

ORDINANCE NO. 2019-63
INTRODUCED BY: MS. EVANS

4222

**AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO YARD
WASTE AGREEMENT WITH THE VILLAGE OF
BENTLEYVILLE AND DECLARING AN EMERGENCY.**

WHEREAS, the Village of Chagrin Falls and the Village of Bentleyville deposit yard waste at the Village's Street Department Facility at 240 Solon Road, in the Village of Chagrin Falls, and the Chief Administrative Officer has determined that it is necessary, now that the Village is being charged for removal and composting of yard waste, to enter into a written agreement with the Village of Bentleyville to continue to provide access to the Street Department Facility to place their yard waste there for removal and composting; and

WHEREAS, the Village of Bentleyville has agreed to enter into a written agreement with the Village regarding yard waste disposal and composting.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE
VILLAGE OF CHAGRIN FALLS, CUYAHOGA COUNTY, STATE OF OHIO:**

SECTION 1. The Mayor is authorized to enter into a contract with the Village of Bentleyville to provide for sharing in the cost of hauling and composting yard waste pursuant to the terms of an agreement which is attached hereto as Exhibit "A" and is incorporated by reference into this ordinance as if fully rewritten herein. The Agreement shall be effective upon execution by the Mayor of the Village of Chagrin Falls and the Mayor of Bentleyville.

SECTION 2. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

SECTION 3. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

SECTION 4. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the inhabitants of the Village and for the further reason that this Ordinance must be immediately

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effective to provide a means and provisions for allocating cost of yard waste hauling and composting, and providing for insurance for the protection of the Village; wherefore provided it receives the affirmative vote of at least two-thirds (2/3) of all members elected to Council, this Ordinance shall be in full force and effect from and immediately upon its passage by this Council and approval by the Mayor; otherwise, it shall take effect and be in force after the earliest period allowed by law.

PASSED: November 11, 2019



Nancy Rogoff, Council President

Submitted to the Mayor for
his approval on this

12th day of November, 2019

Approved by the Mayor

November 12, 2019



Mayor William Tomko

I hereby certify that Ordinance No. 2019-63 was duly enacted on the 11th day of November, 2019, by the Council of the Village of Chagrin Falls and posted in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.



Clerk of Council, David Bloom

YARD WASTE AGREEMENT

This Agreement is made and entered into by and between the Village of Chagrin Falls ("Village") and the Village of Bentleyville ("Bentleyville") as of the 1 day of December, 2019.

WHEREAS, the Village and Bentleyville (each a Party and collectively the "Parties") both collect yard waste materials, limited to leaves and loose brush from trees and shrubs obtained from residences at various times throughout the year and both Parties generate wood waste from trimming and removal of trees on municipal property (collectively "Yard Waste");

WHEREAS, the Village has made available to Bentleyville a material transfer area at the Village Street Department Facility at 240 Solon Road, Chagrin Falls, Ohio ("Facility") for both Parties to use for the unloading of Yard Waste and for temporary storage of Yard Waste until a composting contractor is able to remove Yard Waste from the Village facility for composting at the contractor's facility;

WHEREAS, the Village had offered the use of the Facility to Bentleyville at no cost which allowed all Yard Waste from both parties to be loaded into third party trucks using Village equipment at no cost to Bentleyville;

WHEREAS, the parties have utilized the same contractor for removing and composting of yard waste without cost until 2019, and as a result of recent market changes, the contractor has determined that it is necessary to start charging for removal and composting of Yard Waste at an appropriate composting facility;

WHEREAS, the Village and Bentleyville desire to continue to share service arrangement for the pick up, removal and composting of Yard Waste, with each party to pay their proportionate share of the hauling and composting charges from the third party contractor.

NOW THEREFORE, it is mutually agreed between the parties as follows:

1. The Village and Bentleyville agree to continue to use the Facility for temporary storage and as a transfer station for removal and composting of Yard Waste, and no other materials.
2. The Parties agree for each load of Yard Waste that is removed by a third party contractor selected by the Village, and taken to an appropriate composting facility, or other authorized facility, that each of the Parties will pay their proportionate share of the hauling and composting charge from the third party contractor, based on the estimated volume each of the Parties has deposited at the Facility.
3. Each of the Parties will keep records of the type of material and the number of loads taken to the Facility and, when feasible, the Yard Waste will be separated by each of the Parties at the

Facility to facilitate estimating the volume of Yard Waste each Party has deposited at the Facility.

4. The Village will notify the third party contractor when enough Yard Waste has accumulated to require removal from the Facility. The Village will be provided with an invoice from the third party contractor for the entire amount of the material removed. The Village Street Superintendent and the Bentleyville Service Director will both review the invoice and agree on the proportionate share of Yard Waste contributed by each of the Parties relative to the total volume of material hauled away from the Facility, which shall determine the proportionate share of each invoice for hauling and composting to be paid by the Parties. The Village will advance the entire amount of the invoice to the third party contractor and forward an invoice to Bentleyville to pay its proportionate share of each invoice submitted by the third party contractor to the Village.

5. If the Village Street Superintendent and Bentleyville Service Director are unable to agree as to the amount of Yard Waste generated by each of the Parties or the proportionate share of the third party contractor invoice to be paid by each of the Parties, the dispute shall be presented to the Chief Administrative Officer for the Village and the Mayor of Bentleyville for resolution. In the event the Parties are unable to agree on the allocation, this Agreement shall terminate and Bentleyville shall no longer deposit Yard Waste at the Facility, and the Village shall, if necessary, exercise any legal and equitable remedies necessary to be equitably reimbursed for any disputed invoice submitted by the third party contractor.

6. Either Party may terminate this Agreement with or without cause at any time by providing written notice to the other Party, and this Agreement will terminate 30 days thereafter, unless termination is the result of the failure of the Parties to agree upon the proportionate share of an invoice to be paid by each of the Parties hereto, in which case this Agreement shall immediately terminate upon either of the Parties declaring an impasse. In the event of termination, Bentleyville shall pay its proportionate share of any invoices generated by Yard Waste deposited at the Facility by Bentleyville.

7. The Village may refuse to accept any material to be deposited at the Facility by Bentleyville, and may notify Bentleyville to remove any material deposited at the Facility by Bentleyville, in the event such material is not Yard Waste or in the event the Facility has no space available to receive Yard Waste from either of the Parties. Bentleyville agrees that it will inspect each load before it is brought to the Facility to verify that the materials being deposited are limited to Yard Waste.

8. This Agreement supersedes any previous agreement between the Parties and shall be effective as of the last day signed by both Parties.

9. Bentleyville agrees to pay for the reasonable cost to repair or replace any improvements or property located at the Facility that is damaged by Bentleyville when depositing or removing Yard Waste from the Facility.

10. Bentleyville agrees that its employees, agents, or contractors who transport Yard Waste to or from the Facility, they shall not be deemed to be employees, agents or contractors of the Village and Bentleyville shall be solely responsible for any damage or injury to or by such persons or entities while engaged in activities contemplated by this Agreement at or driving to or from the Facility.

11. The Parties hereto agree to carry out their obligations set forth in this Agreement in accordance with all laws, ordinances, regulations, codes and other legal requirements.

12. Bentleyville agrees that it shall not deposit, store, transfer or otherwise allow flammables, explosives, radioactive materials, hazardous waste or materials, toxic waste or materials, or other similar substances, petroleum products or derivatives or any substance subject to regulation by or under any federal, state or local laws and ordinances relating to the protection of the environment or the keeping, use or disposition of environmentally hazardous materials, substances, or waste, presently in effect or hereafter adopted, all amendments thereto and all rules and regulations issued pursuant to any of the foregoing, in, on, or about the Facility.

13. During the term of this Agreement, Bentleyville shall name the Village as an additional insured on its comprehensive general liability policy, any automobile owned policy, any umbrella liability policy, and any other policy covering hazards, liability claims and similar risks. Bentleyville shall provide the Village with evidence of such insurance, which shall be the same insurance Bentleyville carries for itself for its municipal activities, and shall include the Village as an additional insured with notice of nonrenewal or termination with at least ten (10) days notice.

14. There are no intended third party beneficiaries of this Agreement. Neither Party shall assign all or any portion of this Agreement without the prior written consent of the other Party hereto. This contract is binding upon, and shall inure to the benefit of, the Parties hereto and their respective permitted successors in interest and assigns. This Agreement shall be governed by, interpreted under, construed and enforced in accordance with the laws of the State of Ohio. If any provision of this Agreement is held by any court to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force and effect.

15. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. This Agreement may be accepted as an original if received via facsimile or electronic mail, and the Parties signatures may be treated as an original and admissible evidence of this Agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes and cancels all other prior agreements, representations and understandings of the Parties in connection with such subject matter. Any amendment to this Agreement shall be in writing and signed by both Parties.

IN WITNESS WHEREOF, each Party has executed this Agreement on the date set forth under its signature below, but effective as of the date first set forth above.

Village of Chagrin Falls



William Tomko, Mayor

Date: November 12, 2019

Village of Bentleyville



Leonard Spremulli, Mayor

Date: November 20, 2019

VILLAGE OF BENTLEYVILLE, OHIO

ORDINANCE NO: 2019-44
INTRODUCED BY: GOETSCH

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH THE VILLAGE OF CHAGRIN FALLS FOR THE USE OF A MATERIAL TRANSFER AREA TO USE FOR THE UNLOADING AND TEMPORARY STORAGE OF YARD WASTE AND TO SHARE A SERVICE ARRANGEMENT FOR THE PICK-UP, REMOVAL AND COMPOSTING OF YARD WASTE FROM A THIRD-PARTY CONTRACTOR AND DECLARING AN EMERGENCY.

WHEREAS, the Village of Chagrin Falls has submitted a Yard Waste Agreement ("Agreement") to the Village of Bentleyville for the use of a Material transfer area to use for the unloading and temporary storage of yard waste and to share a service arrangement for the pick-up, removal and composting of yard waste from a third-party contractor; and

WHEREAS, Council has determined that the Agreement is a necessity for the removal of yard waste from the Village.


NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF BENTLEYVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO:

Section 1. The Mayor is hereby authorized to enter into THE Agreement with the Village of Chagrin Falls, commencing either December 1, 2019 for the use of a material transfer area to use of the unloading and the temporary storage of yard waste and to share a service arrangement for the puck-up, removal and composting of yard waste from a third-party contractor.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including the applicable sections of the Ohio Revised Code.

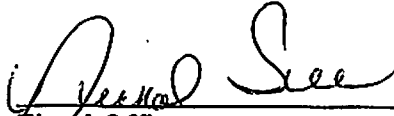
Section 3. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, or safety of the inhabitants of the Village and for the further reason set forth in the preamble hereof, and this Ordinance shall, therefore, take effect and be in full force immediately from and after the date of its passage and approval.

Passed: 11-20-19

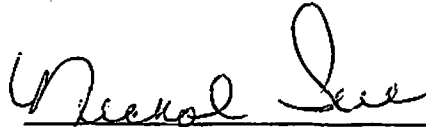


Mayor

I, the undersigned, Fiscal Officer of the Village of Bentleyville, hereby certify that there is no newspaper published or having an office of publication in the same Village and that I published the foregoing Ordinance by posting the same in five (5) of the most public places of said Village, as defined by Ordinance of Council, for a period of fifteen (15) days, beginning the date following passage and signature by the Mayor.


Fiscal Officer

I, the undersigned, Fiscal Officer of the Village of Bentleyville, hereby certify that the foregoing is a true copy of Ordinance 2019-44 duly enacted by the Council of said Village on Nov 20, 2019.


Fiscal Officer