

AGREEMENT REGARDING USE OF PICKLEBALL COURTS AT SCHULTZ PARK

The City of the Village of Douglas, hereinafter known as "City", and The Douglas Saugatuck Pickleball Club, a domestic nonprofit corporation of Douglas, MI, hereinafter known as "DSPC or Club", hereby enter into the following agreement regarding the use of eight (8) pickleball courts owned by the City, located at Schultz Park, 3100 Wiley Rd., Douglas, MI 49406.

Whereas, the generosity of local Douglas citizens Stephen Lewis and Walt Lawrence, and founding members of the DSPC, was instrumental in the construction of the courts, which began in 2015, along with the City's donation and support and for other good and valuable consideration received; and

Whereas, DSPC and the City would like to facilitate the ongoing use and maintenance of the courts and public property, encourage recreation and public health, and to promote the game of pickleball for these purposes.

Therefore, the parties agree to the following:

Courts. The property to be used by DSPC pursuant to this Agreement shall be the area consisting of the eight (8) pickleball courts and the adjacent parking lot located at and known as Schultz Park, 3100 Wiley Rd., Douglas, MI 49406, hereinafter known as "Courts".

Use. DSPC is allowed the exclusive use of all but one (1) of the Courts for its members from the hours of 8:30 am – 12:30 pm, Monday through Friday, and Tuesday evening from 6:00 PM – dusk, beginning each year from such date when the City installs the pickleball nets until such date when the City removes the nets for winter storage. One (1) court shall be available for use by any non-DSPC members of the public during the times set forth above. If DSPC desires additional hours of use, DSPC will submit a request to the City Manager or his designee for review and approval forty-eight (48) hours in advance.

Supervision. DSPC shall be responsible for the proper supervision of all activities and events involving its members and guests during the times set forth above. The City shall not be responsible for any supervision of activities or events of DSPC.

City Responsibilities. City shall be responsible for:

1. Reasonable, regular repairs and maintenance of the Courts (e.g., crack filling, sealing, painting, net/windscreen installation, and net/windscreen removal) as deemed necessary by the City, except for damages caused by the intentional/negligent acts of DSPC and/or any of its members and/or guests, which shall be the responsibility of DSPC.
2. Maintaining existing utilities in Schultz Park adjacent to the Courts (including electrical service and portable restrooms).
3. Garbage service (e.g., maintenance and emptying of receptacles and dumpsters)
4. Prompt notification to DSPC in writing of any complaints involving the Courts or DSPC or its members during the times designated for Club play.
5. Acting reasonably and in good faith with DSPC to promote the game of pickleball, the Club, and public use of the Courts.

DSPC Responsibilities. DSPC shall be responsible for:

1. Any modification and/or alteration to the Courts, other than repairs or maintenance except as outlined above. Any modification and/or alteration shall be approved in advance by the City.
2. Leaving the Courts reasonably clean and in good condition after each use, in a manner that will reflect favorably on the DSPC and the City.
3. Prompt notification to the City in writing of any complaint involving the condition or maintenance of the Courts or adjacent areas, any damage to public property, and any complaint of DSPC, its members or its guests by any member of the public.
4. Using reasonable efforts to cause its members and guests to obey all applicable laws, ordinances, and City rules while using the Courts during designated Club play.
5. Prohibiting its members and guests from engaging in profane or inappropriate language or actions while using the Courts during designated Club play. Alcohol is not permitted on the Courts or other public property except where designated by the City.
6. Acting reasonably and in good faith with the City to promote the game of pickleball, the Club, and public use of the Courts.
7. Providing to the City annually (in March) a list of future maintenance needs for the City to consider. Funding of such maintenance items shall be determined by City Council.

The DSPC has no responsibility for acts or omissions on the Courts outside of times dedicated for Club play unless the acts or omissions are authorized, directed, or encouraged by DSPC.

Liabilities. Neither the City nor DSPC assumes any current or subsequent debt or liability of the other, whether incurred prior to or after the effective date of this Agreement, except as set forth below.

Indemnity / Hold Harmless. DSPC shall fully defend, indemnify, and hold harmless the City, its City Council, its officers, employees, agents, volunteers, and contractors from any and all claims, demands, losses, obligations, costs, expenses, verdicts, and settlements (including but not limited to attorney fees and interest) by any of its members, guests, or another third party alleged to have resulted in whole or in part from:

1. The violation of any provision of this Agreement by DSPC.
2. The negligence of DSPC, its members and/or guests; and/or
3. A violation of city, state, or federal law, whether administrative or judicial, by DSPC.

Insurance. DSPC agrees to maintain at all times during the terms of this Agreement, at its own expense, the following insurance per Ordinance 37.12 entitled "Documents Required for Purchase or Contract," Section (C):

Commercial General Liability Insurance with Personal Injury, Bodily Injury, and Property Damage coverage on an "Occurrence Basis" with limits of liability not less than \$1,000,000 (One Million Dollars) per occurrence combined single limit. The City shall be named as Additional Insured. Certificate of Liability Insurance evidencing such coverage shall be submitted to the City of Douglas, Clerk's Office at PO Box 757, Douglas, MI 49406 upon commencement of performance under this Agreement and at least fifteen (15) days prior to the expiration dates of the expiring policy. A current Certificate of Liability Insurance must be on file with the City for the duration of this Agreement.

Term. The term of this Agreement shall be for three (3) calendar years, beginning January 1, 2021, and will automatically renew for an additional three (3) year term unless the City or DSPC gives the other written notice of termination at least 45 days prior to the end of the original term.

Upon termination, City will have no responsibility to the Club to provide for a new facility for Club.

Miscellaneous.

This Agreement shall not be assigned by either party.

This Agreement contains all the agreements between the parties herein and may not be modified in any manner unless by agreement in writing signed by the parties hereto or their respective successors in interest.

If any provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with an applicable law, the validity of the remaining provisions of this Agreement shall not be affected thereby.

This Agreement may be signed in counterparts.

Any notice or communication regarding this Agreement should be directed as follows:

To the City:
City Manager, City of the Village of Douglas, 86 W. Center St., PO BOX 757, Douglas, MI 49406

To the DSPC:
President, The Douglas Saugatuck Pickleball Club, PO Box 1012, Douglas, MI 49406

Agreed to by:

Sara Culter Date: Jan. 19, 2021
President
The Douglas Saugatuck Pickleball Club

Pat Lion Date: 1/19/21
Pat Lion, Mayor

Paula Alderink Date: 1/25/21
Pamela Alderink, City Clerk

Dispute Resolution, Termination. If either party believes that the other is in breach of this agreement, it shall notify the breaching party in a writing that describes the alleged breach. Within thirty (30) days from transmittal of such writing, the parties will meet in a good faith effort to resolve the dispute. If the parties do not resolve the dispute, the party asserting breach shall give the other party 30 more days to cure the alleged breach, failing which the complaining party may terminate this Agreement.

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Agreed to by:

_____ Date: _____
President
The Douglas Saugatuck Pickleball Club

_____ Date: _____
Pat Lion, Mayor

_____ Date: _____
Pamela Aalderink, City Clerk

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