

ORDINANCE NO. 23 – 27

AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE THE SERVICE-SAFETY DIRECTOR TO EXECUTE AN AGREEMENT BETWEEN JOHNNY APPLESEED BASEBALL CLUB AND THE CITY OF ONTARIO FOR THE IMPROVEMENT OF AND USE OF A BASEBALL/SOFTBALL FIELD AT MARSHALL PARK, AND DECLARING AN EMERGENCY.

WHEREAS, The City owns Marshall Park and Johnny Appleseed Baseball Club (“JABC”) wants to pay for improvements to the baseball/softball field near Rock Rd. in Marshall Park so that JABC has priority on its use for practices and tournaments;

WHEREAS, The City is always looking to have its park facilities upgraded and welcoming of JABC wanting to upgrade and improve Marshall Park and allow JABC to have priority use on the field for practices and tournaments; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ONTARIO, STATE OF OHIO:

SECTION 1. THAT the Mayor, or his designee the Service-Safety Director, is authorized to sign the Baseball and Softball Field Agreement attached hereto as Exhibit “A” and incorporated herein by reference in substantially the same form as the one attached hereto as Exhibit “A”, with such changes thereto that are not adverse to the City or inconsistent with this Ordinance.

SECTION 2. THAT it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including R.C. §121.22.

SECTION 3. THAT it is hereby determined that this Ordinance is an emergency ordinance necessary for the preservation of the public peace, health, safety and welfare of the residents of this City, for the additional reason so that JABC can make preparations to improve the field immediately and shall therefore go into immediate effect provided it receives a two-thirds (2/3) vote of all members elected to Council; otherwise, it shall go into effect in thirty (30) days if passed by a majority vote of Council.

DATE: \_\_\_\_\_

Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Abstain \_\_\_\_\_

\_\_\_\_\_  
Edward J. Gallo, President of Council

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Andrew J. Medwid, Law Director

\_\_\_\_\_  
Cathy VanAuker, Clerk of Council

APPROVED:

\_\_\_\_\_  
Randy E. Hutchinson, Mayor

\_\_\_\_\_  
Date

DISAPPROVED:  
Objections: \_\_\_\_\_

\_\_\_\_\_  
Randy E. Hutchinson, Mayor

\_\_\_\_\_  
Date

**JOHNNY APPLESEED BASEBALL CLUB  
BASEBALL AND SOFTBALL FIELD AGREEMENT**

This AGREEMENT made and entered into at Ontario, Ohio this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between the CITY OF ONTARIO, OHIO, a municipal corporation, hereinafter referred to as the “City” and JOHNNY APPLESEED BASEBALL CLUB, hereinafter referred to as “JABC”, an Ohio not-for-profit Corporation.

WITNESSTH:

**WHEREAS**, JABC prefers a set location to hold sanctioned baseball tournaments and practices;

**WHEREAS**, JABC wants to improve the baseball field to the west of Rock Road by the tennis courts at Marshall Park (“**Property**”) to hold its tournaments and practices and the City wants to have Property improved, which improvements are attached hereto as Exhibit A and incorporated herein by reference.

NOW, THEREFORE, BE IT AGREED between the parties as follows:

SECTION 1. That JABC is hereby granted exclusive use for its sanctioned games and practices on Property. The Property is to be used for youth games and practices, and the storage of related equipment for such purposes in a careful, safe and prudent manner. JABC shall not cause to be permitted or permit excessive wear and tear on the Property, reasonable wear and tear is permitted and to be expected. JABC further agrees that the Property shall not be used for any unlawful purpose, nor permit anyone to do so.

SECTION 2. This Agreement shall commence on the last date signed by the last party to sign and shall run until December 31, 2033 (“**Initial Term**”). It shall thereafter automatically renew on an annual basis (“**Renewal Term**”). Either Party can terminate this Agreement in writing 90 days prior to the end of the Initial Term or a Renewal Term. JABC shall have rights to first use March 1<sup>st</sup> to October 31<sup>st</sup> annually, however, JABC shall not have first use of the Property during any City designated holiday as the City shall have the first use priority during holidays. However, the parties shall agree to these dates prior to the Initial Term or any Renewal Term.

SECTION 3. It is understood, however, that City community members may use the Property for personal use if the Property is not then being used by JABC or OYS. Should a member of the community or an outside group wish to schedule an event, that event shall be scheduled through JABC and OYS. An event will be defined as a practice, game, social gathering or any purpose that would require the field to be reserved for a group.

Section 4. JABC, or its league affiliates, shall schedule all games and practices for the JABC recreational or sanctioned traveling teams.

Section 5. While this Agreement is in effect, JABC shall not sublet the use of these fields to another group, league or organization without the specific approval of the City Parks Committee.

Section 6. The City and JABC shall monitor the playing conditions of these fields and either party may close the fields due to inclement weather or poor field conditions. All games and practices shall only be conducted on marked fields or designated areas.

Section 7. The City shall be responsible for the following:

- All maintenance of the grass areas including fertilizing, weed control and mowing;
- Cleaning all restrooms, supplying restroom supplies, and hauling away all refuse on a consistent and as needed basis for all JABC or OYS League games and practices;
- Electric, sewer and water utility charges;

JABC shall be responsible for the following:

- Game day lining of the fields;
- Assist in litter cleanup after all JABC Games and Practices

Section 8. Nothing herein shall deem JABC to be a committee or under City control. Likewise, none of the City's involvement with this Agreement or JABC shall be deemed to be a City sponsorship of JABC or any of its activities. The organizations are separate from each other and the parties' relationship is strictly contractual. JABC also agrees to hold harmless and indemnify the City, its officials, agents and employees from any and all claims made for personal or bodily injury, death or property loss or damage that may arise out of the use of the above-named park facilities. A liability policy in the amount of \$1,000,000 shall be submitted to the City by February 1<sup>st</sup> each year of the agreement, with the City named as an additional insured.

Section 9. JABC is aware of and agrees to abide by the Park Rules and Regulations contained in section 955.01 of the Codified Ordinances of the City of Ontario, Ohio and all other applicable laws of the City related to the use of City parks.

Section 10. That no major improvements or modifications may be made to the facilities listed in Section 1 or to any other park area or facilities without prior consent of the City Parks Committee. Prior to JABC starting a construction project, JABC must have City approval if City assistance is necessary, or a cost sharing agreement between the parties on such improvements has been approved by City Council.

Section 11. Neither party may assign this Agreement or the rights under it without the written consent of the other parties.

Section 12. JABC agrees to coordinate with Ontario Youth Sports (OYS) on all games, practices and tournaments held at the facility listed in Section 1 solely because OYS currently serves as the Recreation Department for the City and handles all scheduling in Marshall Park. If for some reason parties can not agree the City Parks Committee will decide use.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized officials.

In the Presence of:

**CITY OF ONTARIO**

\_\_\_\_\_

\_\_\_\_\_  
Randy E. Hutchinson, Mayor

\_\_\_\_\_

\_\_\_\_\_  
Kris Knapp, Service Safety Director

\_\_\_\_\_

\_\_\_\_\_  
Troy Sapp, Chairman, Parks Committee

In the presence of:

**JOHNNY APPLESEED BASEBALL CLUB**

\_\_\_\_\_

\_\_\_\_\_  
President, Johnny Appleseed Baseball Club

\_\_\_\_\_

\_\_\_\_\_  
Secretary, Johnny Appleseed Baseball Club

**APPROVED AS TO FORM:**

\_\_\_\_\_

Andrew Medwid, Law Director

**EXHIBIT A**

IMPROVEMENTS

- Replace backstop fencing with backstop netting 32' high x 100' linear.
- Replace outfield fencing
- Install concrete pad and pre-engineered dugout structures with benches
  - Dirt/sand mix to improve playing surface
  - Mounds, bases, miscellaneous for game play
  - Miscellaneous labor