

RESOLUTION NO. 106-21
CITY OF CENTERVILLE, OHIO

1st SPONSORED BY COUNCILMEMBER John Palcher ON THE
DAY OF November, 2021.

A RESOLUTION AUTHORIZING THE CITY MANAGER, ON BEHALF OF THE CITY OF CENTERVILLE, TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT FOR TEMPORARY BUILDING SERVICES BETWEEN MONTGOMERY COUNTY AND THE CITY OF CENTERVILLE, OHIO FOR BUILDING CODE ENFORCEMENT PROGRAM 2021-2023.

WHEREAS, the City of Centerville desires to participated in a shared services initiative called the Building Code Enforcement Program with Montgomery County, Ohio (the "Program"); and

WHEREAS, the mission of the Program is to allow the City of Centerville and Montgomery County as Member Jurisdictions to share building code enforcement resources on a temporary or intermittent basis in order to improve responsiveness, and to provide efficient and effective delivery of service to residents and businesses of each participating jurisdiction; and

WHEREAS, the Member Jurisdictions desire to identify the roles of its participants, the composition of the Program and the relationships between Member Jurisdictions; and

WHEREAS, it was in the best interests of the City to become a Member Jurisdiction; and

WHEREAS, the City Manager, in prior consultation with the City Council at open meeting work sessions discussed the need for the agreement; and


WHEREAS, this Council has determined that it would be in the best interests of the citizens of Centerville to enter into said agreement.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE
HEREBY RESOLVES:

Section 1. That the City Manager be and is hereby authorized to execute an Intergovernmental Agreement for Temporary Building Services, consistent with and substantially similar to the agreement attached hereto and incorporated herein, marked Exhibit "A", between the City of Centerville, Ohio and Montgomery County, Ohio

Section 2. That this Resolution shall take effect at the earliest date allowed by law.

PASSED THIS 1st day of November, 2021.



Mayor of the City of Centerville, Ohio

ATTEST:



Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 106-21, passed by the Council of the City of Centerville, Ohio on the 1st day of November, 2021.



Clerk of the Council

Approved as to form, consistency
with existing ordinances, the
charter & constitutional provisions
Department of Law
Scott A. Liberman
Municipal Attorney

**INTERGOVERNMENTAL AGREEMENT FOR TEMPORARY BUILDING SERVICES
BETWEEN MONTGOMERY COUNTY AND THE CITY OF CENTERVILLE, OHIO**

BUILDING CODE ENFORCEMENT PROGRAM 2021-2023

This Intergovernmental Cooperation Agreement (“Agreement”), dated this _____ day of _____, 2021, is between the City of Centerville, Ohio, and Montgomery County, Ohio (hereinafter collectively referred to as “Member Jurisdictions”).

WHEREAS, the Member Jurisdictions desire to participate in a shared services initiative called the “Building Code Enforcement Program” (hereinafter referred to as the “Program”); and

WHEREAS, the mission of the Program is to allow each Member Jurisdiction to share building code enforcement resources on a temporary or intermittent basis in order to improve responsiveness, and to provide efficient and effective delivery of service to residents and businesses of each participating jurisdiction; and

WHEREAS, the Member Jurisdictions desire to identify the roles of its participants, the composition of the Program and the relationships between Member Jurisdictions; and

WHEREAS, the Program will provide benefits to all Member Jurisdictions;

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, the Member Jurisdictions hereby agree as follows:

WITNESSETH THAT:

Section 1. The Building Code Enforcement Program

The Program is a service delivery initiative that was designed to make effective and efficient use of personnel resources related to building code enforcement in Montgomery County and Greene County, Ohio. Each Member Jurisdiction is certified by the State of Ohio as a Primary Building Department to enforce the edition of the Ohio Building Code (OBC) and the Residential Building Code of Ohio (RCO) contained in Ohio Administrative Code as the OBC and RCO currently exists or may hereafter be amended, and all other codes and standards referenced by the OBC and RCO. As such, each Member Jurisdiction has staff certified by the Ohio Board of Building Standards as necessary to oversee building code enforcement activities, review and approve applications and plans, and inspect buildings to confirm they meet code requirements for such uses proposed. This program endeavors to share certified personnel resources by providing a means for Member Jurisdictions to share resources related to building code enforcement. Each Member Jurisdiction will be able to provide a more effective and efficient means of building code enforcement services within Montgomery County and Greene County.

Building code enforcement is monthly and annually cyclical and geographically unconstrained by jurisdictional boundaries. Providing a means to share building code enforcement services will allow each Member Jurisdiction to effectively respond to geographical and monthly cycles by providing required code enforcement services while minimizing the adding or eliminating of personnel resources.

Section 2. Role of Member Jurisdictions

The Member Jurisdiction requesting assistance will be known as the Requesting Agency and the Member Jurisdiction providing services will be known as the Home Agency.

All Member Jurisdictions, throughout the term of its participation in the Program, shall be responsible for the following:

- A) The Home Agency will be responsible for providing required transportation, safety equipment, and communication equipment to provide the building code enforcement services which are being requested by the Requesting Agency;
- B) The Requesting Agency will be responsible for providing, as appropriate, testing, computer or specialty equipment necessary to perform the requested services;
- C) All Member Jurisdictions shall maintain Ohio Board of Building Standards Certification and only offer properly certified staff to perform requested building code enforcement functions;
- D) All Member Jurisdictions shall provide requested services whenever feasible. Member Jurisdictions will not be obligated to provide requested services if they have a good faith belief that providing the service personnel will adversely impact the Home Agency's ability to fulfill their primary responsibilities within their jurisdiction;
- E) To reimburse the Home Agency in a manner and in the amount agreed upon within this Agreement; and

Reimbursement

- A) The Requesting Agency will pay a rate based upon the position requested as follows:
Master Plans Examiner.....\$50/hour
Residential Plan Examiner.....\$50/hour
Inspector.....\$50.00/inspection
- B) Each Member Jurisdiction shall record reimbursable fees and expenses at the end of each quarter and shall reconcile the balance due between agencies prior to submitting an invoice to the requesting jurisdiction. The Requesting Agency upon receipt of the invoice shall pay the expense within 30 calendar days upon receipt of the invoice.
- C) The maximum amount that can be reimbursed through this agreement is \$15,000. In the event that actual billed costs are approaching that maximum, both parties must agree to amend the agreement to increase the funded amount.

Section 3. Additional Participant Expectations

As a participant in the Program, the Member Jurisdiction agrees to abide by the following Program protocols:

- A) All activities provided for under this agreement will be for services regulated by the edition of the Ohio Building Code (OBC) and the Residential Building Code of Ohio (RCO) contained in Ohio Administrative Code as the OBC and RCO currently exist or may hereafter be amended.
- B) Requesting Agency may request services under this agreement from any other Member Jurisdiction. The Home Agency has the authority to provide services in the Requesting Agency's jurisdiction under

mutually agreed upon time, place and manner as long as the individual performing the service has the required certification to perform the requested duties.

- C) The individual providing the service for the Requesting Agency will agree to abide by all rules and regulations of the Requesting Agency as long as they are not in conflict with the Home Agency.
- D) Each Member Jurisdiction is responsible for vehicle, real property, personal property, and personal injury damage costs for its own personnel as it would be in the normal course of business.
- E) Each Member Jurisdiction is responsible for providing worker's compensation benefits and administering worker's compensation requirements for its own personnel as it would in the normal course of business.

Section 4. Addition of New Member Jurisdiction(s)

The Program may add new Member Jurisdictions upon approval by all of the existing Member Jurisdictions. Upon all appropriate approvals, the new Member Jurisdiction will be added by legislation from the legislative bodies of the Member Jurisdictions and the new Member Jurisdiction, and, subsequently, by way of a separately executed signature page.

Section 5. Term

This Agreement shall be effective on the date it is signed by the last party to sign below and shall remain in effect until December 31, 2023, unless terminated earlier in accordance with Section Six.

Section 6. Termination

- A) This Agreement may be terminated in its entirety by mutual written agreement between all Member Jurisdictions.
- B) In the event an individual Member Jurisdiction seeks to terminate its participation in the Program, it shall provide written notice of its intent to terminate its participation to each of the Member Jurisdictions.
- C) Such termination shall be effective at the date specified in the written notice.
- D) Each party agrees to be responsible for any personal injury or property damage caused by the negligent acts or negligent omissions by or through itself or its agents, employees and contracted servant and each party further agrees to defend itself and themselves and pay any judgments and costs arising out of such negligent acts or negligent omissions, and nothing in this Agreement shall impute or transfer any such responsibility from one to the other.

Section 7. General Provisions

- A) Amendment or Modification – This Agreement may be amended or modified by the parties, provided that any such amendment or modification makes specific reference to this Agreement, is executed in writing, signed by a duly authorized representative of each Member Jurisdiction and, if required or applicable, approved by the legislative or governing body of the Member Jurisdiction.

- B) Capacity to Execute – The Member Jurisdictions hereby certify that all actions necessary to execute this Agreement were taken and that the person executing this Agreement is authorized to do so and has the power to bind the jurisdiction to the terms and conditions contained herein.
- C) Liability – The Requesting Agency agrees to release the Home Agency under this Agreement from any and all liability, which may be caused by or arise by the wrongful and/or negligent conduct of the parties’ respective employees, contractors and/or agents in the performance of this Agreement or during participation in the Program. Notwithstanding, none of the parties waive any available immunities under the law.
- D) Integration – This Agreement represents the entire and integrated agreement between the parties. This Agreement supersedes all prior and contemporaneous communications, representations, understandings, agreements or contracts, whether oral or written, relating to the subject matter of this Agreement.
- E) Governing Law – This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws.
- F) Relationship of Parties –At no time shall the relationship between the parties under this Agreement be construed, held out or considered as a joint venture, principal-agent or employer-employee.
- G) Waiver – A waiver by any of the Parties of any breach of this Agreement shall be in writing. Such a waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect the waiving Party’s rights with respect to any other or further breach.
- H) Severability – The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void, unenforceable, invalid or illegal provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision. The Member Jurisdictions further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this subsection shall not prevent this entire Agreement from being void should a provision, which is of the essence of this Agreement, be determined void.
- I) Assignment – None of the Member Jurisdictions shall assign any rights or duties under this Agreement without the prior written consent of the other Member Jurisdictions. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent Centerville from employing independent contractors to assist in the performance of its duties and responsibilities hereunder.
- J) Third Party Rights – Except as expressly provided in this Agreement, nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the parties to this Agreement.

Section 8. Communications

Any written communication or notice required or permitted by this Agreement shall be made in writing and shall be delivered personally or sent by express delivery, certified mail or first class U.S. mail, postage prepaid, to the appropriate address below:

City of Centerville: City of Centerville
Department of Building Inspection
100 W. Spring Valley Road
Centerville, Ohio 45458
Attention: Mr. Michael Norton-Smith
Development Director

Montgomery County: Montgomery County
Development Services-Community and Economic Development
451 W. Third Street
10th Floor
Dayton, Ohio 45422
Attention: Erik Collins, Director

(The remainder of this page intentionally left blank)

IN WITNESS WHEREOF, each of the parties intending to be legally bound, has each caused this Agreement to be executed by their duly authorized representative as of the date and year first above written.

CITY OF CENTERVILLE

By: _____

Print: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

Centerville City Attorney

APPROVED BY THE COUNCIL OF THE CITY OF CENTERVILLE, OHIO

Resolution No. _____

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS, MONTGOMERY COUNTY, OHIO

By: _____
Judy Dodge

By: _____
Deborah Lieberman

By: _____
Carolyn Rice

By: _____
Michael B. Colbert, Administrator,
Montgomery County Ohio

Witness

APPROVED AS TO FORM:

MATHIAS H. HECK, JR.
PROSECUTING ATTORNEY

By: _____
Assistant Prosecuting Attorney