

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2019-79

By Nick Haschka Sponsored By Mayor Cyril M. Kleem

AN ORDINANCE

AUTHORIZING THE MAYOR TO ENTER INTO A LICENSE AGREEMENT WITH BERA LAKE TOWERS PROPERTIES, LLC FOR NON-EXCLUSIVE USE OF REAL PROPERTY TO INSTALL A GENERATOR TO PROVIDE POWER TO ITS FACILITY AND RESIDENTS, AND DECLARING AN EMERGENCY.

WHEREAS, Berea Lake Towers Properties, LLC, a senior care facility located on Permanent Parcel Number 364-10-022, does not have a generator to provide power to its facility and residents during power outages due to the location of existing structures and utilities; and

WHEREAS, there is available space to install a generator on Permanent Parcel Number 364-10-011, which is owned by the City of Berea; and

WHEREAS, the Council of the City of Berea and the Administration find that the health, safety and welfare of the staff and residents of Berea Lake Towers Properties, LLC would be best served by installing a generator; and

WHEREAS, Berea Lake Towers Properties, LLC agrees to install and maintain arborvitae trees and other suitable landscape plantings approved by the City of Berea; and

WHEREAS, the public interest, convenience and necessity will not be harmed by the grant of authority requested, subject to the terms and conditions of the license authorized herein.

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

SECTION 1. That the Mayor is hereby authorized to execute a License Agreement with Berea Lake Towers Properties, LLC, which is attached hereto as Exhibit "A" and incorporated herein by reference; and to grant a license to Berea Lake Towers Properties, LLC to use a portion of PPN 364-10-022, referenced in Exhibit "1" of Exhibit "A", for the purpose of installing a generator for its facility and residents.

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 said Agreement must be in place before improvements on the property may begin, and the installation of a generator is essential to the health, safety and welfare of the staff and residents of Berea Lake Towers Properties, LLC. 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: November 4, 2019

ATTEST: [Signature], Clerk of Council

APPROVED:

[Signature]
President of Council

[Signature]
Mayor

APPROVED AS TO FORM:

[Signature], Director of Law

EXHIBIT A

LICENSE AGREEMENT

This **License Agreement** is made by and between the **City of Berea**, an Ohio Municipal Corporation ("**CITY**"), and **Berea Lake Towers Properties, LLC**, an Ohio company ("**Berea Lake Towers**"), and sets forth the terms and conditions that relate to the **non-exclusive** use of a portion of land identified as Permanent Parcel Number ("**PPN**") 364-10-011 which is owned by the **CITY**.

In consideration of the grant of this **LICENSE AGREEMENT** to **Berea Lake Towers** by the **CITY** for the non-exclusive use of real property owned by the **CITY**, the parties agree as follows:

1. **Berea Lake Towers Properties, LLC**, is the owner and operator of a senior care facility located on PPN 364-10-022 and desires to install a generator to provide power to its facility and residents during power outages; and
2. Due to the location of existing structures and utilities on PPN 364-10-022, there is no space available to install a generator. However, there is available space to install a generator on a portion of PPN 364-10-011 which is owned by the **CITY**. The exact location of the generator on PPN 364-10-011 is more fully identified on Exhibit "1" of Exhibit "A".
3. In exchange for use of the property, **Berea Lake Towers** agrees to install and maintain arborvitae trees, or other suitable landscape plantings approved by the **CITY**, around the generator as a buffer. Maintenance by **Berea Lake Towers** shall include, but is not limited to, watering and pruning the landscape plantings; replacement of any landscape plantings that die; mowing the lawn adjacent to the generator, and removing any trash or debris from the area adjacent to the generator.

This **LICENSE AGREEMENT** is non-exclusive and may not be transferred by **Berea Lake Towers** without the prior written consent of the **CITY**.

The **CITY** may revoke this **LICENSE AGREEMENT** upon just cause or upon three hundred sixty (360) days advance notice to **Berea Lake Towers** via regular mail, sent to the address on file with the Cuyahoga County Fiscal Officer.

The parties to this **LICENSE AGREEMENT** have executed it on the dates set forth below for the purposes stated above.

Mayor Cyril Kleem
CITY OF BEREA

Berea Lake Towers Properties, LLC

Date

Date

