

Village of Mantua, Ohio
ORDINANCE 2021-01
(amended)

**AN ORDINANCE AUTHORIZING RENEWAL OF AN AGREEMENT WITH THE
MANTUA POTATO FESTIVAL, SETTING FORTH CONDITIONS FOR THE USE OF
THE OLD WATER PLANT AT BUCHERT PARK.**

WHEREAS, The Village has under its control a building which previously, but no longer, housed its water plant; and

WHEREAS, The Mantua Potato Festival Association desires to use this space for the purpose of periodic business meetings, social functions and storage; and

WHEREAS, Ohio Revised Code Section 721.23 permits a municipality to establish terms for the use of public buildings under its control; and

WHEREAS, the previously executed agreement with the Mantua Potato Festival will expire in March of 2021; and

WHEREAS, This Council has agreed that the terms set forth in "Exhibit A", attached hereto and incorporated herein, are reasonable and appropriate.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Mantua, Portage County, Ohio, a majority or more of the members elected thereto concurring, that:

SECTION 1. The Mayor is hereby authorized and directed to execute the Agreement marked as "Exhibit A", attached hereto, and that the same represents the wishes and understanding of this Council.

SECTION 2. It is hereby found and determined that all formal action of this Council concerning and relating to the passage if 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 a meeting open to the public in compliance with all legal requirements, including section 121.22 of the Ohio Revised Code;

SECTION 3. This Ordinance shall take effect and be in full force from and after passage by Council and execution by the Mayor, at the earliest date allowed by law.

PASSED IN COUNCIL this 16th day of March, 2021.

ATTEST:

Linda Clark, Mayor

Jenny August, Clerk of Council

Village of Mantua, Ohio
ORDINANCE 2021-01
(amended)

I hereby certify that this Ordinance was duly published by public posting at pre-designated posting places on the ____ day of March, 2021.

Jenny August, Clerk-Treasurer

Approved as to legal form:

Michele Stuck, Solicitor

Village of Mantua, Ohio
ORDINANCE 2021-01
(amended)

"EXHIBIT A"

This Agreement, executed at Mantua Village, Ohio, on this _____ day of _____ 2021 is between the Village of Mantua, a political subdivision of the State of Ohio (hereinafter, "Village"), and the Mantua Potato Festival Association (hereinafter, "Festival").

The parties agree as follows:

1. DESCRIPTION OF PREMISES. Village shall permit the use by Festival of certain premises situated in, and owned by, the Village of Mantua, State of Ohio and more particularly described as follows:

The building known as the "Old Water Department Pump House" at Gerald Buchert Memorial Park, and located at 4808 E. High St. Mantua, Ohio and being further known as Permanent Parcel Number 24-041-20-00-004-000 according to the Official Records of the Auditor of Portage County, Ohio, and for purposes of this document, shall hereinafter be referred to as "The Premises".

This Agreement relates to the use of the Pump House building only; conditions for Festival's use of other Village property for its annual event shall be set forth separately in conjunction with Festival's "Special Event Request Form" which is subject to annual review and approval by the Mantua Village Council.

2. TERM. The term of this Agreement shall be for ten (10) years, with review after eight (8) years, commencing on the 1st day of _____, 2021, and ending on the last day of _____, 2031. This Agreement shall be renewable under the same terms upon mutual agreement of the parties for a like period at the end of the term of this Agreement.

3. USE. The Premises shall be used by the Potato Festival for the purposes of carrying on business meetings, social functions, storage of materials, and for the maintenance and operation of any lawful business incident to the operation of Festival's organization. A business meeting is defined as a meeting periodically scheduled for the primary purpose of conducting an organization's business.

No additional utility connections or alterations (electricity, gas, water) shall be made in the premises without consent of the Village having first been obtained; any approved alterations or connections must be made by a licensed professional.

No cylinders or tanks containing, or having previously contained, any gas, compressed gas or liquid gas or fuel of any sort shall be stored in the premises.

The premises shall be maintained in an organized fashion, allowing ready access by Village personnel to all areas within the premises, including exits, windows, ventilation, utility panels and controls, electrical outlets. Festival shall not permit accumulated clutter or storage of items unrelated to Festival operations (excluding items stored by the Village in the premises).

Village of Mantua, Ohio
ORDINANCE 2021-01
(amended)

Festival will provide an inventory of stored items within 30 days after conclusion of Potato Festival annual event.

The Village Administrator or designee will conduct periodic, unannounced inspections to ensure that Festival remains in compliance with these use regulations.

4. UTILITIES. Village shall furnish, without cost to Festival, all utilities necessary for the proper function of the Premises, including but not limited to electricity and natural gas. Festival shall pay for any telephone service as necessary for Festival's use.

5. MAINTENANCE. Festival shall maintain and repair the Premises at Festival's cost. If, in Festival's view, an item in the Premises requires maintenance and/or repair, the Festival shall notify the Village prior to conducting any such maintenance and/or repair. If the Village determines that any repairs or maintenance to the premises are necessary, it shall notify Festival, which shall have no less than thirty days to make the repairs. If repairs are not made as requested, the Village shall have the right to conduct the necessary work and bill Festival. In the event that an individual repair or maintenance obligation will exceed \$15,000.00, Festival reserves the right to approach Village for monetary or in-kind contribution to defray the cost thereof.

6. INDEMNIFICATION. Festival shall indemnify and hold harmless the Village of Mantua, its officers, employees and agents, from and against any and all claims and demands of any nature whatsoever arising out of injury or death to any person or damage to property of any kind, by whomever owned, arising out of or related to the use of the Premises.

7. INSURANCE. Without limiting the Festival's indemnification of the Village, Festival shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions in regards to the Premises:

Prior to commencement of this Agreement, Festival shall provide Certificates of Insurance certifying that all coverage as required herein has been obtained and remains in force for the period required by this Agreement. Any required endorsement shall either be attached to the Certificate or certified as issued on the Certificate. All Certificates of Insurance shall be sent to the following address:

Clerk-Treasurer,
Village of Mantua
P.O. Box 775
Mantua, OH 44255

Festival shall not proceed with occupancy under this Agreement until it has obtained all insurance required and Certificates of Insurance have been provided to Village. All Certificates of Insurance shall provide that the Village shall receive thirty (30) days prior written notice of cancellation or major modification before the expiration date.

Village of Mantua, Ohio
ORDINANCE 2021-01
(amended)

GENERAL LIABILITY INSURANCE REQUIREMENTS:

Comprehensive General Liability Insurance or Commercial General Liability Insurance for bodily injury (including death) and property damage which provides limits of not less than five hundred thousand dollars (\$500,000) each occurrence and written on an occurrence basis. If the insurance has a General Aggregate it must be no less than one million dollars (\$1,000,000). Each type of insurance shall include coverage for Premises/Operations, Products/Completed Operations, Contractual Liability, Broad Form Property Damage and Personal Injury.

For either type of general liability insurance, coverage shall include the following endorsements:

- a. Additional Insured Endorsement: Insurance afforded by this policy shall also apply to the Village of Mantua, and members of the Village Council of the Village of Mantua, the officers, agents and employees of the Village of Mantua, individually and collectively, as additional insured(s).
- b. Primary Insurance Endorsement: Insurance afforded by the Additional Insured Endorsement shall apply as primary insurance, and other insurance maintained by the Village of Mantua, its officers, agents and employees shall be excess only and not contributing with the insurance provided under this policy.
- c. Notice of Cancellation or Change of Coverage Endorsement: Insurance provided by this policy shall not be canceled or changed so as to no longer meet the specified Village insurance requirements without thirty (30) days prior written notice of such cancellation or change being delivered to the Village of Mantua at the address to which the Certificate of Insurance is sent as specified above.
- d. Severability of Interest Endorsement: Insurance provided by this policy shall apply separately to each insured who is seeking coverage or against whom a claim is made or a suit brought, except with respect to the policy's limits of liability.
- e. Liquor Legal Liability: Alcohol is not to be stored, distributed, sold, furnished, served, or consumed unless the Festival notifies the Village a minimum of ten (10) days in advance in writing providing proof of insurance to cover the planned distributing, selling, furnishing, serving, or consuming of alcoholic beverages. This insurance must provide limits greater than or equal to but not less than the General Aggregate Amount of the insurance currently in force at the time for each occurrence and written on an occurrence basis, naming the Village as an additional insured. This insurance must be endorsed to include coverall for distributing, selling, serving, consuming or furnishing alcoholic beverages.

Fire Legal Liability Insurance shall be maintained by Festival with limits of not less than two hundred fifty thousand dollars (\$250,000) on the real property subject to this Agreement, including improvements and betterments owned by Village and shall name Village as loss payee. Fire Insurance shall be maintained by Festival on all personal property contained within or on the described Premises. The policy shall be written on a standard "all risk" contract excluding

Village of Mantua, Ohio
ORDINANCE 2021-01
(amended)

earthquake and flood. The policy shall insure for not less than ninety percent (90%) of the actual cash value of the personal property.

8. **RIGHT OF ENTRY BY VILLAGE.** Village shall have the right at reasonable times to enter upon the Premises to inspect, construct, operate, maintain or repair all facilities necessary or convenient for the Premises whether or not directly related to the use of the Premises by Festival. When such access is deemed necessary by the Village, Village shall provide reasonable notice in advance of such access to the Festival Chair or his/her designated individual. If for security reasons the door lock(s) on the Premises needs to be changed, Festival will provide notice to Village prior to such change. Festival will assume costs for such change and shall provide two copies of the new key to the Village and one each to the Mantua Police Department and the Mantua-Shalersville Fire Department at the time of the change.

9. **ASSIGNMENT OR SUBLETTING.** Festival shall not assign this Agreement or any interest therein and shall not sublet said Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other party to occupy and use said Premises or part thereof without the written consent of Village first obtained. Any such assignment or subletting without such consent shall be void and shall, at the option of Village, terminate this Agreement.

10. **MODIFICATION:** Any modification to the terms of this agreement may only be made in writing and must be signed by both parties.

11. **TERMINATION.** In the event that either party hereto deems it necessary to unilaterally terminate this Agreement, such termination may occur regardless of the existence of breach of any of the terms herein, and must be communicated in writing pursuant to Section 14 of this Agreement, and only with a minimum of ninety (90) days notice to the non-terminating party.

12. **REMEDY OF VILLAGE ON DEFAULT.** If Festival violates any term, covenant, or condition herein or any part hereof, Village, in addition to any other rights or remedies it may have at any time thereafter at its sole discretion, may consider this Agreement terminated. Village shall have the right to enter the Premises or any part thereof, with process of law, and remove Festival or any person or property from said Premises at any time after the Agreement is terminated. Such property may be removed and stored in any public warehouse or elsewhere at the cost of, and for the account of, Festival.

13. **DISCRIMINATION PROHIBITED.** Festival covenants that during the life of this Agreement it shall not unlawfully discriminate against any person on the basis of ethnic group identification, religion, age, sex, color, physical or mental disability or sexual preference.

14. **COMPLIANCE WITH LAW.** Festival agrees to comply with all laws, rules, and regulations of any federal, state, Village or other governmental agency.

15. **NOTICES.** All notices to be given hereunder shall be in writing and delivered by United States certified mail, postage prepaid. Notice to Village shall be delivered or mailed to:

Clerk-Treasurer

Village of Mantua, Ohio
ORDINANCE 2021-01
(amended)

Village of Mantua
P.O. Box 775
Mantua, Ohio 44255

Notice to Festival can be mailed to the Mantua Potato Festival:

Mantua Potato Festival Association
P.O. Box 416
Mantua, OH 44255

Festival will be responsible in reporting the current Chairperson after the annual elections at the 4th Monday of September meeting.

16. EFFECT OF WAIVER. The waiver by Village of any term, covenant or condition herein contained shall not be deemed to be a waiver of any other such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. .

17. BINDING ON SUCCESSORS. Covenants and conditions herein contained shall, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of all the parties hereto, and all parties hereto shall be jointly and severally liable hereunder.

18. OTHER USE. The Village will provide twenty-four hours notice to the Potato Festival if the building or its utilities are needed for use by a Village-authorized entity, except in the event of an emergency.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

Village of Mantua

Witness:

Mayor Linda S. Clark

Mantua Potato Festival Association

Witness:

Chairperson