



ELMWOOD PARK RESERVATION APPLICATION TERMS AND CONDITIONS OF USE AGREEMENT

For Office Use Only:

Date Submitted: _____ Submitted By: _____

Exhibit B Facilities Rules and Regulations

These Facilities Rules and Regulations are intended to cover the use of various facilities at Elmwood Park in Roanoke, Virginia. These facilities are depicted on the Map of Elmwood Park and include the Fountain Walkway, Bullitt Plaza, South Lawn, Art Walk, and the Amphitheater and green room (collectively, the Facilities). Capitalized terms not defined in the Facilities Rules and Regulations shall have the meaning ascribed to such terms in the Elmwood Park Reservation Application and Terms and Conditions of Use Agreement (Reservation Application and Agreement).

I. Reservation Procedures, Deposits, Refunds, and Fees.

1. Reservation Procedures.

- (a) The City of Roanoke, Virginia welcomes promoters and private users, while also hosting its own in-house shows and festivals. The Facilities are capable of hosting crowds of up to 4,000 plus. Information regarding use of the Facilities may be obtained by contacting Roanoke Parks and Recreation at (540) 853-2236 during regular business hours, 8:00 A.M. to 5:00 P.M., Monday through Friday.
- (b) Reserved use (an Event) of any or all of the Facilities is permitted only with the City's approval of the Reservation Application and Agreement, unless otherwise designated by the City.
- (c) The use of any of the Facilities is determined on a first come, first serve basis and may be booked one (1) year in advance of the anticipated Event but no less than 90 days before the Event. Dates will not be "reserved" and reservations are not confirmed until an Elmwood Park Reservation Application and Terms and Conditions of Use Agreement (Reservation Application and Agreement) is completed and signed by User and received and accepted by Roanoke Parks and Recreation and all appropriate fees and deposits have been paid.
- (d) The contact person for User shall be at least twenty-one (21) years of age and must be on-site throughout the duration of the Event. Failure to comply with this requirement could result in the forfeiture of all fees and deposits and cancellation of the Event.
- (e) The Reservation Application and Agreement requires 100% of the User Fees (as calculated in the schedule included in the Reservation Application and Agreement) be paid at the time the Reservation Application is submitted. Additionally, if the entire park or just the amphitheater is reserved, a \$1,000 deposit must be paid at the time the Reservation Application is submitted. Events that only use Bullitt Plaza, Fountain Walkway, or South Lawn do not require a damage deposit. However, additional charges may be assessed for property damages and extended time of use. The User shall pay all charges in excess of the damage deposit within ten (10) days after Roanoke Parks and

Recreation determines the damage estimates. If User violates any of the terms or conditions of the Reservation Application and Agreement, the City shall have the right to immediately terminate the Reservation Application and Agreement without notice or refund, and the City may pursue all of its rights and remedies at law or in equity including, without limitation, the right to recover court costs and attorney fees. See deposits and refunds.

- (f) To qualify and receive the non-profit discounted rate, User must provide certificate indicating the organization's current tax status as a charitable or non-profit entity pursuant to applicable provisions of the Internal Revenue Code.

2. Refunds.

- (a) Refunds of fees and deposits require advance written notice of cancellation received by Roanoke Parks and Recreation at least thirty (30) days prior to the date of the Event. Cancellation notice received less than thirty (30) days of scheduled Activity will result in forfeiture of all deposits and User Fees.
- (b) Acceptance of the Reservation Application will be made with the understanding the City reserves the right to cancel the Reservation Application and Agreement, with or without notice, and refund all monies paid in the event that the Facilities become unavailable because of some act or condition beyond the City's reasonable control.
- (c) Refunds will not be issued due to rain or any other inclement weather situation. However, if the Event is cancelled due to inclement weather prior to the scheduled date of the Event, the City will work with User to reschedule the Event, provided the schedule for the Facilities permits the Event to be rescheduled within the same calendar year.
- (d) Any unused portion of the damage deposit may be refunded to User within thirty (30) days after completion of the Event. However, the damage deposit may be held at the discretion of the City for any period of time necessary to determine the full extent of damages. If User violates any of the terms or conditions of the Reservation Application and Agreement, the City shall have the right to immediately terminate the Reservation Application and Agreement without notice or refund, and the City may pursue all of its rights and remedies at law or in equity including, without limitation, the right to recover court costs and attorney fees.

3. User Fees/Deposits.

See Facilities User Fees set forth in the Reservation Application and Agreement

II. General Information/Rules.

- 1. **Confirmed Reservations:** No oral agreements for use of the Facilities shall be valid. All reservations must be confirmed by written acceptance by the City after receipt of the completed Reservation Application and Agreement and payment of all appropriate fees and deposits.
- 2. **Abusing Policies:** The Parks and Recreation Director and Director's designee reserve the right to refuse any User applicant seeking to reserve any of the Facilities the privilege of using the Facilities based on such User applicant's failure to comply with the policies of the City or such User applicant's prior activities at any of the Facilities. In addition, any User applicant, or its successor, charged with a second occurrence of abuse may be barred from making any further reservations. If User violates any of the terms or conditions of the Reservation Application and Agreement, the City shall have the right to immediately terminate without notice or refund.
- 3. **Misrepresentation:** Any misrepresentation as to the nature of the Event, the number of attendees expected, contact or payment information, or any other falsification of agreement

documents may result in the immediate cancellation of the Event and forfeiture of all fees and deposits paid, and may also result in further legal action and the denial of future applications.

4. Conduct/Behavior.
 - (a) The City, through its representatives, agents, and employees, reserves the right to control all Events at the Facilities and to eject any person(s) who violates the rules and regulations.
 - (b) The City, through its representatives, agents, and employees, may revoke any use previously granted at any time if it is determined that any condition set forth in the policies governing the permit requested is not being complied with, or that the safety of the participants in the Event of User or other patrons of or visitors to the Facilities is endangered by the continuation of such Event.
 - (c) User, its agents, servants, employees, assigns, successors, invitees, and licensees at all times agree to fully abide by City rules and regulations.
 - (d) User is responsible to see that the Event is properly controlled; all rules are enforced, and must have a designated person(s) of authority on site at all times.
 - (e) User agrees that User will, to the extent possible, take every action necessary to prevent any and all disorderly or boisterous conduct or immoral practices of any kind in/about the Facilities by its agents, servants, employees, assigns, successors, invites and licensees.
5. User's Personal or Business Property. The City shall have no responsibility for any property placed on or in any of the Facilities by the User. Furthermore, the City is released and discharged from any and all liability for loss, injury, or damage to persons or property that may be sustained by the use or occupancy of any of the Facilities.
6. Weather. It will be the responsibility of User to make provisions for rain or severe or inclement weather. However, the City has the right to cancel an Event due to inclement weather that could pose a hazard to the guests, performers, staff or the Amphitheater.
7. Laws and Ordinances. All Users of the Facilities shall comply with all applicable federal, state, and local laws, regulations, rules, and ordinances including, but not limited to, all ordinances of the City of Roanoke and all rules and regulations which may be adopted from time to time by the City Manager. Such rules and regulations may include any and all changes that might be imposed on the operational hours and utilization policies.
8. Anti-Discrimination. Discrimination by User, its agents or employees, on account of age, race, color, religion, sex or national origin, in the use of or admission to the premises is prohibited.
9. Defacement of Facilities. No decorative or other materials shall be nailed, tacked, screwed or otherwise physically attached to any part of the Facilities, including the Amphitheater, stage, stage front, stone/masonry fence, handrail, column, light post, tree, fountain, without permission from the Director of Roanoke Parks and Recreation or the Director's designee. User agrees to leave the Facilities in as good of condition as it was prior to the commencement of the Event. It is also understood by User that all or part of the deposit provided by User will be held should User not comply with this policy.
10. Facilities Hours. Due to the location of the Facilities and the importance of maintaining a positive relationship with our neighbors, all Events at the Facilities may not begin before 8:00 am, and must end by 11:00 pm on Friday, Saturday, and holiday evenings, and 10:00 pm Sunday through Thursday evenings. Exceptions or adjustments to this policy may be granted if requested in writing at least ten (10) days in advance of the Event and only under extenuating circumstances by the Director of Roanoke Parks and Recreation or the Director's designee. The

User and his/her guest shall vacate the Facilities no later than 11:59pm on Friday, Saturday, and holiday evenings, and 11:00 pm Sunday through Thursday evenings per day User Fees are defined by these Rules and Regulations.

11. Copyrights/Royalty Fees. User agrees, represents and warrants that nothing contained in the program, performance, exhibition, or in any other way connected with the Event shall violate or infringe upon any copyright, patent, right of privacy or other statutory or common law right of any person, firm or corporation. Further, User warrants that all programs, performances, concerts, etc., to be performed under the Reservation Application and Agreement involving works protected by statutory or common law copyrights or other proprietary law have been duly licensed or otherwise authorized by the owners of such works or legal representatives thereof. User further agrees to indemnify and hold harmless, the City of Roanoke, its agents and employees, from any and all claims, fees expenses or costs including legal fees asserted or incurred with regard to such warranty and/or any direct or alleged breach thereof.
12. Noise/Sound Ordinance. Sound levels at the Facilities are not to exceed those standards established by the City Code. Monitoring of sound levels may be performed periodically throughout the Event as well as during set-up. Should sound levels create a disturbance as deemed by the City of Roanoke Police Department, the City representative will direct that the volume be turned down, and failure to comply with such a direction shall be cause termination and cancellation of the Event and forfeiture of deposit and User Fees.
13. Fireworks or pyrotechnics are permitted only with the prior written approval of the Fire Marshal.
14. Containers, Ice-Chests, Outside Food and Drink. Facilities Rules prohibit containers, ice-chests or outside food and drink from being brought into the Amphitheater during certain Activities. No glass bottles/containers, confetti, paint, permanent markers are permitted within the park. Smoking is prohibited within the Facilities except in designated areas. User must provide for clean-up and provide smoking materials containment.
15. Ice machines are available for use by User and its agents, employees and contractors in connection with the presentation of the Event. Proper disposal of ice is required. Ice may not be dumped by User, its employees, agents, contractors, or invitees on plants in mulched areas or on grassy areas.
16. Abusive, profane language or lewd behavior is not permitted. User, its employees, agents, contractors, and patrons are required to abide by all local and state laws that pertain to such behavior.
17. All event promotion and advertisement must advise the public if this is a pet friendly event and, if so, all pets must be effectively leashed, cleaned up after and pet owners are entirely responsible for their pets. User shall be responsible to ensure compliance by pet owners with this provision.
18. No driving of vehicles is permitted on the portions of the Facilities that include sidewalks, planting beds, or on grass lawn areas.
19. No skateboards, rollerblades, or ridden bicycles are permitted within any portions of the Facilities.
20. No overnight parking, camping is permitted without permission from the Director of Roanoke Parks and Recreation.
21. No staking of tents, awnings or signage may take occur with the Facilities.
22. Security. The Facilities are an open-air, unsecured, public facility. The City is not responsible for restricting access during Events. However, User may charge and collect admission, and may rope/fence off areas of the Facilities to coordinate the collection of admission fees and tickets.

User agrees to employ at its sole expense, off duty police officers or licensed private security to be present at least thirty (30) minutes prior to the beginning of the Event, during the duration of the Event, and up to thirty (30) minutes following the conclusion of the Event. The City reserves the right to and shall have the authority to stipulate a reasonable number of security officers which the City deems to be necessary for a particular Activity so as to provide for the safety of the public, the Facilities at all times during which the Facilities are used by User, or by persons authorized by User. In the event that the City determines that additional security is required for the Event, the City shall contact the City of Roanoke Police Department to schedule the officers. Prior to the commencement of the Event, User shall pay, in full, all costs and expenses for such assigned officers. User will submit a security plan to be reviewed and approved thirty (30) days in advance of the date of the Event by both Parks and Recreation and the Roanoke Police Department. The City shall inform User as to the number of officers that will be required. The plan must include the provisions of a security officer or responsible adult volunteer for providing vehicular access at all times to Bullitt Avenue by employees of the Social Security Administration Building.

23. Clean Up. User must load out and shall vacate the premises no later than 11:59 pm on Friday, Saturday, and holiday evenings, and 11:00 pm Sunday through Thursday evenings, unless pre-arranged in writing. Any trash, refuse, materials, or other items left at the Facilities by User will result in charges equal to the Departmental hourly rate multiplied by hours required to properly clean the Facilities.

Roanoke Parks and Recreation will provide sufficient trash receptacles and bags based on anticipated attendance, as determined by User in its Reservation Application and Agreement. The City will also provide access to a dumpster/compactor located at the Facilities. User will be responsible for maintaining the timely removal/replacement of bags in these receptacles and will be responsible for the movement of full bags to the dumpster/compactor.

- (a) Personal Property – User must remove all personal property/equipment (i.e. lighting, audio/visual, tables, chairs, tents, etc.). This includes personal property owned by the User, as well as property borrowed or leased. In the event that User fails to remove all personal property/equipment from the Facilities, the City reserves the right to ship such personal property/equipment to User at the address set forth in the Reservation Application and Agreement. User shall be responsible for all shipping costs.
- (b) Plazas/Walkways – User will be responsible for the cleaning off of all debris from the plazas and walkways that are a part of the Facilities (i.e., oil, grease, soda, candle wax, etc.). The City reserves the right to remove all debris and to withhold a fee equal to current Departmental rate per hour from User’s deposit to cover cost of such services (minimum charge of one hour) and bill User for any excess amounts.
24. Equipment. All equipment and decorations used in conjunction with an Event must be free standing. Anchoring equipment and/or decorations to trees, tree grates, lamp posts, hand rails, etc. is not allowed. Any equipment, other than the basic “house equipment” of the City, including tables, chairs, and tents (“house equipment”), needed for the Event must be provided by the User and rented from a private source. If house equipment is used, it must be returned in the same condition as was provided to User at the commencement of the Event. Failure to comply with this policy will result in a charge for the full replacement cost or repair of such house equipment.
25. User will take all necessary precautions to protect the existing electrical service at the Facilities from overload and damage. Electrical panels may not be modified by User or User’s representative. It is the responsibility of User to inspect equipment for compatibility. If User’s equipment is not compatible, User’s equipment must be properly modified. Modifying the City’s electrical panels will result in the loss of deposit or assessment of additional charges to remedy the modification. User is responsible for any and all necessary repairs to the City’s electrical panels as a result of User’s modification or misuse.

26. Turf Areas. The Facilities feature an underground irrigation/ sprinkler system to keep the turf in top condition. To protect the underground water lines and sprinkler heads, driving stakes, fence posts, flags, etc. is not allowed. The placement of equipment in lawn areas (i.e. risers, platforms, tables, speakers, lights, chairs, etc.) is not allowed without the expressed written consent of the Director of City of Roanoke Parks and Recreation or the Director's designee. Fees for damage will vary depending on the specific damage.
27. Promotions/Advertising. Promotions/advertising and announcements shall not be made public prior to acceptance and approval of the Reservation Application and Agreement by Roanoke Parks and Recreation. Tickets will not be sold prior to acceptance and approval of the Reservation Application and Agreement. The User and/or promoter shall include a statement of the Facilities Rules and Regulations prohibiting, pets, containers, ice-chests and outside food and drink on all advertisements for their Event if such are prohibited at the Event. All visual media, such as maps for the Event, will also include locations where parking has been allowed or permitted.
28. Insurance Requirements. When appropriate, User may be required to procure and maintain, at its sole cost and expense for the duration of the Reservation Application and Agreement, Comprehensive General Liability insurance in the name of User. The need for this coverage will be based on several pre-determined criteria developed by the City and will be handled on a case-by-case basis. If required, the insurance policy must cover, in addition to the general public, all entertainers and their support staff and any other individual participating in or attending the Event for which the Facilities are being used. The General Liability insurance shall be written by a carrier with an A:VII or better rating in accordance with the current Best Key Rating Guide, and only insurance carriers licensed and admitted to do business in the State of Virginia will be accepted. User must furnish proof of coverage through a Certificate of Insurance naming the City of Roanoke, its officers, employees, agents, and contractors as an additional insured along with an endorsement page two weeks prior to the Event.

User shall carry the following standard insurance policies along with their respective minimum coverage amounts required:

(a) Commercial General Liability Policy

- General aggregate of \$1,000,000.00; and
- Minimum of \$1,000,000.00 per occurrence
- Coverage shall be at least as broad as the most current ISO CG form (as of the writing of this from ISO CG 00 0196)
- No coverage shall be deleted from standard policy without notification of individual exclusions being attached for review and accepted by the City.

The following are general requirements, which are applicable to all policies:

- 1) Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
 - 2) Claims-made policies will not be accepted.
 - 3) The coverage shall contain no special limitation on the scope of protection.
 - 4) Certified copies of all insurance policies and/or certificates of insurance shall be furnished to the City without cost to the City prior to the scheduled User if requested.
29. User's Release, Indemnity, and Hold Harmless. In consideration of being permitted to use the Facilities for the Event in accordance with the Reservation Application and Agreement, User agrees as follows:

The City will not be liable for any claims for injury or damages resulting from or arising out of the use of the Facilities or properties adjacent thereto and User releases the City from any and all such claims and User agrees to indemnify the City and hold it harmless against any and all such claims, damages, losses, and expenses.

No liability either express or implied, will be incurred by the City, its agents, servants, and employees, arising out of the use of the premises by User, its agents, servants, employees, and invitees, and their respective assigns, successors, and licensees, during the date and time specified in the Agreement. User agrees to indemnify and save harmless the City, its agents, servants, employees, from and against any and all liability for damages arising from injuries to persons or damage to property occasioned by any acts or other omissions, negligent or otherwise, of User its agents, servants, employees, or invitees and their respective assigns, successors, and licensees, including any and expenses, attorney fees, legal expenses, or otherwise, which may be incurred by the City or its agents, servants or employees, in defense of any claim, action or suit, irrespective of any claim that an act, omission or negligence of the City or its agents, servants or employees contributed to such injury or damage.

The City reserves the right to modify or waive any Rules and/or Regulations as it deems necessary and in the best interest of the City.

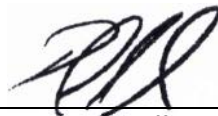
Contact for Roanoke Parks and Recreation

Telephone: (540) 853-2236

Address of Facilities: Elmwood Park/Amphitheater
505 Williamson Road, S.E.,
Roanoke, VA 24011

By the authority granted to me by the Code of the City of Roanoke, Section 24-87, I hereby approve and adopt these Facilities Rules and Regulations (originally adopted February 1, 2014) for the use of Facilities at Elmwood Park which shall be effective July 1, 2018.

This 4th day of June, 2018



Robert S. Cowell, Jr.
City Manager
City of Roanoke, Virginia

END OF EXHIBIT B