

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2021-55

By Bick Skoczen Sponsored By Mayor Cyril M. Kleem

AN ORDINANCE

AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE CITY OF MIDDLEBURG HEIGHTS FOR THE ESTABLISHMENT OF AN OFF-LEASH DOG PARK, APPROPRIATING THE FUNDS THEREFORE, AND DECLARING AN EMERGENCY.

WHEREAS, the Cities of Berea and Middleburg Heights wish to enter into a Memorandum of Understanding for the establishment of an off-the-leash dog park (Dog Park) be located at 18825 Sheldon Road, on property owned by the City of Middleburg Heights, in the City of Middleburg Heights; and

WHEREAS, the Cities of Brook Park and Middleburg Heights have already entered into a Memorandum of Understanding for the same purpose; and

WHEREAS, the establishment of the Dog Park for the exclusive use of residents of the participating cities will provide additional recreational opportunities and benefits to the many dog-owners residing in the City of Berea.

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 enter into a Memorandum of Understanding with the City of Middleburg Heights for the establishment of a Dog Park for the benefit and exclusive use of residents of all participating Cities, a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. That the Director of Finance be, and hereby is, authorized and directed to pay out such sum and charge the same to, and the funds therefore are hereby appropriated from, the General Capital Improvement Fund, designated for accounting purposes as Fund No. 400, for the purpose(s) set forth in Section 1 hereinabove.

SECTION 3. 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 4. 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 the City of Middleburg Heights would like to begin construction as soon as possible, which will, in turn, provide health and recreational benefits to residents of the City. 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: October 18, 2021

[Signature]
President of Council

ATTEST: [Signature]
Clerk of Council

APPROVED: October 19, 2021

[Signature]
Mayor

Approved as to Form:

[Signature]
Director of Law

EXHIBIT A

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING, made and entered into on the date shown on the signature page herein below, by and between the **CITY OF BEREA** (hereinafter referred to as “Berea”) and the **CITY OF MIDDLEBURG HEIGHTS** (hereinafter referred to as “Middleburg Heights”);

WHEREAS, Berea and Middleburg Heights are entering into a non-exclusive joint venture for the establishment of an off the leash dog park (hereinafter “Dog Park”), located in the City of Middleburg Heights, Ohio at 18825 Sheldon Road; and

WHEREAS, the Berea and Middleburg Heights are desirous of memorializing in writing their negotiated agreement concerning this proposed activity, pursuant to various, several and certain terms and conditions negotiated to agreement by and between themselves, and hereinafter set forth in this instrument.

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set out in this Agreement, and for other good, valuable, and sufficient consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, Berea and Middleburg Heights do hereby mutually covenant and agree that:

1. Berea shall match Middleburg Heights’ contribution of \$35,000.00 in 2021 for the capital budget for, and the insurance costs associated with, the establishment of the Dog Park. The amount contributed for initial improvements by the City of Berea shall be \$35,000.00. All other capital expenditures shall be shared equally by the participating municipalities.

2. Phase One of the Dog Park shall include fencing, site excavation, material replacement, plumbing facilities, trash cans and signage.
3. By-laws and day to day operations are the responsibility of the City of Middleburg Heights.
4. Middleburg Heights shall be responsible for the pick-up of refuse cans, customary inspections (to maintain good order), and grass and weed cutting.
5. Any repairs needed to the fencing and/or grounds of the dog park as the result of ordinary and normal use shall be the responsibility of Middleburg Heights.
6. For the duration of this Agreement, Middleburg Hts. shall maintain adequate insurance on the Dog Park and said insurance will name a participating municipality as an additional insured on its policy. The insurance will include liability coverage of \$1,000,000.00 combined single limit with an umbrella policy in an amount of not less than \$5,000,000.00 over the primary coverage. The parties agree that each year a participating municipality shall reimburse Middleburg Heights its proportionate share, of the amount paid by Middleburg Heights, to maintain said insurance. In the event that a deductible payment is required to be paid then the parties shall divide the amount equally among the participating municipalities.
7. Upon approval by the parties, this Memorandum of Understanding shall become effective and remain in force for one (1) year thereafter. Either party may terminate this Memorandum of Understanding by giving the other party written notice at least thirty (30) days prior to its expiration date. In the event that neither party exercises the right to terminate this Memorandum of Understanding then it

shall automatically renew each year if no notice to terminate is given by either party.

8. The Dog Park will be available for the benefit and exclusive use of residents of participating municipalities and their dogs, and others as permitted by the City of Middleburg Heights.
9. A Dog Park Advisory Board (“Board”) shall be created, each member appointed for a two (2) year term, and appointed as follows:
 - A. One (1) member appointed by the City Council of a participating municipality;
 - B. One (1) member appointed by the Mayor of a participating municipality;
 - C. Two (2) members appointed by the Middleburg Heights City Council; and
 - D. One (1) member appointed by the Middleburg Heights Mayor.

The Board shall elect at its first meeting, and thereafter at its first meeting of each year, a Chair, Vice Chair, and Secretary.

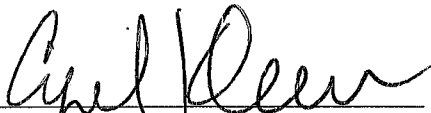
10. Meetings of the Board shall be held on a regular basis, as determined by the Board, but not less than once per year. The initial meeting of the Board shall be held within sixty (60) days of the initial approval of this Memorandum of Understanding by the City of Middleburg Heights. All meetings shall be open to the public.

11. The Board shall hear suggestions and recommendations of the Berea Barkers and other volunteer organizations and be charged with assisting the Cities by providing recommendations regarding the following:
- A. By-laws/rules for the Dog Park;
 - B. Proposed capital improvements for the Dog Park;
 - C. Suggestions for the safe and orderly operation of the Dog Park.
12. This Memorandum of Understanding constitutes the entire agreement between the parties regarding the subject matter and all prior conversations and writing are merged herein and it shall not be modified unless in writing and duly executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this

Agreement, this ____ day of _____, 2021.

CITY OF BEREА:



By: CYRIL KLEEM
Title: Mayor

CITY OF MIDDLEBURG HEIGHTS:

By: MATTHEW CASTELLI
Title: Mayor