

THE CORPORATION OF THE TOWNSHIP OF ORO-MEDONTE

BY-LAW NO. 2011-050

**A By-law to Authorize the Execution of an Agreement Between
The Township of Oro-Medonte and
The Oro-Medonte Tennis Club**

WHEREAS the *Municipal Act, 2001, S.O. 2001, c.25*, Section 224, as amended, states that it is the role of Council to ensure that administrative practices and procedures are in place to implement the decisions of Council;

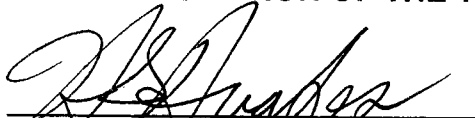
AND WHEREAS Council deems it expedient to enter into an agreement with the Oro-Medonte Tennis Club for utilization of the Horseshoe Valley Memorial Park Tennis Courts, as documented in Motion No. C110323-22;

NOW THEREFORE the Council of the Township of Oro-Medonte hereby enacts as follows:


1. That the Mayor and Clerk be authorized to execute the Agreement attached hereto as Schedule "A" and forming part of this By-law.
2. That the agreement shall remain in force until December 31, 2015, unless terminated in accordance with the provisions contained therein.
3. This by-law shall take effect on the final passing thereof.

BY-LAW READ A FIRST, SECOND AND THIRD TIME, AND PASSED THIS 6TH DAY OF APRIL, 2011.

THE CORPORATION OF THE TOWNSHIP OF ORO-MEDONTE



Mayor, H.S. Hughes



Clerk, J. Douglas Irwin

Schedule "A" to By-law No. 2011-050

This Agreement made this 6 day of April, 2011

B E T W E E N:

The Township of Oro-Medonte

(hereinafter called "the Township")

- and -

The Oro-Medonte Tennis Club

(hereinafter called "The Club")

WHEREAS The Club has the intention of utilizing the Horseshoe Valley Memorial Park Tennis Courts, hereinafter referred to as "The Courts";

AND WHEREAS all parties wish to clarify the conditions affecting use of the courts;

NOW THEREFORE the parties hereto covenant and agree each with the other as follows:

1. **Term of Agreement**

This Agreement shall be in force and effect from the time of court opening to court closing approximately April 15 to October 31st, for a 5 year term commencing in 2011 and subject to annual review.

2. **Use of Facility**

(a) In accordance with this Agreement the Club is hereby entitled to use The Courts for their scheduled programming, events and league play.

(b) The Court facilities, which The Club shall be entitled to use for the duration of this Agreement, shall include the following:

- (i) The Tennis Courts
- (ii) Storage Shed

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3. General Conditions of the Tennis Court Agreement

- (a) The Recreation and Community Services Department may cancel this Agreement upon notice at any time if The Club does not meet the obligations set out therein including timely payment.
- (b) The Club must comply with all Federal and Provincial laws and Township By-laws, and with all Township policy and procedures.
- (c) The Club is prohibited from selling or distributing articles in any facility without prior written consent from the Director of Recreation and Community Services. Exception: 1 Used equipment and Swap weekend
Date: TBA
- (d) The Club agrees to follow all posted rules and regulations of the courts. All activities must be conducted in a professional manner.
- (e) The Club will be permitted to use the storage shed for storage of club equipment. The use of this of the storage shed will at the risk of the club. The Township will not be held liable for loss from damage, theft, or other.
- (f) The Township will not provide maintenance such as rolling or squeegee of the courts or any additional equipment requested by the club. This will be a responsibility of the club.
- (g) Club Times – Club times shall be established as follows and advertised as Club times for 2011:

Mondays	8am- 12pm	(2 courts)
	5pm- 9pm	(2 courts)
Wednesday	8am- 12pm	(2 courts)
	5pm- 9pm	(2 courts)
Fridays	8am- 12pm	(2 courts)
	5pm- 9pm	(2 courts)
Saturday	8:00am- 11:00am	(2 courts)
	3:00pm- 6:00pm	(2 courts)
Sunday	8:00am- 12:00pm	(2 courts)
	5:00pm- 9:00pm	(2 courts)

All other times will be public time. Vacant courts during club times shall be open to the public

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- (h) The Club may request additional times for special events. The requests must be made in writing providing a minimum of 14 days' notice to the Director of Recreation and Community Services. The approval of the times shall be at the discretion of the Director, Recreation and Community Services.
- (i) The Township reserves the right to alter club times to accommodate Township programs or events by providing a minimum of 7 days' notice to the Club.
- (k) The club shall endeavor to provide membership priority to residents of the Township
- (j) The Club shall agree to fulfill all of its obligations in compliance with the Occupational Health and Safety Act, and further agrees to take responsibility for any health and safety violation that may occur. Furthermore, if the Township (or any of its agents, officers, directors, or employees) shall be made a party to any charge under the Occupational Health and Safety Act in relation to any violation of the said Act arising out of this agreement, the Club shall indemnify and save harmless the Township from any and all charges, fines, penalties, and costs that may be incurred or paid by the Township.

4. **Payment**

- (a) The Club hereby agrees to contribute an annual payment to the Municipality. The payment will be kept in a facility replacement reserve fund for the tennis courts maintenance or upgrade needs as determined by the township.
- (b) Payment will be as follows:
 - a. 2011 \$1500
 - b. 2012 \$2500
 - c. 2013 \$2500
 - d. 2014 \$2500
 - e. 2015 \$2500

Payment shall be made in installments commencing one month following the season opening of the courts – 50% by June 1 and 50% by September 1

5. **Keys**

- (a) The Township shall supply 6 keys to the Club's storage shed.
- (b) Keys cannot be consigned to others unless The Club has obtained the prior written approval of the Township.

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6. Court Locks

- (a) The Courts will have a code locking system in place. The codes will be changed regularly. Upon changing the codes, the Township will notify the primary contacts for the club who will be responsible to notify its membership.

7. Adherence to Legislation, By-laws and Policy

- (a) The Club agrees to assure that its use of the courts, including the storage shed, shall conform to all relevant Township by-laws and policy, Provincial/Federal legislation and the regulations of the Liquor License Control Board of Ontario.

8. Requirements Regarding Serving Alcohol:

- (a) Compliance is required with the Township Municipal Alcohol Policy. The Club will be held solely liable for injuries and/or damages arising from failure to adhere to Township policy and regulatory requirements.

9. Record Keeping

The Club agrees to maintain an accurate count of participation numbers. The Club agrees to maintain all necessary records for the duration of this Agreement and to provide information relative to attendance and usage of courts to the Township upon request.

10. Removal of Offending Patrons

Township employees shall have the right to refuse admission to any person or persons to the courts, or may require that any person leave or be removed from the courts.

11. Damage to the Premises

The Club agrees to assume responsibility for all costs relating to repairs to The Courts and contents resulting from misuse of the facilities by The Club or its guests.

12. Use of Township Symbol or Logo

The use of The Township symbol or logo is not permitted and is strictly prohibited without written consent as per Township Policy POL-ADM-19.

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13. Accessibility Regulation

Contracted Employees, third party employees, agents and others that provide customer service are legally responsible with the provisions outlined in Ontario Regulation 429/07 with respect to training. The Club shall ensure that such training includes, without limitation, a review of the purposes of the Act and requirements of the regulation, as well as instruction regarding all matters set out in the regulation. By signing this agreement, the Club has agreed to be in full compliance with this regulation.

14. Insurance

Prior to execution of this Agreement by the Township, the Club shall provide proof of liability insurance covering liability in a minimum amount of Two Million Dollars (\$2,000,000.00). The said insurance must be with an insurer satisfactory to the Township, and the policy shall show loss payable to the Corporation of the Township of Oro-Medonte and Club jointly.

15. Guarantee

- (a) The Oro-Medonte Tennis Club, of the Township of Oro-Medonte, County of Simcoe, hereby guarantees all and punctual payment of monies which are, or may become due and owing to the Township by The Club in accordance with the terms of this Agreement.
- (b) If The Club:
 - (i) shall fail to pay any of its installments for on-going usage or other sums payable under this Agreement when due, and allow such default to continue for fifteen (15) days following the giving by the Township to The Club of written notice of such default; or
 - (ii) if The Club shall fail to perform any of the other covenants or conditions in this Agreement or if The Club fails to observe or perform any of the above, and allows any such default to continue for fifteen (15) days following the giving by the Township to The Club written notice of such default; then, the Term of this Agreement may, at the option of the Township and without notice to The Club, be terminated and the entitlements vested in The Club and any and all other rights of The Club hereunder shall thereupon immediately cease and expire as fully and with like effect as if the entire term of the Agreement had elapsed.

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- (c) If The Club shall default in the performance of any covenant (other than any covenant to pay set fees) on its part to be performed under this Agreement, and if such default shall continue for fifteen (15) days following the giving by the Township to The Club written notice of such default, the Township may enter upon the assigned rental premises and shall not be liable to The Club for any loss or damage to The Club's merchandise or business caused by acts of the Township, acting reasonably in so remedying the default or neglect of The Club.
- (d) If the Township at any time is compelled or elects to pay any sum of money or do any act which would require payment of any sum of money by reason of the failure of The Club to comply with any provisions of this Agreement or if the Township is compelled or elects to incur any expense, including legal fees, by reason of any default of The Club under this Agreement, the sum or sums, including legal fees on a solicitor and client basis, so paid by the Township with all interest, costs and damages shall be deemed to be Additional Rent hereunder and shall be paid by The Club to the Township forthwith upon demand and upon presentation of proof of payment.
- (e) If the Township shall re-enter or if the Agreement shall be terminated as set out above, then payment shall immediately become due from The Club and be paid up to the time of such re-entry or termination, together with reasonable expenses of the Township.

16. Termination Upon Notice Without Cause

The Township shall have the right to alter/terminate this Agreement, in whole or in part, at its sole discretion without liability upon:

- (a) completion the Term of the said agreement or;
- (b) upon annual review or;
- (c) by providing 30 days written notice to the club

17. Termination Upon Notice With Cause

The Township may terminate this Agreement forthwith, without liability, and without limiting any of its other rights or remedies, upon written notice to The Club if:

- (a) The Club is in breach of, or attempts to breach, any of its obligations under this Agreement;

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- (b) The Club is unable to pay its debts when due, subject to 15 (b) (i), or is insolvent, is ordered or adjudged to be bankrupt, is placed in the hands of a receiver, enters into any scheme or composition with her creditors, is dissolved, liquidated or wound up, or makes any assignment for the benefit of their creditors; or
- (c) Either party is unable to carry out their obligations under this Agreement by reason of a Force Majeure, meaning any *bona fide* delay or state of affairs beyond the control of a party (other than as a result of financial incapacity) which shall cause any party to be unable to fulfill or to be delayed or restricted in the fulfillment of an obligation.

18. Assignment

The Club may not assign this Agreement or any of its rights hereunder or assign or delegate any of its obligations hereunder without the prior written permission of the Township. Any such assignment shall be null and void. This Agreement and The Club's rights and obligations hereunder may be assigned by the Township. This Agreement shall bind and inure to the benefit of the parties hereto and their respective and permitted successors and assigns.

19. Entire Agreement

This Agreement contains the entire agreement between The Club and the Township and supersedes any prior agreement, obligation, statement, representation, understanding, warranty or communication, whether oral or written. No waiver or modification of any provision of this Agreement shall be binding unless it is in writing and signed by each of the parties.

20. Indemnification

The Township shall be under no liability whatsoever to any person, firm or Corporation for any damages or injury, including death, to any person or persons caused by or resulting from the use of the Courts by the Club, his servants or agents, and Licensee shall, from time to time, and at all times hereafter, protect, indemnify and forever save and keep harmless the Township, and / or its officers, agents and servants, against any damage, penalty, fire claim, judgment, costs, expense or charge suffered, imposed, assessed or incurred for any violation or breach of any law occasioned by any act, neglect or omission of the Licensee or his servants or agents.

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21. Notice

Any notice required or permitted to be given hereunder shall be given in writing and shall be deemed to have been received (i) upon personal delivery, or (ii) five days after being deposited in the Canadian mail system, whether by registered or certified mail, express mail, or postage prepaid, where addressed to either party at the addresses set forth herein. Either party may change its address for the purpose of notice by giving written notice to the other party of such change.

Notice under this Agreement shall be provided to:

TO: OMTC
Attn: Jan Novak
8 Fairway Court, RR1
Shanty Bay, ON L0L 2L0

Telephone Number: (705) 790 4790 and / or 835 5985

AND TO: The Corporation of the Township of Oro-Medonte
148 Line 7 South, Box 100
Oro, Ontario L0L 2X0

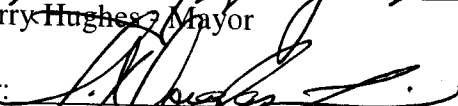
Attention: Director, Recreation and Community Services
Telephone Number: (705) 487-2171 Extension 7237
Fax Number: (705) 487-0133

SIGNED, SEALED and DELIVERED by the parties hereto:

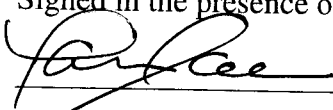
Signed in the presence of: **The Corporation of the Township of Oro-Medonte**



Per: 
Harry Hughes, Mayor

Per: 
Doug Irwin, Clerk

Signed in the presence of:



The Oro-Medonte Tennis Club

Per: 

Per: 

We have the authority to bind The Oro-Medonte Tennis Club