

ORDINANCE NO. O-2011-25

AN ORDINANCE AUTHORIZING A REQUEST TO THE OHIO BOARD OF BUILDING STANDARDS TO CERTIFY THE VILLAGE OF WINDHAM FOR ENFORCEMENT OF THE RESIDENTIAL CODE OF OHIO WITH THE CONDITION THAT THE PORTAGE COUNTY BUILDING DEPARTMENT EXERCISE ENFORCEMENT AUTHORITY AND ACCEPT AND APPROVE PLANS AND SPECIFICATIONS, AND MAKE INSPECTIONS, AND AUTHORIZING AN AGREEMENT FOR SUCH ENFORCEMENT BETWEEN THE VILLAGE OF WINDHAM AND PORTAGE COUNTY RESIDENTIAL BUILDING DEPARTMENT DECLARING AN EMERGENCY.

WHEREAS, the Village of Windham, Ohio desires to enforce the Residential Code of Ohio for the purpose of providing uniform standards and requirements for the erection, construction, repair, alteration and maintenance of buildings specified in section 3781.06 of the Revised Code of Ohio; and

WHEREAS, the Village of Windham, Ohio seeks to continue the authority for enforcement of the provisions of the Residential Code of Ohio through certification by the Ohio Board of Building Standards pursuant to Section 3781.10(E) of the Revised Code with the condition that the Portage County Building Department exercise the enforcement authority and accept and approve plans and specifications, and make inspections in accordance with the Residential Code of Ohio; and

WHEREAS, the said Board of Building Standards has certified the Portage County Building Department to exercise enforcement authority in accordance with the Residential Code of Ohio, effective May 27, 2006, as set forth in said Board's certification rule; and

WHEREAS, it is necessary in accordance with law to administer and enforce the Residential Code of Ohio within the limits of the Village of Windham; and

WHEREAS, it is necessary that an agreement be entered into between the Village of Windham and Portage County for the enforcement of the Residential Code of Ohio within the limits of said Village of Windham; and

WHEREAS, this matter is an emergency measure affecting the health, safety and general welfare of the residence of the Village of Windham.

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Windham, Portage County, Ohio, two thirds or more of all members elected thereto concurring that:

Section One: That the Ohio Administrative Code 4101:8 – Residential Code of Ohio as promulgated by the Ohio Board of Building Standards, shall apply and be enforced within the Village of Windham, Ohio.

Section Two: That this ordinance shall be in full force and effect from and after the earliest period permitted by law following promulgated of the Residential Code of Ohio by the Board of Building Standards through the certification process, adoption and effective date of certification issued by the Ohio Board of Building Standards.

Section Three: The actions of the Mayor of the Village of Windham, Ohio, in signing and submitting an application to the Ohio Board of Building Standards requesting said Board to certify the Village of Windham for enforcement of the Residential Code of Ohio with the condition that the Portage County Residential Building Department exercise the enforcement authority as necessary in accordance with the Residential Code of Ohio within the limits of said Village of Windham are hereby ratified.

Section Four: The Village of Windham through its Mayor, and its Village Fiscal Officer, is hereby authorized and directed to enter into an agreement with Portage County for the enforcement of the Residential Building Department will exercise all enforcement authority and

accept and approve plans and specifications and make inspections necessary within said Village of Windham in accordance with the provisions of the Residential Code of Ohio, said agreement to be in substantial conformity with the attached Exhibit "B".

Section Five: The terms of the said agreement shall grant to the Village of Windham full authority to do all things necessary to administer and enforce the Residential Code of Ohio within limits of the Village of Windham.

Section Six: The Council of the Village of Windham further agrees to hold Portage County harmless for all claims or causes of action of every kind and nature arising from the acts of the Village of Windham, its agents, employees and representatives in the administration and enforcement of said codes.

Section Seven: This Ordinance is hereby declared to be an emergency measure, the immediate passage of which is necessary for the public health, safety and welfare and for the further reason that said Code must be enforced and administered according to law and particularly pursuant to the requirements of Chapter 3781 of the Revised Code of Ohio; wherefore this Ordinance shall take effect and be in force immediately upon its passage and effective date of certification issued by the Ohio Board of Building Standards.

Section Eight: The said Village Fiscal Officer is further directed to publish this Ordinance at the predesignated posting places.

Passed in Council as an emergency this 28th day of June, 2011

Vote of Council: Ayes: Mrs. Barrett, Mr. Garrett, Mrs. Meszaros, Mrs. Miranda, Mrs. Rininger, Mr. Snyder. Nays: None.

ATTEST:

APPROVED:

Lloyd Billman, Fiscal Officer

Robert Donham, Mayor

I hereby certify that the above Ordinance was duly published by public posting at predesignated posting places.

Lloyd Billman, Fiscal Officer

APPROVED AS TO FORM:

Thomas Reitz, Solicitor

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"EXHIBIT B"

THIS AGREEMENT entered into this _____ day of June, 2011, by and between the PORTAGE COUNTY COMMISSIONERS of Portage County, Ohio, acting for and on behalf of Portage County, Ohio, (hereinafter referred to as the "County") and the VILLAGE OF WINDHAM, (hereinafter referred to as "Village").

WITNESSETH:

WHEREAS, the Village of Windham, Ohio desires to enforce the Residential Code of Ohio for the purpose of providing uniform standards and requirements for the erection, construction, repair, alteration, and maintenance of residential buildings specified in section 378 1.06 of the Revised Code of Ohio; and

WHEREAS, the Village of Windham, Ohio seeks to obtain the authority for enforcement of the provisions of the Residential Code of Ohio through certification by the Ohio Board of Building Standards pursuant to Section 3781.1 (E) of the Revised Code, with the condition that the Portage County Residential Building Department exercise the enforcement authority and accept and approve plans and specifications, and make inspections in accordance with the Residential Code of Ohio; and

WHEREAS, the said Board of Building Standards has certified the Portage County Residential Building Department to exercise enforcement authority in accordance with the Residential Code of Ohio, effective May 27, 2006, as set forth in said Board's certification rule; and

WHEREAS, the County desires and is willing to administer and enforce the Residential Code of Ohio within the limits of said Village pursuant to its authority so to do contained in Chapter 3781 of the Revised Code of Ohio and as granted by the Ohio Board of Building Standards; and

WHEREAS, the Village of Windham has passed its Ordinance No. O-2011-25 on the 28th day of June, 2011, authorizing the Village, through its Mayor and its Fiscal Officer to enter into an agreement with Portage County, for the enforcement of the Residential Code of Ohio within the limits of said Village; and

WHEREAS, the County has on the 24th day of May, 2011, adopted its resolution authorizing the County to enter into said agreement with the Village, for the purposes aforesaid.

NOW, THEREFORE, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. The Village hereby grants to the County authority to do all things necessary to exercise enforcement authority and to accept and approve plans and specifications and make inspections necessary with Village in accordance with the provisions of the Residential Code of Ohio pursuant to Ohio Administrative Code 4101:8 - Residential Code of Ohio as promulgated by the Ohio Board of Building Standards, and shall apply and be enforced within the Village of Windham, Ohio.
2. The County accepts the authority and responsibility to carry out the terms of this agreement.
3. The County shall have full authority to do all things necessary to administer and enforce the Residential Code of Ohio within the limits of Village and in consideration therefore, the County shall retain all permit and inspection fees authorized by the State of Ohio for such purposes.
4. The effective date for which the County shall begin to perform its duties under the terms of this agreement shall be the date of certification by the Ohio Board of Building Standards, and this agreement shall thereafter continue in full force and effect until either of the parties shall give written notice to the other and the Board of Building Standards of its intention to terminate the agreement, which may be for any reason, except that this agreement shall not terminate until the effective date of repeal of the rule of conditional certification by the Board of Building Standards.
5. The Village of Windham hereby agrees to hold the County harmless from all claims or causes of action of every kind and nature arising from the acts of the County, its agents, or employees, or representatives in the administration and enforcement of the Residential Code of Ohio within the limits of said Village.
6. This agreement shall be deemed to authorize the County to administer and enforce for the Village any amendments or additions to the Residential Code of Ohio hereafter adopted by the Board of Building Standards pursuant to the authority granted by said Board by Chapter 3781 of the Revised Code of Ohio at all times after said Board shall have adopted such amendments or additions.

IN WITNESS WHEREOF, we have hereunto set our hands to this agreement this ____ day of _____, 2011.

SIGNED IN THE PRESENCE OF:

VILLAGE OF WINDHAM

Mayor

Fiscal Officer

County Commissioners:

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Solicitor – Village of Windham

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Legal Counsel – Portage County Commissioners