into a License Agreement to provide for Berea Animal Rescue Fund, Inc. use of facilities on the property of the Berea Service Garage, in substantially the form of Exhibit "A", which is attached hereto.

**SECTION 2.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

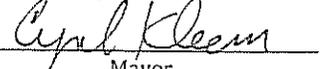
**SECTION 3.** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare, or providing for the usual daily operation of a municipal department, and for the further reason that it is immediately necessary to provide for the formalization of the license arrangement between the City of Berea and the Berea Animal Rescue Fund, Inc. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: December 7, 2015

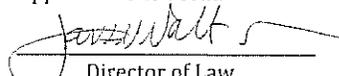
  
President Pro Tempore of Council

ATTEST:   
Clerk of Council

APPROVED: December 10, 2015

  
Mayor

Approved as to Form:

  
Director of Law

LICENSE AGREEMENT

This Agreement is made and executed by and between the City of Berea, 11 Berea Commons, Berea, Ohio 44017, hereinafter referred to as "the City", and the Berea Animal Rescue Fund, Inc., a non-profit corporation, Post Office Box 544, Berea, Ohio 44017, hereinafter referred to as "A.R.F."

1. **Description of Premises:** The City grants A.R.F. a right to occupy and use, and A.R.F. accepts from the City, as herein provided, a portion of the premises located at 390 Barrett Road, City of Berea, County of Cuyahoga, State of Ohio, consisting of the building designated as "Animal Shelter".
2. **Duration:** The term of this Agreement shall be two (2) years, beginning January 1, 2016 and ending on December 31, 2017.
3. **Mutual Agreement:** For valuable consideration, the City and A.R.F. agree to abide by the promises stated herein.
4. **Use of Premises:** The premises described herein are to be used as a kennel/animal shelter only. A.R.F. agrees to restrict its use to such purposes, and not to use, or permit the use of the premises for any other purpose without first obtaining the written consent of the City.
5. **Corporate Authorization:** This Agreement shall be subject to A.R.F. providing the City with a Corporate Resolution expressly authorizing A.R.F. to enter into this Agreement; said Corporate Resolution shall be incorporated herein by reference once it is provided.
6. **Prohibition against Waste, Nuisance or Unlawful Use:** A.R.F. shall not commit, or allow to be committed, any waste on the premises, create or allow any nuisance to exist on the premises, or use or allow the premises to be used for any unlawful purpose.
7. **Payment of Utilities:** The City shall pay for all utilities furnished on the premises, including the modular unit, for the term of this Agreement, including, but not limited to, electricity, gas, water and sewer. A.R.F. will assume any and all costs for telephones and telephone services for its use on the premises. The City remains responsible for any and all costs related to telephone and telephone services for its Animal Control Officer (ACO).
8. **Repairs and Maintenance:** A.R.F., at its expense, shall maintain and keep the premises, including without limitation, windows, doors, adjacent sidewalks and interior walls, in good repair. A.R.F. shall be responsible for all reasonable repairs in and around the premises and the payment thereof. The City shall maintain in good condition the building roof and exterior walls. The City shall be responsible for all major structural repairs to the premises, including major repairs to heating, plumbing and electrical. The City shall provide for snow removal on the premises and shall be

responsible for all lawn care and landscaping. The City shall not be responsible for any maintenance or repair to the modular unit.

9. **Surrender of Premises:** A.R.F. agrees to surrender the premises to the City at the end of this Agreement in the same condition as when A.R.F. took possession, allowing for reasonable use and wear. A.R.F. agrees to remove all business signs or symbols placed on the premises by A.R.F. before redelivery of the premises to the City, and to restore the portion of the premises on which they were placed in the same condition as before their placement. Upon surrender of the premises by A.R.F. to the City, any equipment installed by A.R.F. necessary for the operation of an animal shelter, including but not limited to kennels, cages, appliances, the modular unit, storage sheds/units, and cabinetry, shall remain the property of A.R.F. Prior to the redelivery of the premises to the City, A.R.F. agrees to return the premises on which this equipment was placed to the same, or substantially the same, condition as when the lease term originally initiated.
10. **Signage:** No indoor or outdoor signage shall be permitted without prior written authorization from the City.
11. **The City's Right to Inspect, Repair and Maintain the Premises:** The City reserves the right to enter the premises at all reasonable times to inspect them, to perform required maintenance and repair, or to make additions or alterations to any part of the building in which the premises are located, and A.R.F. agrees to permit the City to do so. The City will provide reasonable notice of intent to enter the premises.
12. **Alterations to the Premises:** A.R.F. agrees that A.R.F. will not construct any additions to the premises or make alterations thereto, without the prior written consent of the City.
13. **Operating Guidelines:** A.R.F. and the city agree to operate the premises as follows:
  - a. At all times, A.R.F. shall have at least one cat-and one dog cage open and available inside the shelter for use by the City for animals brought in by the ACO or police officers; said cages will be used for those animal types accordingly, for example, any dog should be placed in a dog cage and not placed in a cat cage. The ACO or other police officer will complete the impound form and make a copy to bring back to the station;
  - b. A.R.F. will accept stray animals from and will give priority to Berea residents who present a driver's license or other identification demonstrating their Berea residency. Berea residents will not be told to contact the ACO for permission to drop off a stray animal. A.R.F. will have the resident complete the drop off form for the stray and then the form will be scanned and emailed to the ACO to make her aware during the first 72 hours. Impound procedures are included in a separate document that is included herein by reference.

- c. When any animals are taken into A.R.F. under a rental, leasing or licensing agreement between A.R.F. and any person, municipality, business, entity or other, and A.R.F. thereby receives a monetary fee or payment made to them per that agreement, the City shall be paid fifty percent (50%) of the amount received by A.R.F. A.R.F. shall notify the City of any new agreements within five (5) days of entering into that agreement;
  - d. Animals may only be released to their owners through the Berea Police Department;
  - e. The Berea Animal Control Officer is permitted to store animal control supplies in the barns on the premises, if necessary;
  - f. A.R.F. shall provide a representative from the City with a position on the A.R.F. board of directors and said representative will be notified of any meetings, changes, etc.;
  - g. A.R.F. volunteers shall only park their vehicles in areas designated by the City's Director of Public Service; and
  - h. A.R.F. shall only exercise animals in designated areas and shall be responsible for animal clean up.
  - i. The City shall be responsible for sick and/or wounded animals for the first 72 hours after impound by the ACO/police officer or intake from a Berea resident who brought in a stray.
14. **Liability Insurance**: A.R.F. agrees to procure and maintain in force during the term of this Agreement, and any extension thereto, at A.R.F.'s expense, liability insurance adequate to protect against liability for damage claims through the use of, or arising out of accidents occurring in or around the premises, in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence. A.R.F. agrees that if such insurance policies are not kept in force during the duration of this Agreement, and any extension thereto, the City may either secure the necessary insurance, pay the premium, and such premium shall be repaid to the City, or the City, at the City's option, may terminate this Agreement immediately. The City of Berea shall be named as an additional insured on the Liability Insurance Policy and proof of same shall be provided to the City annually. This can still be emailed to Amy Decker at the Berea Police Department directly from the insurance company as it has been.
15. **Termination**: Either party may terminate this Agreement upon one hundred eighty (180) days' written notice by either party.
16. **Notice**: All notices required to be given per this agreement, for any reason, shall be given to the following:  
City of Berea - Director of Law, or his designee;

