



TO: Mayor and Members of Troy City Council
FROM: John Szerlag, City Manager
Lori Grigg Bluhm, City Attorney
John Lamerato, Assistant City Manager/ Finance & Administration
Brian Murphy, Assistant City Manager/ Services
Carol Anderson, Parks and Recreation Director
Carolyn F. Glosby, Assistant City Attorney
DATE: February 23, 2005
SUBJECT: Revisions Concerning Sanctuary Lake Municipal Golf Course

Pursuant to the Agreement- Food Service at Sanctuary Lake Golf Course, Emerald Services I, L.L.C., our sub-contractor, is required to apply for a liquor license with the Michigan Liquor Control Commission. The proposed Addendum to the Agreement (Food Service at Sanctuary Lake Golf Course) clarifies the expectations and limitations that will accompany this anticipated liquor license. Most notably, it delegates all responsibility for the liquor license to Emerald Services, and requires compliance with all liquor laws and regulations.

In connection with the Addendum to the Agreement, we have also prepared proposed amendments to Chapter 30, which extend the regulations at the Sylvan Glen Municipal Golf Course to the Sanctuary Lake Golf Course.

It is our recommendation that City Council approve both the Addendum to the Agreement- Food Service and Sanctuary Lake Golf Course, and also the proposed amendments to Chapter 30.

As always, if you have any questions concerning the above, please let us know.

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 30 OF THE CODE
OF THE CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 30, of the Code of the City of Troy.

Section 2. Amendment

Chapter 30, of the Troy City Code, shall be amended as follows:

CHAPTER 30

~~TROY~~ MUNICIPAL GOLF COURSE(S) ~~(SYLVAN GLEN)~~

- ~~1.~~ 1. ~~—The operation of Municipal Golf Courses is It is~~ hereby determined to be desirable and necessary for the public health, safety and welfare of the City of Troy.
- ~~2.~~ 2. ~~There are two such Municipal Golf Courses in the City of Troy- Sylvan Glen Municipal Golf Course ("Sylvan Glen"), operated by the City of Troy; and the~~ that the Troy Municipal Golf Course (Sylvan Glen) the Troy Sanctuary Lake Municipal Golf Course ("Sanctuary Lake"), which is ~~be~~ operated by the said ~~the said~~ City of Troy as lessee and agent of the Municipal Building Authority of Troy, ~~on a public utility rate basis~~ in accordance with the provisions of the Building Authority Act, 1948 Act 94, Public Acts of Michigan 31), (MCL 123.951 et. seq.), 1933, ~~1933,~~ as amended.
- ~~23.~~ 23. Whenever the words "Golf Course" are referred to in this Chapter, they shall be understood to mean either the complete Troy Sylvan Glen Municipal Golf Course ("Sylvan Glen") or Sanctuary Lake, or both, including all appurtenances thereto and including all extensions and improvements thereto, or which may hereafter be acquired, as ~~same~~ Sanctuary Lake is leased by the City of Troy from the Municipal Building Authority of Troy pursuant to a certain Contract of Lease dated June 23, 1970- July 31, 2001 (~~sometimes~~ hereinafter referred to as the "Lease").
- Whenever the words "revenues" and net revenues" are used in this Chapter, they shall be understood to have the meanings as defined in the Revenue Bond Act, Section 3, Act 94, Public Acts of Michigan, 1933, (MCL 141.103), as amended.
- ~~34.~~ 34. The operation, maintenance, alteration, repair and management of the Golf Course shall be under the supervision and control of the City Council, ~~subject to~~

~~the terms of the Lease.~~ The Council may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the Golf Course and may make such rules, orders and regulations as it deems advisable and necessary to assure the efficient management and operation of the Golf Course.

4. ~~Rates to be charged for service furnished by the Golf Course and the use thereof, shall be as the same may be from time to time established by resolution of the City Council; provided, however, for miscellaneous or special services for which a special rate shall be established, such rates shall be fixed by the City Council.~~

5. No free service shall be furnished by said Golf Course to any person, firm or corporation, public or private, or to any public agency or instrumentality.

6. Permitted uses of the Golf Course, and rates for services furnished by the Golf Course may, from time to time, be established by resolution. The rates shall be fixed, and revised from time to time as may be necessary. The rates to be charged for services furnished by the Golf Course established shall be in an amount which is estimated to be sufficient to provide for the following: ~~for a.)~~ the payment of the expenses of administration and operation; ~~b.)~~ maintenance such expenses for maintenance of the said Golf Course which as are necessary to preserve ~~it in the same in~~ good repair and working order; ~~c.)~~ to provide for the timely payment of the owing contractual obligations of the City to the Municipal Building Authority of Troy, pursuant to the aforesaid Lease between said Authority and the City of Troy; ~~as the same become due, and to provide for d.)~~ such other expenditures and funds for ~~said the~~ Golf Course as this Chapter may require. ~~Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts.~~

7. The fiscal year for the Golf Course commences on July 1. ~~shall be operated on the basis of an operating year commencing on July 1 and ending on the last day of June next following.~~

8. The revenues of the Golf Course shall be accounted for in separate enterprise funds at the City of Troy. ~~set aside, as collected, and deposited in a separate depository account.~~

9. ~~The Golf Course is not a public park, and is~~ The Golf Course is not subject to the rules and regulations governing alcoholic beverages in public parks, as set forth in Chapter 26 of this Code.

10. 10.—The City's sub-contractor has the ability to sell up to two beers per golfer, which the golfer can then take onto the Golf Course for consumption, as long as the following conditions are satisfied:

a. The sub-contractor has the exclusive right to sell food and beverages on the Golf Course, pursuant to a lease or other agreement with the City, and the sub-contractor is in compliance with the terms of the lease or other agreement.

b. The sub-contractor has received a license to sell the alcohol from the Michigan Liquor Control Commission, and is compliant with the

Administrative Rules and Regulations, and federal, state, and local laws concerning the sale of alcohol.

c. No sales of alcohol can be sold on the Golf Course proper.

~~11. Alcoholic beverages may be sold by the Golf Course restaurant lessees, shall be restricted to two beers per golfer, sold only to golfers for consumption on the Golf Course, and shall be sold from the Clubhouse only with no sales being allowed on the golf course proper, under provisions established by City Council the Recreation Department and incorporated in the Lease, and provided the restaurant lessees has have secured the necessary licenses for such sales from the Michigan Liquor Control Commission.~~

Section 3. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 5. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, ____.

Louise E. Schilling, Mayor

Tonni Bartholomew. City Clerk

CHAPTER 30

MUNICIPAL GOLF COURSE(S)

- 1 The operation of Municipal Golf Courses is hereby determined to be desirable and necessary for the public health, safety and welfare of the City of Troy.
2. There are two such Municipal Golf Courses in the City of Troy- Sylvan Glen Municipal Golf Course ("Sylvan Glen"), operated by the City of Troy; and the Troy Sanctuary Lake Municipal Golf Course ("Sanctuary Lake"), which is operated by the City of Troy as lessee and agent of the Municipal Building Authority of Troy, in accordance with the provisions of the Building Authority Act, 1948 Public Acts of Michigan 31), (MCL 123.951 et. seq.),, as amended.
3. Whenever the words "Golf Course" are referred to in this Chapter, they shall be understood to mean either Sylvan Glen or Sanctuary Lake, or both, including all appurtenances thereto and including all extensions and improvements thereto, or which may hereafter be acquired, as Sanctuary Lake is leased by the City of Troy from the Municipal Building Authority of Troy pursuant to a certain Contract of Lease dated July 31, 2001 (hereinafter referred to as the "Lease").

Whenever the words "revenues" and net revenues" are used in this Chapter, they shall be understood to have the meanings as defined in the Revenue Bond Act, Section 3, Act 94, Public Acts of Michigan, 1933, (MCL 141.103), as amended.

4. The operation, maintenance, alteration, repair and management of the Golf Course shall be under the supervision and control of the City Council, The Council may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the Golf Course and may make such rules, orders and regulations as it deems advisable and necessary to assure the efficient management and operation of the Golf Course.
5. No free service shall be furnished by said Golf Course to any person, firm or corporation, public or private, or to any public agency or instrumentality.
6. Permitted uses of the Golf Course, and rates for services furnished by the Golf Course may, from time to time, be established by resolution. The rates shall be fixed, and revised from time to time as may be necessary. The rates to be charged for services furnished by the Golf Course shall be in an amount which is estimated to be sufficient to provide for the following:
 - a) payment of the expenses of administration and operation;
 - b) maintenance expenses for the Golf Course which are necessary to preserve it in good repair and working order;
 - c) timely payment of the owing contractual obligations of the City to the Municipal Building Authority of Troy, pursuant to the aforesaid Lease between said Authority and the City of Troy;
 - d) such other expenditures and funds for the Golf Course as this Chapter may require.

7. The fiscal year for the Golf Course commences on July 1.
8. The revenues of the Golf Course shall be accounted for in separate enterprise funds at the City of Troy.
9. The Golf Course is not subject to the rules and regulations governing alcoholic beverages in public parks, as set forth in Chapter 26 of this Code.
10. The City's sub-contractor has the ability to sell up to two beers per golfer, which the golfer can then take onto the Golf Course for consumption, as long as the following conditions are satisfied:
 - a. The sub-contractor has the exclusive right to sell food and beverages on the Golf Course, pursuant to a lease or other agreement with the City, and the sub-contractor is in compliance with the terms of the lease or other agreement.
 - b. The sub-contractor has received a license to sell the alcohol from the Michigan Liquor Control Commission, and is compliant with the Administrative Rules and Regulations, and federal, state, and local laws concerning the sale of alcohol.
 - c. No sales of alcohol can be sold on the Golf Course proper.

ADDENDUM TO THE AGREEMENT
FOOD SERVICE AT SANCTUARY LAKE GOLF COURSE

This Addendum is entered into between the City of Troy, (“City”) and Emerald Services I, L.L.C. (“Operator”), on this _____ day of _____, 2005. This Addendum is incorporated by reference into the Agreement- Food Service At Sanctuary Lake Golf Course, which was executed by the parties on August 30, 2004.

WHEREAS, under the State of Michigan’s liquor laws and regulations, applicants for a liquor license must demonstrate the ability to comply with and enforce the liquor laws and conditions of a liquor license from the State of Michigan; and

WHEREAS, in most cases, this requires a possessory interest over the property that is licensed by the Michigan Liquor Control Commission; and

WHEREAS, the City is not willing and/or able to relinquish its possessory interest over the Sanctuary Lake Golf Course, but has sub-contracted with Operator, who has the exclusive right to conduct the sale of food and beverages, including alcoholic beverages, at Sanctuary Lake Golf Course. This exclusive right to sell food and beverages applies to the Club House at Sanctuary Lake Golf Course, as well as the Outside Grill and Beverage Cart; and

WHEREAS, in order to facilitate Operator’s application for a liquor license, the parties need to set forth the rights, responsibilities, and liabilities of the Operator concerning the exclusive right to conduct the sale of food and beverages, including alcoholic beverages;

NOW THEREFORE, the parties agree as follows:

1. City grants Operator the limited use of the Sanctuary Lake Golf Course, which includes the Outside Grill and Beverage Cart, for the purpose of controlling and monitoring the consumption of alcohol on the premises.
2. Although Operator is not the owner of the Sanctuary Lake Golf Course, Operator agrees to apply for a liquor license with the State of Michigan, and agrees to be bound by all the terms and conditions required by the Michigan Liquor Control Commission. This includes, but is not limited to, compliance with the rules and regulations of the Michigan Liquor Control Commission, and all federal, state, or local laws concerning the sale of alcohol.
3. Operator agrees to assume the responsibilities of a liquor licensee at Sanctuary Lake Golf Course, and agrees to be responsible for all sanctions and/or penalties assessed for alleged violations of the Michigan Liquor Control Commission's Administrative Rules and Regulations and/or federal, state, or local laws concerning the sale of alcohol at Sanctuary Lake Golf Course. This includes the assumption of a licensee's responsibility for the actions of Operator's employees, agents, or representatives who sell alcohol.

4. Operator agrees that there shall be no sales of alcohol on the Sanctuary Lake golf course proper, but that Operator, if licensed to do so by the Michigan Liquor Control Commission, may sell up to two beers per golfer at the Club House or the Outside Grill, which the golfer can then take onto the golf course for consumption.
5. City agrees to provide Operator with a motorized golf cart, at no charge, for operation by Operator's employees on the Sanctuary Lake Golf Course, in order to facilitate monitoring of alcohol consumption. Operator agrees to coordinate its operation of the golf cart with the City's Director of Golf Operations, and understands and agrees that the City may provide back up security to monitor alcohol consumption on the Sanctuary Lake Golf Course.
6. Operator recognizes and agrees that operation and control of normal golf course activities lies exclusively with the City, except as otherwise provided in the agreement between the parties.
7. Operator agrees to indemnify and hold the City harmless from any and all claims arising out of the sale of alcoholic beverages.

WITNESSES:

CITY OF TROY

By: _____
Louise E. Schilling, Mayor

By: _____
Tonni Bartholomew, City Clerk

WITNESSES:

EMERALD FOOD SERVICE I, L.L.C.

By: _____

Its: _____