

**Village of Mantua, Ohio**  
**ORDINANCE 2020-44**

**AN ORDINANCE ACKNOWLEDGING THE INABILITY OF THE VILLAGE OF MANTUA TO PROVIDE SANITARY SEWER SERVICE TO THE BENTTREE CONDOMINIUM ASSOCIATION, PERMITTING PORTAGE COUNTY TO PROVIDE THE SERVICE PURSUANT TO THE TERMS OF THE EXISTING SANITARY SEWER SERVICE AREA AGREEMENT, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Benttree Condominium Association (“Benttree”) operates a private wastewater treatment works located at 11056 State Route 44 in Mantua Township; and

**WHEREAS**, said wastewater treatment works and the residences it serves are located in the Village of Mantua Sanitary Sewer Service Area established pursuant to the December 2002 Sanitary Service Area Agreement (“Service Area Agreement”) between Portage County and the Village of Mantua; and

**WHEREAS**, Section 2 of the Service Area Agreement states that Portage County trunk sewers “shall not service any customers within the Mantua Service Area, unless the Village has previously denied sanitary sewer service to a potential customer, who is requesting service near said trunk sewer”; and

**WHEREAS**, the Ohio Environmental Protection Agency has ordered Benttree to abandon its existing sewage treatment plant and connect all wastewater flows to a sanitary sewage system not later than November 1, 2020, which is deemed to be a request for service by Benttree and/or its Unit Owners, collectively; and

**WHEREAS**, Village sanitary sewer infrastructure necessary to service Benttree does not currently exist, and the Village of Mantua does not currently have or anticipate having the financial resources necessary to install such infrastructure in the foreseeable future; and

**WHEREAS**, this Council has determined that it must decline to furnish sanitary sewer service to Benttree and/or its Unit Owners, collectively, and relinquish the customer(s) to Portage County pursuant to the terms of the Service Area Agreement.

**NOW THEREFORE**, be it Ordained by the Council of the Village of Mantua, Portage County, Ohio, two-thirds or more of the members elected thereto concurring, that:

**SECTION 1:** This Council hereby declines to provide sanitary sewer service to the Benttree Condominium Association and/or its Unit Owners, collectively, and relinquishes the right to provide such service to Portage County pursuant to Section 2 of the Sanitary Service Area Agreement between Portage County and the Village of Mantua of December, 2002.

**SECTION 2:** The Village of Mantua further waives the County's notification requirement and 60 day response time provided in Section 2 of said Agreement, and authorizes Portage County to supply sanitary sewer service to Benttree and/or its Unit Owners, collectively, at its earliest convenience.

**SECTION 3:** Provided that Benttree and/or its Unit Owners formalizes its/their

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obligation to pay sanitary tap-in fees to Portage County prior the Closing Date of any agreement to transfer Mantua's sanitary sewer system to Portage County, the Village acknowledges that the entire tap-in fee shall be payable to Portage County, regardless of whether the installment payment(s) of the tap-in fee extend beyond any such Closing Date, and shall not be applied as revenues received toward the retirement of the Surcharge identified in any such transfer agreement.

**SECTION 4:** In the event that Benttree and/or its Unit Owners formalizes its/their obligation to pay sanitary tap-in fees to Portage County on or after the Closing Date of any agreement to transfer Mantua's sanitary sewer system to Portage County, Mantua and Portage County shall abide by such terms of the Transfer Agreement as may relate.

**SECTION 5:** Other than as specifically stated herein, this Ordinance in no way modifies, amends, suspends, revokes, eliminates or otherwise changes the Sanitary Service Area Agreement, nor shall this Ordinance be deemed precedential or binding as to any other claim or issue raised with respect to the Sanitary Service Area Agreement.

**SECTION 6:** It is hereby found and determined that all formal actions of this Council concerning and relating to the passage 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 Section 121.22 of the Ohio Revised Code.

**SECTION 7:** This Ordinance is hereby declared an emergency measure, in order to permit Benttree Condominium Association to comply with the sanitary sewer connection orders of the Ohio Environmental Protection Agency at the earliest possible time, and shall be immediately effective upon its passage by at least two-thirds of the members elected to the Mantua Village Council.

**PASSED AS EMERGENCY** this 15<sup>th</sup> day of September, 2020.

ATTEST:

\_\_\_\_\_  
Matt Rosolowski, Acting Mayor

\_\_\_\_\_  
Jenny August, Clerk-Treasurer

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I hereby certify that this Ordinance was duly published by public posting at pre-designated posting places on this the \_\_\_\_ day of September, 2020.

\_\_\_\_\_  
Jenny August, Clerk-Treasurer

Approval as to legal form by:

\_\_\_\_\_  
Michele Stuck, Solicitor