

BEREA CITY COUNCIL

City of Berea, Ohio

ORDINANCE NO. 2025- __

By: _____ Sponsor: Mayor Cyril M. Kleem

AN ORDINANCE

AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH BEREA MIXED USE PROJECT, LLC, OR AN AFFILIATE, TO PROVIDE FOR THE PAYMENT BY THE CITY OF BEREA, OF CERTAIN TAXES CHARGED AND COLLECTED UNDER CHAPTER 196 OF THE CITY'S CODIFIED ORDINANCES AS PROVIDED IN THAT CERTAIN DEVELOPMENT AGREEMENT BETWEEN THE CITY AND BEREA MIXED USE PROJECT, LLC, AND TO EXECUTE ANY AND ALL DOCUMENTS RELATED THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code Section 5739.08(A) authorizes municipal corporations to levy an excise tax not to exceed 3% on transactions by which lodging by a hotel is or is to be furnished to transient guests in addition to the tax levied by Ohio Revised Code Section 5739.02; and

WHEREAS, Ohio Revised Code Section 5739.08(A) permits the proceeds of the excise tax to be used for any lawful purpose and Ohio Constitution, Article VIII, Section 13, grants municipalities the authority to give financial assistance to private industry in order to create new employment within this State; and

WHEREAS, pursuant to Chapter 196 of the City's Codified Ordinances, the City levies such an excise tax at the maximum rate of 3% (the "Bed Tax"); and

WHEREAS, pursuant to Ordinance 2025-17, passed by this Council on March 24, 2025, the City approved the execution and delivery of a Development Agreement (the "Development Agreement") with Berea Mixed Use Project LLC (the "Developer") for the development of a multi-purpose community field, hotel, sports medicine facility, multifamily apartments, restaurants, a parking garage and other mixed uses (the "Project"); and

WHEREAS, the Development Agreement provides for certain incentives including the payment to the Developer of a portion of the Bed Tax received with respect to the Project (the "Developer's Portion") to be paid to the Developer as provided therein and in an agreement between the Developer and the City (the "Bed Tax Agreement"); and

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WHEREAS, this Council has determined that the use of the Developer's Portion to support the Project will promote the welfare of the people of the City, stabilize the economy, provide employment and assist in the development of commercial, recreational, residential, health care and other mixed use activities to the benefit of the people of the City, and preserve, maintain or provide additional opportunities for their gainful employment; and

WHEREAS, an emergency exists in the usual daily operations of the City, that emergency being related to the need to pass this Ordinance as quickly as possible, in order to comply with the provisions of the Development Agreement which will result in the development of the Project and creation and retention of jobs, all of which improve the health, safety and welfare of the residents of the City;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berea, County of Cuyahoga, Ohio, that:

SECTION 1. Authorization of Bed Tax Agreement. This Council confirms its prior determination that the Project is in the best interest of the City, that the Project furthers the health, safety and welfare of its residents and has previously authorized the Development Agreement in furtherance thereof. The Mayor is hereby authorized, for and in the name of the City and on its behalf, to execute and deliver the Bed Tax Agreement which shall be and read substantially in the form on file with this Council, with such changes therein as are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor. The approval of such changes, and that such changes are not inconsistent with this ordinance and not substantially adverse to the City, shall be conclusively evidenced by the execution of the Bed Tax Agreement by the Mayor.

SECTION 2. Further Authorizations. This Council hereby authorizes and directs the Mayor, the Law Director, the Director of Finance, Director of Planning and Development or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance.

SECTION 3. Open Meetings. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including ORC 121.22.

SECTION 4. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare of the City, and for the further reason that this Ordinance is required to be immediately effective in order to enable the timely development of the Project, wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

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PASSED: _____

President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

APPROVED AS TO FORM: _____

Mayor

Director of Law