

DISTRICT OF LAKE COUNTRY

BYLAW 603

A BYLAW TO AUTHORIZE ENTERING INTO AN OPERATING AGREEMENT BETWEEN THE DISTRICT OF LAKE COUNTRY & THE WINFIELD CURLING CLUB

WHEREAS the District of Lake Country is the registered owner of Lot 39, Plan 457 except those parts included in Plans 8959, 23056 and 25522;

WHEREAS the District of Lake Country wishes to enter into an Operating Agreement with the Winfield Curling Club;

WHEREAS the District of Lake Country Winfield Curling Club Operating Agreement Bylaw 395, 2001 was adopted by the Council of the District of Lake Country;

AND WHEREAS the District of Lake Country deems it necessary to repeal the bylaws establishing prior leases with the Winfield Curling Club;

NOW THEREFORE the Council of the District of Lake Country, in open meeting assembled, enacts as follows:

1. The following bylaws are hereby repealed in their entirety:
 - a. "The Winfield Curling Club Lease Agreement Bylaw Number 95-010"
 - b. "The Winfield Curling Club Lease Agreement Bylaw Number 96-078"
 - c. "District of Lake Country - Winfield Curling Club Operating Agreement Bylaw 395, 2001"
2. The Mayor and the Clerk are hereby authorized to execute on behalf of the District of Lake Country, an Operating Agreement with the Winfield Curling Club.
3. The terms and conditions of the said Agreement are attached hereto as Schedule "A" and form part of this Bylaw.
4. This Bylaw may be cited as the "Winfield Curling Club Operating Agreement Bylaw 603, 2006".

READ A FIRST TIME this 17th day of October, 2006.

READ A SECOND TIME this 17th day of October, 2006.

READ A THIRD TIME this 17th day of October, 2006.

ADOPTED this 7th day of November 2006.

“original signed by James Baker”
Mayor

“original signed by Hazel Christy”
Clerk, Deputy

I hereby certify the foregoing to be a true and correct copy of the Bylaw cited as “Winfield Curling Club Operating Agreement Bylaw 603, 2006” adopted by the Municipal Council on this 7th day of November, 2006.

Dated at Lake Country, B.C.

Clerk

SCHEDULE 'A'
TO BYLAW 603 , 2006

THIS AGREEMENT MADE THIS 10th DAY OF MARCH, 2006.

BETWEEN:

DISTRICT OF LAKE COUNTRY,
a municipal corporation having its offices at
10150 Bottom Wood Lake Road, Lake Country,
Province of British Columbia, V4V 2M1
(hereinafter called "the District")

OF THE FIRST PART

AND:

WINFIELD CURLING CLUB,
a Society incorporated under the Societies Act
of the Province of British Columbia and whose
postal address is 9830 Bottom Wood Lake Road,
Winfield, British Columbia, V4V 1S7
(hereinafter called "the Club")

OF THE SECOND PART

WHEREAS the District is the registered owner in fee simple of that parcel of land known as:

Lot 39
Plan 457 except those parts included in
Plans 8959, 23056 and 25522
District Lot 118
Osoyoos Division Yale District

(hereinafter called "The Premises")

and there has been constructed thereon a Recreation Centre containing amongst other facilities a Curling Rink and Upstairs Lounge.

AND WHEREAS the Club is desirous of obtaining for its use the Curling Rink and Upstairs Lounge for the purpose of operating the same for the use and enjoyment of the Members of the Club.

NOW THIS AGREEMENT WITNESSETH that in consideration of the premises and the covenants hereinafter contained the parties hereto covenant and agree each with the other as follows:

1. Term

- a) The term of the agreement shall be from September 1, 2006 up to and including the 30th day of March, 2011, at which date the right to occupy shall cease, and may be terminated by either party in accordance with the notice provisions set out in Section 12. Renewal of the described agreement shall be received in writing by the District of Lake Country by the 1st day in February, 2011, at which time both parties may negotiate an agreement for a term of up to five years.
- b) Should the Club, at any time prior to the termination of the lease, cease to exist as a Curling Club, then and in that event, their right of occupancy herein granted shall be forthwith terminated.

2. Exclusive and Conditional Use

- a) During the "curling season" the Club shall have exclusive right of occupation of the Lounge and Curling Rink, including the equipment itemized on Appendix 2 attached hereto and conditional right of occupation during the "off season". The "curling season" runs from September 1st to March 31st while the "off season" runs from April 1st to August 31st but may be amended by mutual agreement of the parties hereto.
- b) The Club agrees that it will not assign, transfer, or set over, or otherwise by any act or deed procure the premises or the tenancy hereby granted to be assigned, transferred, or set over unto any person or persons whomsoever without permission of the District. Further the Club will not sublet the premises or any part thereof to any person or persons.

3. Public Use of Facility

The Club shall make the Lounge and/or Curling Rink facility available to the District as follows:

- a) During the curling season, and by scheduling with the Club, the District may use the facility, at costs in accordance with the 'Fee Schedule' approved by the District, for public purposes such as meetings of non-profit community clubs or public ceremonies and events, provided such activities do not interfere with activities of the Club.
- b) During the off season the District may use the facility, at costs in accordance with the 'Fee Schedule' approved by the District, for public purposes such as meetings of non-profit community clubs or public ceremonies and events.
- c) The Club will designate a representative to schedule bookings for the lounge and / or Curling Rink areas during the curling season and make contact information readily available to the District of Lake Country Parks and Recreation Department and the public by September 1st of each year. With respect to booking information, the Club will provide the District of Lake Country with a name or names to contact, phone numbers for day and evening contact and a fax or E-Mail contact. This information will be available to the public.
- d) During the off season the District will assume responsibility for any damage or breakage to the Club facilities and equipment, as a result of facility rentals, and will agree to pay the Club for such damage or breakage within thirty (30) days of notification thereof;
- e) During the off season the District will ensure that all persons using the facility do so in an orderly manner so as in no way to breach any law or to lessen the enjoyment of other persons using the facilities of the Recreation Centre; and
- f) During the off season, and subsequent to rental of the facility the District will ensure that the facilities are returned to a neat and tidy condition to the satisfaction of the Club.

4. Lease Fee

- a) The Club shall deliver annually to the District, at the beginning of each term, postdated cheques for each monthly installment of rent payable hereunder.
- b) For the exclusive use of the Curling Rink and Lounge, the Club agrees to pay the District the following sums of money, payable in seven monthly installments:
 - \$2,656.25/month plus GST - September 1, 2006 to March 31, 2007
 - \$2,789.06/month plus GST - September 1, 2007 to March 31, 2008
 - \$2,928.51/month plus GST - September 1, 2008 to March 31, 2009
 - \$3,074.94/month plus GST - September 1, 2009 to March 31, 2010
 - \$3,228.69/month plus GST - September 1, 2010 to March 31, 2011
- c) If curling club membership declines by ten percent (10%) or more the lease rates will be reviewed in December of the current year with a possible rate adjustment for the remainder of the playing season.

5. Capital Replacement Fee

- a) In addition to the Lease Fee described in Clause 4 above, the Club shall pay to the District, a capital replacement fee, to be placed into the District's 'Facilities Reserve' for use to be determined through the District of Lake Country's annual budget process, the following amounts:

The Estimated Fee is calculated on a membership of 200 members; a member being defined as any adult curling on a weekly basis, and excludes junior members. This Capital Replacement Fee shall be paid to the District of Lake Country by the 1st day of December in each lease year.

YEAR	CHARGER PER MEMBER	ESTIMATED FEE
2006	\$13.00/ member in 2006	\$2,600.00
2007	\$13.75/ member in 2007	\$2,750.00
2008	\$14.50/ member in 2008	\$2,900.00
2009	\$15.25/ member in 2009	\$3,050.00
2010	\$16.00/ member in 2010	\$3,200.00

Capital replacement fee is plus gst.

6. Membership List

- a) The Club shall file annually a copy of their Membership List with the District before the 1st day of December in each lease year.
- b) Recognizing that the Facility is used by residents located outside the District of Lake Country, the Club shall take all reasonable efforts to ensure residents of Lake Country are not denied membership in the Club.

7. Lounge

- a) Subject to the Liquor Control Act, the Club may open and operate the Lounge including the bar facilities for its members, curlers attending bonspiels, and other users of the recreation facility. The Club shall not promote the lounge as a commercial establishment but rather as a semi-private lounge for users of the recreation facility and may utilize a "sign in book" to control admittance to the lounge.
- b) The Club shall supply any janitorial services required in the operation of the Lounge and shall otherwise staff the bar and any other facility operated by the Club for the enjoyment of its members and guests and all janitorial and maintenance supplies and equipment shall be purchased or acquired by the Club at the Club's expense.
- c) The Club shall be responsible for obtaining any liquor licences required for their own operation of a liquor outlet in the Lounge.
- d) The Club shall not at any time allow alcoholic beverages to be taken from the Lounge premises.
- e) During the curling season all revenues generated by the Curling Club from lounge operations will remain with the Curling Club.

8. Compliance with Laws

- a) The Club shall comply with all laws of the Government of Canada and the Province of British Columbia, all By-laws of the District and all rules and requirements of the R.C.M.P. and Fire Departments or other authorities of the District and will obtain and pay for all necessary permits and licenses, and will not do or suffer to be done anything on the said premises during the term of the agreement in violation of any laws, by-laws, rules or requirements.
- b) The Club shall, while it has exclusive right of occupancy of the Lounge and Curling Rink, ensure that all persons using the facility do so in an orderly manner so as in no way to breach any law or to lessen the enjoyment of other persons using the facilities of the Recreation Centre.

- c) The Club shall be responsible for the security of the curling side of the complex at all times during the term set out herein, except as set out in Clause 3 above, at which times the District will assume responsibility for the security of the curling side of the complex.
- d) The Club agrees that it shall be lawful for the District and its agents, at all reasonable times, to enter the premises and to examine the condition thereof, and further, that the Club will ensure that any repairs requested by the District as a result of such viewing shall be made good accordingly.
- e) The Club shall not do anything that causes a lien to be filed against the premises under the "Builders Lien Act".

9. The Facility - Improvements & Maintenance

- a) All fixtures and improvements, including but not limited to, items listed in 'Appendix 2' attached, during the term of this agreement shall become the property of the District and shall be left in the Curling Rink and Lounge following termination of the Club's right of occupancy.
- b) The Club, at its cost, shall be responsible for making, maintaining and removing the curling ice and the clean-up following removal.
- c) The Club, at its cost, shall employ all necessary staff for ice and normal housekeeping maintenance for the curling side of the Complex.
- d) The Club, at its cost, shall paint, when required, all curling and lounge areas and maintain all areas on the curling side of the Complex.
- e) Leasehold improvements such as carpets, furniture, kitchen equipment, partitions or additions to the building will be the responsibility of the Club, unless otherwise agreed upon between the District and the Club.
- f) The Club, at its cost, shall maintain, in good order, all items of equipment set out in the list of 'Winfield Curling Club Property' inventory marked Appendix '1' attached hereto, reasonable wear and tear excepted.
- g) No renovation or installation of equipment shall be made in the Lounge or Curling Rink unless the same are first approved by the Municipal Clerk/Administrator or his/her designate at the District.
- h) The Club, at its cost, shall repair any damage caused to the Lounge or Curling Rink by any person during the period that the Club has exclusive right of occupancy of the Lounge and Curling Rink. Such repairs shall be made within thirty (30) days of the damage occurring and shall be to the satisfaction of the District.
- i) The Club, at its cost, shall sufficiently repair, maintain, and keep the premises with the appurtenances in good and substantial repair, when, where, and so often as need may be, to the satisfaction and standards set by the District, damage by fire, lightning, tempest, earthquake and enemy action only excepted, and will keep the premises in a tidy and orderly condition.
- j) The District covenants and agrees its' responsibility to replace any mechanical or electrical fixtures attached to the building, and so often as need be to the standards of the District-

10. Off Season Rental of Facility

- a) Notwithstanding Clause 3, the District may rent the Lounge areas to other organizations for various purposes during the off-season, with the District of Lake Country receiving forty (40) percent of the rent fee there-from, provided always that the District is responsible for the maintenance thereof.
- b) The Club will provide the District with a schedule of rental fees, for approval by the District, to be charged to other organizations for various purposes during the off-season.
- c) The fee schedule will give special consideration to local non-profit groups.

11. Insurance and Liability

- a) The District will provide property insurance for the building, and its fixed contents, deemed to be the property of the District according to the terms of this agreement.
- b) The Club accepts and will use the premises at their own risk and agrees that neither the District nor their respective officers, employees, servants, agents, heirs, successors and assigns have made any warranties or representations respecting the suitability or condition of the premises.
- c) The Club further covenants and agrees with the District that the District shall not be liable directly or indirectly in respect of:
 - i) any loss of or damage to any structure, chattel or property of the Club, its servants, agents or licensees at any time on, or used in connection with the premises, or any loss of or damage to any erection, chattel or property by whomsoever owned, arising in any manner out of, or in connection with the use or occupation of the premises by any person, persons or property during the said tenancy, or
 - ii) any personal injury (including death) to the members of the Club or its servants, agents or workmen, or any other person or persons whomsoever upon the premises at the invitation or by the license of the Club, or going thereto or coming therefrom, or any personal injury (including death) arising in any manner out of or in connection with the use or occupation of the premises by any person, person or property during the said term.

In all cases whether such loss, damage or injury be caused by the negligence or default of the Club, its servants or agents or otherwise howsoever; the Club will indemnify and save harmless the District and their respective officers, employees, servants, agents, heirs or successors against and from all claims to compensation or damages in respect of any such loss, damage or injury, and all loss costs, damages and expenses suffered, sustained or incurred by the District in connection therewith.

- d) It shall be the full responsibility of the Club to determine their own additional insurance coverages, if any, including Workers' Compensation, that are necessary and advisable for its own protection and/or to fulfill its obligations under this contract. Any such additional insurance shall be provided and maintained by the Club at their own expense.
- e) The Club further agrees to take out and maintain at their own expense third party public liability insurance providing coverage in the minimum amount of \$2,000,000.00 per occurrence naming the District of Lake Country as additional insured, and to deliver a copy of such policy of insurance and all renewals thereof to the District of Lake Country forthwith.

12. Notice

- a) The Club will, at the expiration or other sooner determination, peaceably surrender and yield up unto the District the premises, with the appurtenances, in good and substantial repair and condition in all respects, except as aforesaid.
- b) It is recognized that a proposal to renovate the Recreation Centre may be brought forward in the future that would affect the size and configuration of the Lounge. The District reserves the right to make such renovation but assures the Club that reasonable Notice will be given to avoid disruption during the curling season and that the Club will be included in consultation with the other users of the Recreation Centre.
- c) Should the Club construct any improvements in the Lounge or Curling Rink and fail to make payment therefore, the District may, at its option, give the Club thirty (30) days notice of its intention to terminate the right of occupancy and should the Club at the expiration of such period of thirty (30) days fail to make payment in full for such improvements the right of occupancy herein granted shall immediately following such period of notice become forfeited and any improvements constructed in the Lounge shall immediately become the property of the District without payment of any compensation to the Club.
- d) Should the Club default under any of the terms contained herein to be performed by the Club, the District may terminate this Agreement should the Club fail to rectify such default within thirty (30) days of being given notice to do so.
- e) That it is further agreed that any notice required or desired to be given under or in respect of any of the terms of this indenture may be given by mailing it in a prepaid registered envelope addressed to the party to whom it is to be given as follows:

If given to the Lessor: District of Lake Country
 10150 Bottom Wood Lake Road
 Lake Country, B.C. V4V 2M1
 Attention: Director of Parks and Recreation

If given to the Lessee: The President
 Winfield Curling Club
 9830 Bottom Wood Lake Road
 Lake Country, B. C. V4V 1S7

and any notice so given shall be deemed to have been given when, in the ordinary course of post, it should have been delivered.

13. Explanation

Wherever the singular and the masculine are used throughout this Agreement the same shall be construed as meaning the plural or the feminine or body corporate or politic as the context so requires.

This agreement shall enure to the benefit of and be binding upon the parties hereto, their successors and assigns.

IN WITNESS THEREOF the said parties hereunto have set their hands and seals the day and year first above written.

THE CORPORATE SEAL OF THE)
DISTRICT OF LAKE COUNTRY WAS)
HEREUNTO AFFIXED IN THE PRESENCE OF:)

)
)
_____)

MAYOR

Witness _____)

_____))

Address _____)

CLERK, Deputy

_____))

Occupation _____)

THE SEAL OF THE WINFIELD CURLING)
CLUB WAS HEREUNTO AFFIXED IN THE)
PRESENCE OF:)

)
)
_____))

PRESIDENT

Witness _____)

_____))

Address _____)

VICE PRESIDENT

_____))

Occupation _____)

Appendix '1'

WINFIELD CURLING CLUB PROPERTY INVENTORY

The Property listed below is the sole property of the Winfield Curling Club

- ✓ 1 ea. Boot boy
- ✓ 2 ea. Rock Measurer
- ✓ 1 ea. Sheepskin
- ✓ 1 ea. Scraper c/w handle 21"
- ✓ 12 pr. Rubber Hacks
- ✓ 8 pr. Metal Hack Cups
- ✓ 4 ea. Score Boards
- ✓ 33 pr. Curling Rocks
- ✓ 1 ea. Flooding Hose, 250 feet long
- ✓ 1 ea. MacCready Ice Brush
- ✓ 1 ea. Ice Brush 90"
- ✓ 1 ea. Flooding Tube

Appendix '2'

**District of Lake Country Property
Within the Winfield Curling Facility**

- **ICE AREA**
 - ✓ 2 Gas operated unit heaters
 - ✓ 56 Florescent light fixtures c/w electronic ballasts (4 lamps each)
 - ✓ 2 Emergency lighting battery units and 5 exit signs
 - ✓ All mechanical equipment related to ice refrigeration

- **LOWER LEVEL VIEWING AREA**
 - ✓ 14 florescent light fixtures c/w ballasts (2 lamps each)
 - ✓ Gas operated furnace for lower level
 - ✓ Gas operated furnace for upper level
 - ✓ DSC security panel
 - ✓ Hot water heaters
 - ✓ Plumbing fixtures for men's and ladies' washrooms

- **UPPER LEVEL LOUNGE AREA**
 - ✓ 2 Emergency lighting battery units c/w 2 exit signs
 - ✓ 10 Recessed florescent light fixtures c/w ballasts (4 lamps each)
 - ✓ 1 Surface mounted florescent light fixture c/w ballast (2 lamps)
 - ✓ 1 Refrigeration unit for walk in cooler (Larkin Model #AMC076AE) c/w Stat.
 - ✓ 2 Honeywell recessed air cleaners
 - ✓ Plumbing fixtures for men's and ladies' washrooms