

ARLINGTON FACILITY PROVIDER POLICY

I. OBJECTIVES

The Town of Arlington, Tennessee by and through its Board of Mayor and Aldermen does hereby adopt the following policy for the establishment of rules and procedures for the efficient and inviting use of the Town's facilities.

The intent of this policy is to guide and direct all interested and effected parties in the utilization of the Town's facilities and to define minimum standard requirements, responsibilities, and obligations for all designated parties in the utilization of the Town's facilities.

The Town of Arlington has further determined that in the interest of conformity, consistency, and adherence to basic philosophical standards any organization that desires to utilize the Town's properties and facilities, must agree to abide by the following provisions and standards of operation before any such consideration will be given by the Board.

II. MINIMUM STANDARDS

- A. No person/organization shall be denied the opportunity to participate in any of the programs or activities on the basis of race, color, religion, sex, national origin, physical handicap or any other non-merit factor.
- B. Town residents shall have priority for all programs, activities and use of facilities that are organized, scheduled and operated by the Town.
- C. Recreation oriented programs shall have priority of use over competitive level programs.
- D. Resident organizations, teams, and leagues shall be composed of a minimum of ninety percent (90%) Town residents in furtherance of support for Paragraph B. Town residents shall include all persons living within either the corporate limits or the annexation reserve areas of Arlington, Tennessee. Town employees and their families are considered residents for the purpose of the policy.
- E. Senior citizens are given priority for use of the Senior Center and any after hours activity request other than by the Town as authorized and scheduled through the Facility Director, must be at least 50% senior citizens of the Town of Arlington over the age of 50.

- F. For the use of the Board Room at Town Hall priority is given to Town of Arlington Boards, Committees and Departments, Town of Arlington Homeowners Associations, Arlington Corporate Citizens, and local Sports Organizations for (sign ups only). **Use of this facility for any retail sales is prohibited.**

- G. All Town of Arlington Parks are open to the general public and are on a first come first serve basis except for scheduled league play of sports facilities as otherwise noted in this policy. **Activities such as pony rides, balloon bounces, carnival rides, bon fires, consumption of alcohol or any activity that could cause injury to people or additional liability on the part of the Town or damage to the property is prohibited.**

III. USE OF ATHLETIC AND OTHER TOWN FACILITIES

It is the intent of the Town to offer its facilities in a fair and organized manner for use by organized League Athletic Providers, Civic Organizations, and Community Programs.

A. League

League is defined as a group of participants that are of the same age and gender whether they are multiple teams or only one team. (The exception to gender would be coed sports). One competitive team could constitute a league if there are no other participants within that age and gender group (i.e., competitive 9 year old boys, coeds under 8, girls under 10, etc.). Multiple teams also form a league provided they are playing within a certain age and gender group (i.e., 9-10 year old coeds, 13-15 year old girls, 15-18 year old boys). A league does not refer to a particular sports organization (i.e., GYAA, GASA, TSSAA, etc.).

B. General Provisions of Use:

1. Any organization or individual who fails to comply with these and all other rules, regulations, laws and ordinances pertaining to the Town's Facilities may be required to leave the facilities and/or forfeit any future rights to obtain permits for facility use.

2. Any organization or individual who fails to turn over the facilities to another organization or individual who has a valid permit may forfeit any future rights to obtain permits for facility use.

3. Any organization or individual holding a permit is responsible for keeping that designated facility/property and its surrounding area clear

from any trash and garbage that develops on the grounds regardless of its source and shall place all trash into containers.

4. Parking at the facilities shall be limited to designated parking spaces, and all unauthorized motorized vehicles are restricted to the designated parking area.
5. **No motor vehicles, bicycles or other similarly situated devices are allowed on the grass areas or ball fields unless specifically authorized in the permit issued for use.**

IV. REQUIREMENTS AND RESPONSIBILITIES

The Town of Arlington, and permitted or authorized organizations, individuals or clubs will have certain duties and responsibilities in regards to the use of the Town's facilities. These are more specifically described below:

- A. The Town will provide:
 1. Facilities and maintenance of the facilities, fixed assets, lights, grass cutting, fences, restrooms, etc.
 2. Future facility planning, acquisition, and construction as projected and defined by the user within the parameter of established priorities and available resources.
 3. Aid and assistance in providing information to the public.
- B. The Town Administration Facilities Director will:
 1. Review and evaluate requests, from Organizers that request the use of any Town Facilities or Properties. Upon completion of evaluation and recommendation, the Town Board of Mayor and Alderman shall approve or disapprove a formal contractual agreement that will be entered into between the Organizer and the Town.
 2. The Town Administrator or responsible Facilities Director shall approve the season/date for each program, specifying beginning and ending dates of each season. The season shall be defined as the earliest practice date and the final event date. Other activities such as organizational meetings and tryouts may occur outside the defined season and are subject to availability.

3. Determine the playability of all Town Athletic Facilities due to rain or other environmental conditions, and if necessary, close the facilities to prevent injury to players and/or damage to facilities, and patrons.
4. Conduct, program and schedule programs that are requested by the approved Organizers. Priority consideration will be afforded to Resident Organizers in scheduling when at all possible.
5. Schedule and issue permits for practices, scheduled games, programs, and events.
6. Schedule times and issue permits for the use of concession facilities.
7. Inspect the concession facilities for damages and make a report to the Town Superintendent.
8. Provide the maintenance on the ball fields including dragging the infields and cutting the grass in the outfield.
9. Provide the maintenance on the fences around the ball fields.
10. Determine who is responsible to turn the ball field lights on and off for practices and scheduled games.
11. Have the authority to call the appropriate law enforcement agencies, if needed.
12. Provide assistance to Organizers upon request.

C. Organizers

1. An Organizer requesting use of Arlington facilities must submit the following to the Town Administration before a permit is issued:
 - A. Proposed schedule of events, programs and/or season dates. The schedule for sports shall include practices, games, tournaments, special events and weather related makeup games and any other activities that may be proposed. It must be submitted ninety (90) days in advance of the first day of the season.
 - B. Proposed sports program budget, detailing all income and expenditures projected for the program.

- C. Complete listing of all Officers, Board of Directors and other responsible leaders of the organization with attendant addresses and telephone numbers.
- D. Proposed rules and regulations for the governance of the organization and the program.
- E. **Statement of intent from an authorized insurance carrier that required levels of public liability and accident insurance can and will be issued in the name of the organization and that the Town will be named as an additional insured party.**
- F. Name and phone numbers of all participants and a signed waiver to release the Town.

V. SCHEDULING OF EVENTS AND SESSIONS

- A. The scheduling of the Facilities will be done by Town Administration or the Facilities Director. Organizations which consist of ninety (90%) percent Town residents will be afforded special consideration for priority in scheduling. However, this shall not be an absolute right of priority, but only a preference given by the Facilities Director.
- B. In the event of facility limitations, as determined by the Director, the following priority system will be utilized:
 - 1. Recreation youth programs shall have priority over youth competitive programs.
 - 2. Competitive/youth programs have priority over adult programs.
 - 3. Recreation adults have third priority for usage.
 - 4. High school sports have fourth priority.
 - 5. Competitive adults have fifth priority.
 - 6. Scheduled game permits will have priority over practice permits.
 - 7. Any conflicts should be brought to the Director for a resolution.
- C. Teams or persons who have not gone through the procedure of procuring a permit for a session may still use those fields for which no session has been scheduled. The use of such fields shall be on a first come first serve basis.

However, lights will not be provided to those fields unless a permit is obtained.

IV. CONTRACTS BETWEEN ORGANIZERS AND ARLINGTON

- A. The Town by and through the Board of Mayor and Aldermen may enter into a contract between the Town and any organization submitting a proposal for the use of Town facilities. The Director of the Facility may recommend each contract for acceptance or rejection by the Board after review of the organization's proposal.
- B. A copy of the Contract to be entered into between the Organization and the Town is attached hereto as Exhibit "A".
- C. The Town reserves the right to require reimbursement for the utility costs, employee costs, require per player fees or a facility use fee.

VII. OTHER PROVISIONS

- A. The Board reserves the right to approve, modify, or reject any contract submitted for consideration.
- B. The Board reserves the right to modify and amend this policy when such revision is deemed necessary for the best interest of the Town.
- C. The Board may temporarily suspend any portion of this policy when it deems the enforcement of said policy is not in the best interest of the Town.
- D. Any variance to this policy must be submitted and recommended by either the Facilities Director or the Town Superintendent, or the Mayor to the Board of Mayor and Aldermen for approval.
- E. No part of this policy or any related agreements or contracts shall in anyway be construed as a limitation upon the Mayor and Board of Aldermen of the Town of Arlington, Tennessee in the modification or enactment of any policy, ordinance or legislation that they feel is in the best interests of the Town and citizens of Arlington, but that may either directly or indirectly effect any aspect of this policy.

LEASE AGREEMENT

This Agreement, made and executed this _____ day of _____, 20____, by and between the _____ hereinafter referred to as the Lessee and the **Town of Arlington, Tennessee** (“Landlord”) and _____ (collectively “Tenant”) to provide as follows:

RECITALS:

Landlord is the owner of land and improvements commonly known as _____, Arlington, Tennessee 38002 (the “Property”).

Landlord desires to lease the Property to Tenant, and Tenant desires to lease the Property from Landlord for the term, at the rental and upon the covenants, conditions and provisions herein set forth.

THEREFORE, in consideration of the mutual promises herein, contained and other good and valuable consideration, the parties intending to be legally bound agree as follows:

- 1. **DATES:** _____
- 2. **TERMS: Fees and Reimbursements**
- 3. **LOCATION:** _____
- 4. **EVENT:**

League play is for regularly scheduled interleague games and practices.

5. **CONCESSIONS:**

- A. The concessions at the Arlington Sports Complex are controlled by the Town through a lease with a private vendor. The Lessee shall secure all Federal, State, County, and City permits necessary. This shall include, but shall not be limited to, health permits and occupational licenses. The Lessee shall abide by all applicable laws, ordinances, and regulations: Federal, State, County, and Town and shall not use or permit the facility to be used for any unlawful, improper or offensive purposes whatsoever.
- B. Any concessions provided at events other than at the Arlington Sports Complex, where outside vendors are used must obtain a Special Event Business License, from Town Hall, for such sales.
- C. Any and all drink sales must be a product of the Coca-Cola Bottling Company. **COKE, DIET COKE, SPRITE, DR. PEPPER, BARQ’S**

ROOT BEER, NESTEA, SURGE, MELLOW YELLOW, DASANI WATER, POWERADE AND FRUITOPIA.

- D. All **COKE** products purchased for resale, including cups, must be purchased in accordance with Town policy. The products must either be purchased from the Coca-Cola Bottling Company of Memphis or through the appropriate intermediary set forth by the Town.

6. PERMITTED USE

- A. The Lessee shall be responsible to reimburse the Town for replacing equipment, other park property, or the grounds themselves. The Lessee shall be responsible for clean up. This shall include the ball fields, dugouts, concession area, all areas between the ball fields and parking lots and cleaning of restrooms. Failure to do so will result in additional costs incurred.
- B. The Property during the term of this Lease shall be used and occupied for Tenant's holding of _____ event on the property, except as set forth herein and for no other purpose or purposes without prior express and written consent of Landlord. Notwithstanding any provision herein, Tenant shall not use, nor allow any contestants to use the Property for any purpose in violation of any Federal, State or Municipal statute or ordinance, or any regulation, order or directive of a governmental agency, as such statutes, ordinances, regulations, orders or directives now exist or may hereafter provide, concerning the use and/or safety of the Property. Tenant, shall not do or permit anything to be done in or on the Property that would, in any way violate any certificate of occupancy affecting the Property, make void or voidable any insurance, then in force with respect to the Property, cause or apt to cause structural injury to the Property on the Property, or will constitute a public or private nuisance.

7. INSURANCE AND INDEMNIFICATION

- A. Tenant shall indemnify and hold harmless Landlord against any loss, damage, injury, or death caused by Tenant's negligent acts or omissions or the acts or omissions of Tenant's agents or employees, or any losses, damages, injuries or death arising from this Lease or the activities held by Tenant on the Property. That nothing contained herein shall require Tenant to defend or indemnify Landlord from losses, damages, injuries, or death arising out of the negligence of Landlord, its agents or employees.
- B. In order to secure Tenant's obligation to hold harmless and indemnify the Landlord, Tenant shall procure and maintain the following insurance with Landlord named as an additional insured on the policy: Comprehensive

General Bodily Injury Liability and Property Damage Liability Insurance, with limits of \$1,000,000.00 for Bodily Injury or Death of Any One Person, \$1,000,000.00 for Bodily Injury or Death of Two or More Persons for Any One Occurrence, and \$100,000.00 for Property Damage for Any One Occurrence.

Tenant, if requested, shall furnish Landlord a Certificate of Insurance evidencing such coverage.

C. Tenant shall maintain other insurance of a type and amount as reasonably requested by Landlord.

D. **Indemnification:**

Landlord shall not be liable for any loss, injury, death, or damage to persons or property that at any time may be suffered or sustained by Tenant or by any person, whosoever, may at any time be using or occupying or visiting the Property or be in, on, or about the Property, whether the loss, injury, death, or damage shall be caused by or in any way result from or arise out of any act, omission, or negligence of Tenant or any occupant, visitor, or user of any portion of the Property, or shall result from or be caused by any other matters related to things above set forth. Tenant shall indemnify, hold harmless and defend (with legal counsel acceptable to) Landlord, its agents, employees and elected officials against any and all claims, liability, loss or damage whatsoever on account of any such loss, injury, death, or damage. Tenant shall indemnify, hold harmless and defend Landlord for clean-up of hazardous waste or damages or injury of property not caused by Landlord. Tenant waives all claims against Landlord for damages to improvements that are now on or hereafter placed or built on the Property or about the Property and to the Property of Tenant in, on, or about the premises, for injuries to persons or property in or about the Property, from any cause arising at any time.

8. DELIVERY, ACCEPTANCE AND SURRENDER OF PREMISES

Tenant acknowledges that neither Landlord nor its agents have made any representations or warranties as to the suitability of the Property for the conduct of Tenant's business and/or as to the repair and condition of the Property. The Landlord makes no warranties whatsoever herein as to the condition, repair or suitability of the Property. At the expiration or earlier termination of this Lease Agreement, Tenant shall peaceably and quietly quit and surrender to Landlord, the Property in good order and condition subject to the other provisions of this Lease. If Tenant refuses to timely quit and surrender the Property, Tenant shall be considered a holdover Tenant, and Tenant shall pay to Landlord the weekly installments of rent at \$5,000.00 for each week immediately preceding such holding over, for each week or part of a week (without reduction for any such partial month) that Tenant thus remains in possession.

In addition, Tenant shall pay Landlord all direct and consequential damages, including attorney fees and costs, sustained by Landlord by reason of Tenant's retention of possession of the Property. Before delivery, Tenant shall remove all business signs placed on the Property by the Tenant and restore the portion of the Property on which they were placed in the same condition as when received.

9. ALTERATIONS AND IMPROVEMENTS

Tenant shall have the right to temporarily place and install personal property, trade fixtures, equipment and other temporary installations in and upon the Property, and fasten the same to the premises. All personal property, equipment, machinery, trade fixtures and other temporary installations, whether acquired by Tenant at the commencement of the Lease term or placed or installed on the Property by Tenant thereafter, shall remain Tenant's property free and clear of any claim by Landlord. Tenant may have the right to remove the same at any time during the term of this Lease provided that all damage to the Property caused by such removal shall be repaired by Tenant at Tenant's expense. Tenant shall be responsible for keeping the Property aesthetically pleasing and clean and shall not do anything that would decrease and/or degrade the surrounding property owners' property value or the Town of Arlington. All temporary fixtures and improvements shall be removed prior to the termination of the terms of this Lease.

10. SIGNS

Following Landlord's consent, Tenant shall have the right to place on the Property, at locations selected by Tenant, any signs which are permitted by applicable zoning ordinances and private restrictions. Landlord may refuse consent to any proposed signage that is in Landlord's opinion too large, deceptive, unattractive or otherwise inconsistent with or inappropriate to the Property or use of any other Tenant. Landlord shall assist and cooperate with Tenant in obtaining any necessary permission from governmental authorities or adjoining owners and occupants for Tenant to place or construct the foregoing signs. Tenant shall repair all damage to the Property resulting from the removal of signs installed by Tenant.

11. ENTRY

Landlord, shall have the right to enter upon the Property at reasonable hours to inspect the same, provided, Landlord shall not thereby unreasonably interfere with Tenant's business on the Leased Property.

12. RIGHT TO TERMINATE THIS LEASE

Upon 24 hours written prior notice to the opposite party either the Tenant or Landlord for any reason, whatsoever, shall have the right to terminate this Lease.

13. ACTIONS OF MAYOR AND BOARD OF ALDERMEN

No provision herein shall in any way whatsoever be interpreted or construed as restricting or prohibiting the Mayor and Board of Aldermen from taking any action or passing any resolution or ordinance that it deems to be in the best interests of the Town of Arlington or citizens thereof, or otherwise carrying out its lawful duties.

14. SUBORDINATION

Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter arising upon the Property, or upon the Property and to any renewals, refinancing and extensions thereof, but Tenant agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust or other lien to this Lease on such terms and subject to such conditions as such mortgagee may deem appropriate in its discretion. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust or other lien now existing or hereafter placed upon the Property of the Property, and Tenant agrees upon demand to execute such further instruments subordinating this Lease or attorning to the holder of any such liens as Landlord may request. In the event that Tenant should fail to execute any instrument of subordination herein required to be executed by Tenant promptly as requested, Tenant hereby irrevocably constitutes Landlord as its attorney-in-fact to execute such instrument in Tenant's name, place and stead, it being agreed that such power is one coupled with an interest. Tenant agrees that it will from time to time upon request by Landlord execute and deliver to such persons as Landlord shall request a statement in recordable form certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), stating the dates to which rent and other charges payable under this Lease have been paid, stating that Landlord is not in default hereunder (or if Tenant alleges a default stating the nature of such alleged default) and further stating such other matters as Landlord shall reasonably require.

15. MECHANIC'S AND MATERIALMEN'S LIENS

Tenant agrees that during the term of this Lease no mechanic's or materialmen's liens affecting the Property or any improvements thereon shall be suffered to arise, and that in the event any such lien does arise, Tenant shall promptly discharge same, and if

default in the payment thereof shall continue for thirty (30) days after receipt of written notice of such lien and demand for its discharge given to Tenant by Landlord, then Landlord shall have the right and privilege, at its option, to pay off the same, and the amount so paid, including expenses, shall at the option of Landlord be an additional fee due from Tenant at the next succeeding fee payment date with interest thereon at the rate of eight percent (8%) per annum from the date on which such payment was made; provided however, that if Tenant denies the validity or amount of any asserted mechanic's or materialmen's lien on the Property or any improvement thereon, then Tenant shall have a reasonable opportunity to contest such validity by appropriate legal proceedings.

16. NOTICE

Any notice required or permitted under this Lease shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

If to Landlord to:

Town Recorder
Town of Arlington, Tennessee
5854 Airline Road
Arlington, Tennessee 38002

with a copy to:

Law Offices of Charles R. Perkins
284 German Oak, Suite 200
Cordova, Tennessee 38018

If to Tenant to:

Landlord and Tenant shall each have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

17. WAIVER

No waiver of any default of Landlord or Tenant hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

18. HEADINGS

The headings used in this Lease are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Lease.

19. SUCCESSORS

The provisions of this Lease shall extend to and be binding upon Landlord and Tenant and their respective legal representatives, successors and assigns.

20. COMPLIANCE WITH LAW

Tenant shall comply with all laws, orders, ordinances and other public requirements now or hereafter pertaining to Tenant's use of the Property.

21. FINAL AGREEMENT

This Lease terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Lease may be modified only by a further writing that is duly executed by both parties.

22. GOVERNING LAW AND VENUE

Tennessee law shall govern the Lease and any litigation, claim, hearing or suit regarding this Lease transaction contemplated hereby shall be held in Shelby County, Tennessee.

23. PROTECTION FROM VIOLATION

Tenant, during the term of this Lease, will keep and save harmless Landlord from any penalty or damages or charges imposed for any violation of any Federal, State or Municipal laws and ordinances occasioned by acts or omissions of Tenant.

24. JOINT LIABILITY

The individual tenants to this Lease shall be individually and jointly liable for all Tenant obligations herein.

25. OTHER

- A. The Lessee shall be responsible for contacting and making all necessary arrangements with the Shelby County Sheriff's Department, Arlington Fire Department, Shelby County Health Department, and other town, county, or state agencies and the Lessee shall be responsible to pay all additional costs for overtime compensation or otherwise incurred by the departments. The Town of Arlington reserves the right to specify the amount of such support assistance.
- B. The Lessee is specifically charged with the responsibility to obey all Town ordinances, State, Federal and Town rules, hours and regulations.
- C. In case of rain or inclement weather, the Town of Arlington Public Works Director will determine the field playability.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.

TENANT:

BY: _____

TITLE: _____

**LANDLORD:
TOWN OF ARLINGTON, TENNESSEE**

BY: _____

TITLE: _____

STATE OF TENNESSEE

COUNTY OF SHELBY

Before me, a Notary Public within and for said State and County, at Memphis, Tennessee, duly commissioned and qualified, personally appeared _____, with whom I am personally acquainted, and who upon oath acknowledged himself to be the _____ of _____, a _____, and that he as such _____ being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as _____ thereof.

WITNESS my hand and notarial seal of office at Arlington, Tennessee, this _____ day of _____, 2011.

Notary Public

My Commission Expires:

STATE OF TENNESSEE

COUNTY OF SHELBY

Before me, a Notary Public within and for said State and County, at Memphis, Tennessee, duly commissioned and qualified, personally appeared Mike Wissman, with whom I am personally acquainted, who upon oath acknowledged himself to be Mayor of the Town of Arlington, the within named bargainor, a municipal corporation, and that he, as such Mayor, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Mayor thereof.

WITNESS my hand and notarial seal at Arlington, Tennessee, this _____ day of _____, 2011.

Notary Public

My Commission Expires:
