

Village of Mantua, Ohio
ORDINANCE 2020-46

**AN ORDINANCE AUTHORIZING RENEWAL OF THE AGREEMENT FOR THE USE
OF A PORTION OF THE GERALD BUCHERT PARK LODGE BY THE AMERICAN
LEGION POST 193.**

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

WHEREAS, pursuant to Ordinance 2010-16, this Council authorized an agreement for the use of a portion of the Buchert Park Lodge by the Mantua Chapter of the American Legion for the purposes of periodic business meetings and social functions; and

WHEREAS, the agreement previously authorized will expire on December 31, 2020; and

WHEREAS, American Legion Post 193 desires to renew the agreement for use of the premises; and

WHEREAS, This Council has agreed that the terms set forth in Exhibit A, attached hereto and incorporated herein, are reasonable and appropriate, and wishes to authorize its execution.

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. This Council hereby authorizes the Mayor to execute the Agreement marked as Exhibit A, attached hereto and incorporated herein by reference.

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 be in full force and effect from and after passage by the Council of the Village of Mantua at the earliest date allowed by law.

PASSED IN Council this 17th day of November, 2020.

ATTEST

Linda Clark, Mayor

Jenny August, Clerk-Treasurer

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1st Reading: September 15, 2020

2nd Reading: October 20, 2020

3rd Reading: November 17, 2020

Effective: December 17, 2020

I hereby certify the above Ordinance was posted at the five (5) public notice locations in the Village of Mantua, Ohio, on the _____ day of _____, 202__.

Jenny August, Clerk-Treasurer

Approved as to Legal Form:

Michele Stuck, Solicitor

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"EXHIBIT A"

This Agreement, executed at Mantua Village, Ohio, on this _____ day of _____ 202__ is between the Village of Mantua, a political subdivision of the State of Ohio (hereinafter, "Village"), and Mantua Post 193 of the American Legion (hereinafter, "Legion").

The parties agree as follows:

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

The northernmost room contained in the building known as the "Park Lodge" 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. The northernmost room shall be hereinafter referred to as "Premises A", the southernmost room shall be hereinafter referred to as "Premises B".

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 January, 2021, and ending December 31st, 2030. 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 for the purposes of carrying on business meetings, social functions, and for the maintenance and operation of any lawful business incident to the operation of Legion's veteran organization. A business meeting is defined as a meeting periodically scheduled for the primary purpose of conducting an organization's business.

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

5. MAINTENANCE. Village shall maintain and repair the premises at Village's cost. Maintenance and repair shall include restroom and other supplies necessary for proper maintenance of Premises. Legion shall provide United States Flag and replace as needed. Legion shall maintain the landscaping around the flag pole including planting of new plants as needed. If available, Village shall provide mulch to Legion, which Legion shall spread in the area around the flag pole. Legion shall also work with the Village on any additional landscaping features that the Village and the Legion shall agree upon during the Agreement term.

If, in the Legion's view, an item in the Premises requires maintenance and/or repair, the Legion shall notify Village who shall conduct or have conducted such maintenance and/or repair within ten (10) days after receipt of such notice. If such maintenance and/or repair will take longer than ten (10) days, Village will notify the Commander of the Legion of the expected length of time such maintenance and/or repair will take.

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6. INSURANCE. Without limiting the Legion's indemnification of the Village, Legion 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 Premises A:

Prior to commencement of this Agreement, the Legion 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

Legion 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.

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.

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- 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 distributed, sold, furnished, served, or consumed unless the Legion 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 Legion with limits of not less than fifty thousand dollars (\$50,000) 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 Legion on all personal property contained within or on the described Premises A. The policy shall be written on a standard "all risk" contract excluding earthquake and flood. The policy shall insure for not less than ninety percent (90%) of the actual cash value of the personal property.

7. 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 Legion. When such access is deemed necessary by the Village, Village shall provide reasonable notice in advance of such access to the American Legion Commander or Commander's designated individual. If for security reasons the door lock on Premises A needs to be changed, Legion will provide notice to Village prior to such change. Legion 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

8. OTHER VETERANS ORGANIZATIONS. Legion and all other qualified veterans organizations, as contemplated in Title LIX (59) of the Ohio Revised Code, duly formed in the Village of Mantua as of the effective date of this Agreement or that may be established in the Village of Mantua during the term of this Agreement or any extension thereto may become parties to this Agreement by amendment to this Agreement and shall be bound by the terms of this Agreement. Village shall have authority to determine the authenticity of said veterans' organizations. Legion may, at their sole discretion, collect a pro-rata share of Legion's annual costs, under the terms of this Agreement, from other organizations using the premises. It is understood and agreed to by the parties that only those organizations contemplated in Title LIX (59) of the Ohio Revised Code and included as parties to this Agreement are entitled to the use of the described Premises A under the terms of this Agreement.

9. SCHEDULING. Legion and other recognized veterans organizations shall have first priority use of the Premises B on the basis of annual schedules submitted to the Mantua Village Clerk-

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Treasurer not later than September 15 of each year for the subsequent calendar year. Rental rate to the Legion for usage of the entirety of Premises B is Fifty Dollars (\$50.00) per day and is payable to Village during the month in which the Legion uses Premises B. Failure of Legion to submit an annual schedule by the required date shall allow Village to rent the Premises B as needed.

Current monthly scheduling is as follows:

- a. American Legion & Legion Auxiliary monthly Soup Supper: First Friday of each month, 4:00 - 9:30 pm, Premises A, Premises B and washroom usage.
- b. American Legion monthly Meeting: Second Thursday of each month, 7:00 - 10:00 pm using only Premises A and washroom usage.
- c. American Legion Auxiliary meeting: Second Monday of each month, 12:30 - 4:00 pm using only Premises A and washroom usage.
- d. American Legion & Auxiliary: minimum of three (3) hours before and four (4) hours after parades in the Village of Mantua, currently: Memorial Day and the Potato Festival using only Premises A and washroom usage.
- e. American Legion & Auxiliary: 1/2 day of a Saturday in November before noon and 1/2 day of a Sunday in December after noon (to be scheduled individually each year) of Premises A, Premises B and washroom usage for Legion/Auxiliary combined functions.

Legion may request additional utilization of the premises over and above that set forth in the annually approved schedule. Any request for additional utilization shall be submitted in writing to the Village of Mantua Clerk-Treasurer a minimum of three (3) weeks prior to the date of utilization.

In the event that Legion determines that the space in the Premises B previously scheduled for their use will not be utilized, they shall notify Village of said cancellation as soon as possible. Legion shall not schedule more of the premises than is needed to accommodate the number of people anticipated to attend a particular function. Notwithstanding the foregoing, in the event of a Village or Township emergency, as determined by the Mantua Village Council, County or State emergency as determined by Portage County or State governmental agency, the Mantua Village Council may pre-empt use by Legion of Premises B whether or not it has been scheduled.

With a minimum of four (4) weeks notice, the Mantua Village Council may pre-empt any additional usage of Premises B by the Legion other than the current monthly uses listed above whether or not it has been scheduled.

10. WEAPONS. Ceremonial weapons, which are limited to those which have been adapted to operate using blank rounds only, shall be permitted on the premises during appropriate occasions, including but not necessarily limited to Memorial Day, Potato Festival parade day, and Veterans' funerals.

11. ASSIGNMENT OR SUBLETTING. Legion shall not assign this Agreement or any interest therein and shall not sublet said premises or any part thereof, or any right or privilege

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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. This Agreement shall not, nor shall interest therein, be assignable as to the interest of Legion, by operation of law, without the written consent of the Village. The consent herein required by Village shall not be withheld unreasonably but Village may condition its consent on assignees being qualified veterans organizations as contemplated in Title LIX (59) of the Ohio Revised Code.

12. 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 16 of this Agreement, and only with a minimum of ninety (90) days notice to the non-terminating party.

13. REMEDY OF VILLAGE ON DEFAULT. If Legion 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. If in the event of failure or default to pay rent provided herein, Village will provide notice to Legion who will then have thirty (30) days to cure the failure or default. In the event of a failure to cure the default in such thirty (30) day period, the Village may consider this Agreement terminated. Village shall have the right to enter the premises or any part thereof, with process of law, and remove Legion 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, Legion.

14. DISCRIMINATION PROHIBITED. Legion 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.

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

16. 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
P.O. Box 775
Mantua, Ohio 44255

Notice to The American Legion can be mailed to the current Commander of Mantua Legion:

Mantua Post No.193
ATTN: Commander
P.O. Box 252
Mantua, OH 44255

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Post 193 will be responsible in reporting the current Commander annual after the elections at the 2nd Thursday of May meeting.

17. 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. The subsequent acceptance of rent hereunder by Village shall not be deemed to be a waiver of any preceding breach by Legion of any term, covenant or condition of this Agreement, other than failure of Legion to pay the particular rental so accepted regardless of Village's knowledge of such preceding breach at the time of acceptance of such rent.

18. 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.

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

Village of Mantua:

Witnesses:

Mayor Linda Clark

American Legion Post 193:

Witnesses:

Commander

Witnesses:

Chairman

