

ORDINANCE NO. 9-2020

AN ORDINANCE AUTHORIZING THE VILLAGE ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH THE LOUDONVILLE SWIM TEAM FOR THE UTILIZATION OF THE LOUDONVILLE SWIMMING POOL.

WHEREAS, Council has received a request from the Loudonville Swim Team for use of the Loudonville Swimming Pool for practices and meets for the 2020 swimming season; and

WHEREAS, Council deems it appropriate to enter into an agreement with the Loudonville Swim Team for such purpose.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LOUDONVILLE, STATE OF OHIO:

SECTION 1: That the Village Administrator is hereby authorized and directed to enter into an agreement with the Loudonville Swim Team for the utilization of the Loudonville Swimming Pool for the 2020 Swim Team competition season, pursuant to terms and conditions contained in the attached Exhibit "A" incorporated herein by reference.

SECTION 2: That the prior Pool Use Agreement approved by the Council in Ordinance 44-2019 is hereby revoked and void.

Dated: _____

Stephen Stricklen, Mayor

Attest:

Elaine Van Horn, Fiscal Officer

Approved:

Thomas R. Gilman, Village Solicitor

VILLAGE OF LOUDONVILLE
SWIMMING POOL USE AGREEMENT

The Village of Loudonville, Ohio, an Ohio municipal corporation (hereinafter known as the "Village") agrees to allow The Loudonville Swim Team (hereinafter known as "Swim Team"), to privately use the Loudonville Swimming Pool pursuant to the terms and conditions set forth in this Swimming Pool Use Agreement ("Agreement").

Term of Agreement and Use Schedule

The Swim Team shall provide the Village with a schedule of practices and meets on or before April 1 of the year for which this Agreement will be executed and said schedule shall be attached to this Agreement and shall be incorporated herein to determine the dates and times of use of the Loudonville Swimming Pool. Said schedule is subject to the approval of the Village. The schedule may only be changed by Village approval. This Agreement shall commence on the date of the first Swim Team event on the schedule and shall terminate one (1) day after the last event on the schedule.

Rules of Use

All swimmer members of the Swim Team shall be required to have a current Loudonville Swimming Pool pass at all times that the swimmer is present at the Swimming Pool for Swim Team events.

The Swim Team shall have at least one (1) lifeguard on duty for every fifty (50) swimmers who are in the swimming pool and shall stop events and reduce the number of swimmers in the event it is unable to comply with this requirement. Said lifeguards shall be provided at the Swim Team's sole expense.

The Swim Team, its agents, volunteers, swimmers, guests, and third parties present for its events, shall follow all regular rules of the Loudonville Swimming Pool at all times. The Swim Team shall enforce and police all pool rules.

Limitations on the number of persons in the Loudonville Swimming Pool complex shall be at the sole discretion of the Village and must be followed and enforced by the Swim Team at all times.

The Swim Team shall not charge any admission fee for persons attending Swim Team functions. The Village may charge an admission fee for Swim Team functions, in its sole discretion.

Swim Team personnel shall inspect all Swimming Pool facilities (except the Swimming Pool Manager's office and mechanical room) at least once every two (2) hours during Swim Team functions.

Swim Team shall not sell concession foods and drinks, or allow the sale of food and drinks by third parties, at Swim Team events, except with the prior authorization of the Village, in its sole discretion.

The Village will have the right to have one or more employees present at the Swimming Pool during any event. In the event that employee has a concern about the Swim Team's adherence to pool rules, compliance with this Agreement, the safety of any persons, or any other concern raised by the

employee, the employee (or another Village employee) shall have the authority to stop the activity causing concern and/or stop the event during which the activity exists. In the event that the Swim Team disagrees with the employee's decision, the Village will provide an on-call Village official to serve as mediator to be contacted by the Swim Team (or the employee) and to determine the appropriate next steps. That official's decision shall be final.

In the event of delay for thunder, lightning, or public safety warning siren, the pool shall be cleared for no less than thirty (30) minutes from the last sighting/hearing.

The Swim Team will provide the Village with a written report of any injuries to persons occurring at the Swimming Pool during any Swim Team event or practice and any damage caused to the Swimming Pool complex, within twenty-four (24) hours after the Swim Team becomes aware of the same.

The Village retains the right to bar any persons from the Swimming Pool complex at any time.

The Swim Team shall reasonably protect any Village property or facility used and, upon conclusion of each use, must provide for all necessary cleanup and restoration of the Swimming Pool to its condition prior to the event, so that the Swimming Pool is suitable for normal use. If the Swim Team fails to do so within a reasonable time, the Village may take the necessary actions and invoice the Swim Team for reimbursement.

Indemnification

The Swim Team agrees to hold the Village and its respective officers, agents, volunteers and employees (collectively, the "Village Parties") harmless and to defend and indemnify them from and against any and all claims, damages or liabilities, including attorneys' fees, that may arise indirectly or directly from Swim Team's breach of any term or condition of this Agreement or any acts or omissions in connection with Swim Team's use of the Loudonville Swimming Pool, whether caused by the Swim Team's action or negligence or the action or negligence of the Swim Team's employees, agents, contractors, or invitees, in connection with this Agreement.

The Swim Team, its officers, employees, volunteers, agents, invitees and contractors expressly waive all rights, claims and demands, and forever releases, discharges and holds harmless the Village Parties from any and all demands, claims, actions and causes of action arising from any cause whatsoever and arising directly or indirectly out of Swim Team's use of the Loudonville Swimming Pool, whether caused by the Swim Team's action or negligence or the action or negligence of the Swim Team's employees, agents, contractors or invitees or any third parties in connection with this Agreement. The Village reserves the right, in its sole discretion, to require Swim Team's officers, employees, volunteers, agents, participants, contractors, vendors, invitees or other third parties participating, assisting or using the Village facilities or services in connection with this Agreement to execute a separate written waiver and release in a form to be provided by Village.

Insurance

The Swim Team, at its sole expense, shall have a general liability insurance policy insuring against any and all liability that may occur during or related to its use of the Loudonville Swimming Pool in the amount of \$1,000,000.00 per person and \$2,000,000.00 per occurrence. The Village shall be named additional insured on the policy, and the Swim Team shall deliver, at such times as the

Village may reasonably request, certificates of insurance evidencing that the insurance required hereunder is in full force and effect. Such insurance shall provide that it shall not be modified or canceled without fifteen (15) days prior written notice to the Village.

Legal Compliance

The Swim Team agrees to comply with all laws of the United States and of the State of Ohio, the rules, regulations, ordinances, and policies of the Village, and any other applicable legal requirements (collectively "the Laws"). Failure to comply with any one or more of the Laws may, at the discretion of the Village, result in the termination of this Agreement by Village.

Assignment

The Swim Team shall not assign or sublease all or any part of its obligations under this Agreement or its permission to use any portion of the Loudonville Swimming Pool facilities.

Miscellaneous

This Agreement shall be governed by the laws of the State of Ohio.

No act of the parties hereto shall be construed as creating or establishing a partnership, or joint venture, of any type between Village and Swim Team and neither party shall be authorized to commit or to obligate the other party without such other parties' prior written consent.

Swim Team accepts the use of the Loudonville Swimming Pool on an "as is" basis and Village makes no representations or warranties about its condition or fitness or use for a particular purpose.

If Swim Team fails to observe any term of this Agreement, Village shall have the right, at its option, to terminate this Agreement immediately upon notice to Swim Team.

If the Village is unable to give Swim Team possession of the Swimming Pool on the specified date by reason of a force majeure event, the Village shall not be subject to liability for failure to give possession. A force majeure event shall include fire, earthquake, hurricane, flood, acts of God, inoperable pool equipment, insufficient number of available employees, strikes, work stoppages or other labor disturbances, riots or civil commotions, litigation, or any other cause, like or unlike any cause above mentioned which is beyond the control or authority of the Village. If the force majeure event continues for more than five (5) days, the Village may terminate this Agreement.

Swim Team:

Village:

By: _____

By: _____

Title:

Title:

Date: _____