

ORDINANCE NO. 21-046

AN ORDINANCE AMENDING THE LICENSE AGREEMENT WITH SANDUSKY CENTRAL CATHOLIC SCHOOL FOR PRIORITY USE OF FIELDS #3, #4, #5, AND #9 LOCATED AT DORN COMMUNITY PARK FOR THE SANDUSKY CENTRAL CATHOLIC HIGH SCHOOL BASEBALL AND SOFTBALL PROGRAMS BEGINNING MARCH 1, 2020; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, this City Commission approved a three (3) year License Agreement with Sandusky Central Catholic School for priority use of Field #5 and Field #9 located at Dorn Community Park for the Sandusky Central Catholic High School baseball and softball programs beginning March 1, 2020, by Ordinance No. 20-047, passed on March 9, 2020; and

WHEREAS, the license agreement was not executed due to COVID-19 and prior to being executed this year, Sandusky Central Catholic School requested to include Fields #3 and #4 for priority use for seasons 2021 and 2022 and extend the seasons from (March 1st through May 31st) to (March 1st through October 31st) and all other terms of the agreement remain unchanged; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to immediately execute the agreement as the season began on March 1, 2020; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Recreation, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into an amended License Agreement with Sandusky Central Catholic School to include priority use of Fields #3 and #4 together with Fields #5 and #9 located at Dorn Community Park for the Sandusky Central Catholic High School Baseball and Softball Programs and to extend the season from (March 1st through May 31st) to (March 1st through October 31st) beginning March 1, 2021, through October 31, 2022, substantially in the same form as Exhibit "1", a copy of which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein,

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together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with carrying out the terms of this Ordinance.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.



RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION



ATTEST:

MCKENZIE E. SPRIGGS
CLERK OF THE CITY COMMISSION

Passed: April 12, 2021

LICENSE AGREEMENT

This Agreement made on and entered into this _____ day of _____, 2021, between the City of Sandusky, Ohio, a Chartered Municipality, 240 Columbus Avenue, Sandusky, Ohio, hereinafter referred to as “City” and the Sandusky Central Catholic School, 410 West Jefferson Street, Sandusky, Ohio, hereinafter referred to as “Licensee” for the purpose of utilizing Fields #3, #4, #5, and #9 located at Dorn Community Park from March 1, 2021, through October 31, 2022.

WHEREAS, the Sandusky Central Catholic School desires to have priority use of Fields #3, #4, #5, and #9 located at Dorn Community Park for the Sandusky Central Catholic High School Baseball and Softball Programs beginning CY 2021 for the season March 1st through October 31st of each calendar year of this agreement, as documented in the schedules marked Exhibit “A” attached and specifically incorporated as if fully rewritten herein; and

WHEREAS, it is necessary for the City to grant the Licensee permission to utilize the City’s park property on a priority use basis; and

WHEREAS, Licensee is willing to perform routine maintenance on the ball field areas under the direction of the Recreation Superintendent of the City in exchange for the priority use of the specific ball fields delineated in the license agreement; and

WHEREAS, the City and the Licensee understand and acknowledge they need to work cooperatively to insure that all City ball fields are equitably shared and available.

NOW, THEREFORE, the parties agree as follows:

SECTION ONE
GRANT OF LICENSE

The City hereby grants to Licensee and to Licensee's students, members, guests, volunteers and invitees the right, privilege and permission to enter into and on certain tracts of real property owned by the City, known as Fields #3, #4, #5, and #9 located at Dorn Community Park.

SECTION TWO
TERM

The City grants to the Licensee the priority use of the above-described ball fields from March 1st through October 31 of each year of this agreement for the Licensee's yearly Junior Varsity and Varsity baseball and softball schedules. The term of this agreement shall be March 1, 2021, through October 31, 2022.

The City and Licensee shall meet annually prior to December 31 of each year of this Agreement beginning in CY 2021 to make any necessary adjustments required due to the scheduling of Junior Varsity and Varsity baseball and softball games for the following year.

The City shall have the option to modify this License Agreement pursuant to Section 9 of this Agreement in the event that the ball fields become unavailable for use, through no fault of the parties, which necessitates necessary public improvements.

SECTION THREE
CONSIDERATION

In addition to furthering the City's public purpose of equitably sharing the City's ball fields and avoiding scheduling conflicts, the priority use privilege

granted by this Agreement is in exchange for the Licensee's Agreement to perform routine maintenance to the ball field areas and property described in Section One of this Agreement under the direction of the Recreation Superintendent of the City, which includes, but is not necessarily limited to, preparing, dragging and lining playing surfaces prior to each scheduled game, mowing, trimming, and making repairs to fencing and turf.

Licensee acknowledges and understands that the specific plans for repairs to the fencing and turf and any other improvements, shall be pre-approved by the City Manager or their designee and shall satisfy any applicable legal requirements contained in the City's Codified Ordinances including all necessary permits and that once completed become part of the real property of the Dorn Community Park owned by the City.

Licensee agrees not to erect or cause to be erected on the property described in Section One any buildings or structures, whether permanent or temporary, without securing the prior approval of the City Manager or their designee pursuant to this Agreement.

SECTION FOUR **INDEMNIFICATION**

In consideration of the privilege granted by this Agreement, Licensee agrees to indemnify, defend, and save the City harmless from all loss, liability, cost or damages in connection with or on account of any injuries or damages that may occur or be claimed with respect to any person or property in or on the above-described property while being used by Licensee and Licensee's students, members, guests, volunteers or invitees unless the injuries or damages are the result of the sole negligence of the City or its employees, agents or contractors.

During the term of this Agreement for any priority use period Licensee shall secure, pay premiums for, and furnish certificates to the City annually and in advance of the start of each baseball season for the following:

- a. Public liability insurance protecting the City and Licensee, and their respective agents, officers, employees, officials, and volunteers because of liability incurred in the performance of the terms of this Agreement when such liability is imposed on account of injury or death of a person or persons, such policy to provide limits on account of an accident resulting in injury or death to one person of not less than One Million Dollars and a liability limit on account of any accident resulting in injury or death to more than one person of not less than Two Million Dollars.
- b. Property damage insurance protecting the City and Licensee and their respective agents, officers, employees, officials and volunteers in the performance of the terms of this Agreement, such policy to provide for a limitation on account of each accident of not less than One Million Dollars.

All such insurance policies shall name the City and Licensee and shall inure to the benefit of City and Licensee and their agents, officers, employees, officials, and volunteers. Such insurance policies shall require immediate notification to both City and Licensee of any cancellation or material change in the insurance coverage.

SECTION FIVE

MAINTENANCE AND OTHER OBLIGATIONS

Licensee agrees that during all times of use of Fields #3, #4, #5, and #9 located at Dorn Community Park the Sandusky Parks and Recreation Department's Rules and Regulations for all Organized Leagues and all applicable

Park rules promulgated by the City shall be enforced and adhered to including, but not limited to, the following:

The Sandusky Parks and Recreation Department's Rules and Regulations for all Organized Leagues. The City does not allow the consumption of alcoholic beverages in City ball fields or City parks. Licensee shall clean up and dispose of any refuse resulting from the use of the ball fields and shall remind spectators, parents, players and coaches to be respectful of residents in the area by not parking and/or trespassing on private property.

SECTION SIX
GOVERNING LAW

It is agreed that this License Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Ohio.

SECTION SEVEN
TERMINATION

Either party may terminate this Agreement upon written notification to the other party:

City of Sandusky:
c/o City Manager
240 Columbus Avenue
Sandusky, OH 44870

Licensee:
c/o Athletic Director
Sandusky Central Catholic School
410 West Jefferson Street
Sandusky, OH 44870

SECTION EIGHT
ASSIGNMENT

This Agreement may not be assigned by either Party or by operation of law to any other person, firm, or entity without the express written approval of the other Party.

SECTION NINE
MODIFICATIONS

This Agreement may be amended by the parties at any time but any amendment must be in writing and signed by each Party.

SECTION TEN
CAUSE BEYOND REASONABLE CONTROL

Either Party will be excused from delays in performing or from failing to perform its obligations under this Agreement to the extent the delays or failures result from causes beyond the reasonable control of the Party. However, to be excused from delay or failure to perform, the Party must act diligently to remedy the cause of the delay or failure.

SECTION ELEVEN
JOINT DRAFTING AND NEUTRAL CONSTRUCTION

This Agreement is a negotiated document and shall be deemed to have been drafted jointly by the Parties, and no rule of construction or interpretation shall apply against any particular Party based on a contention that the Agreement was drafted by one of the Parties. This Agreement shall be construed and interpreted in a neutral manner.

SECTION TWELVE
VALIDITY OF AGREEMENT

If any term, provision, covenant, or condition of this Agreement is held by a Court of competent jurisdiction to be invalid or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected or invalidated.

SECTION THIRTEEN
ENTIRE AGREEMENT

This Agreement, including Exhibit “A”, contains the entire Agreement of the Parties relating to the rights granted and obligations assumed in this Agreement. Any oral representations or modifications concerning this instrument shall be of no force or effect unless contained in a subsequent written modification signed by the Party to be changed.

SIGNATURE PAGES TO FOLLOW

DRAFT

IN WITNESS WHEREOF, the City Commission of the City of Sandusky, Ohio, have caused this Agreement to be duly executed in their respective names, all as of the date hereinbefore written.

CITY OF SANDUSKY:

Eric L. Wobser
City Manager

STATE OF OHIO)
) ss:
ERIE COUNTY)

On this _____ day of _____, 2021, before me, a Notary Public in and for said County and State, personally appeared Eric L. Wobser, City Manager of the City of Sandusky, Ohio, and acknowledged his execution of the foregoing instrument as said officer of said City on behalf of said City and by its authority and that the same is his voluntary act and deed as said officer on behalf of said City and the voluntary act and deed of said City.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed by official seal on the day and year aforesaid.

NOTARY PUBLIC

LICENSEE:

Toby Notestine, Athletic Director
Sandusky Central Catholic School

STATE OF OHIO)
) ss:
ERIE COUNTY)

On this ____ day of _____, 2021, before me, a Notary Public in and for said County and State, personally appeared Toby Notestine, Athletic Director, Sandusky Central Catholic School, and acknowledged his execution of the foregoing instrument as said Licensee on behalf of Sandusky Central Catholic School and that the same is his voluntary act and deed as said Licensee on behalf of Sandusky Central Catholic School.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed by official seal on the day and year aforesaid.

NOTARY PUBLIC

Approved as to Form:

Brendan L. Heil (#0091991)
Law Director, City of Sandusky

EXHIBIT "A"

Sandusky Central Catholic High School Baseball and Softball Programs Schedules

March 1, 2021, through October 31, 2021

DRAFT