

INTERLOCAL AGREEMENT BETWEEN THE TOWN OF WENDELL AND WAKE COUNTY FOR INSPECTIONS PURSUANT TO THE NORTH CAROLINA STATE BUILDING CODE

This Interlocal Agreement is dated as of _____, 2021, between **WENDELL, NORTH CAROLINA** (the "Town"), a municipal corporation and public body politic of the State of North Carolina, and **WAKE COUNTY, NORTH CAROLINA** (the "County"), a public body politic and corporate of the State of North Carolina (individually a "Party" and collectively "Parties").

RECITALS:

WHEREAS, the County performs, Building Plan Review and Building Inspections pursuant to Article 11 of § N.C.G.S. Chapter 160D; and

WHEREAS, the Town may arrange for the County to perform, Building Plan Review and Building Inspection services within the Town's regulatory jurisdiction pursuant to Article 11 of N.C.G.S. § 160D; and

WHEREAS, Town and County entered into the Original Agreement authorizing the County to perform Building Plan Review and Building Inspection services within the Town's regulatory jurisdiction; and

WHEREAS, the County is committed to continuing the provision of these services within the Town's territorial jurisdiction by providing the necessary resources and expertise in accordance with North Carolina law; and

WHEREAS, the Parties desire to continue this arrangement by updating the Original Agreement with this Agreement pursuant to the statutory authority authorizing interlocal agreements, N.C.G.S §§160A-460 to 160A-464, in order to pursue the goals stated herein.

NOW THEREFORE, for and in consideration of the promises and covenants contained in the Agreement, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I Definitions

1.01. Definitions: For all purposes of this Agreement, unless the context requires otherwise, the following terms shall have the following meanings:

"Agreement" means this Interlocal Agreement.

"Building Inspection" means review of actual building construction in the field to determine compliance with the North Carolina State Building Code and permitted and approved construction plans.

“Building Permit” means the authorization to construct a building or structure in accordance with approved construction plans and North Carolina State Building Code.

“Building Plan Review” means the review of building construction plans to determine compliance with the North Carolina State Building Code.

“Certificate of Occupancy” means certification that the construction project has met all requirements of the approved construction plans, applicable municipal ordinances, and North Carolina State Building Code; and authorizing a building to be occupied for its intended use.

“North Carolina State Building Code” means the building codes adopted by the State of North Carolina Building Code Council and collectively referred to as the “technical codes” including the technical codes denominated Building, Electrical, Energy, Existing Buildings, Fire Prevention, Fuel Gas, Mechanical, Plumbing, and Residential.

“Original Agreement” means that certain Agreement Between the Town and County for Inspections within Municipal Limits Pursuant to the North Carolina State Building Code dated as of September 13, 1982, by and between the Parties.

ARTICLE II

Purpose & Structure

2.01. Recitals; Purpose: The Recitals are incorporated herein. The Town hereby authorizes the County to perform Building Plan Review and Building Inspection services within the Town’s regulatory jurisdiction, as set forth herein.

2.02. Roles and Responsibilities of the Parties:

- (A) The County shall:
 - 1. Provide uniform enforcement of the North Carolina State Building Code within the Town’s regulatory jurisdiction pursuant to Article 11 of § N.C.G.S. Chapter 160D.
 - 2. Provide qualified personnel and resources to perform all necessary work under this Agreement.
 - 3. Perform Building Plan Review and Building Inspections, in accordance with the North Carolina State Building Code.
 - 4. Perform code enforcement inspections and other actions, pursuant to the North Carolina State Building Code, in response to complaints and inquiries related to unsafe conditions or unpermitted structures.
 - 5. Provide support for the Town’s minimum housing code pursuant to the North Carolina State Building Code.
 - 6. Collect payments for Building Permits, Building Plan Review, and Building Inspections pursuant to Section 3.01 and collect other Town development fees as described in Section 3.02.
- (B) The Town shall:
 - 1. Be responsible for enforcing ordinances and regulations adopted by their governing bodies related to the minimum housing code, zoning, storm water, transportation, landscaping,

- buffers, utilities, and other aspects of site development that are not governed by the North Carolina State Building Code.
2. Provide notification to the County that zoning and other local development regulations are satisfied prior to the County commencing the services authorized herein. Notification may be issued by the Town through the County's online permitting software system or by other mutually agreed method.
 3. Issue Building Permits authorizing construction in accordance with permitted and approved construction plans, municipal development ordinances and the North Carolina State Building Code.
 4. Issue Certificates of Occupancy in accordance with permitted and approved construction plans, municipal development ordinances and North Carolina State Building Code.
 5. Issue violation notices and pursue other legal actions to compel compliance with all provisions and ordinances adopted by its governing body not subject to the North Carolina State Building Code.
 6. Collect payments for Building Permits, Building Plan Review, and Building Inspections in accordance with the cash handling procedures outlined in Appendix A, attached hereto.

ARTICLE III Fees, Costs, & Personnel

3.01. Collection of County Permit Fees: The County shall assess, collect, and retain all County fees associated with Building Permits, Building Plan Review and Building Inspections within the regulatory jurisdiction of the Town in accordance with the fee schedules approved by the Wake County Board of Commissioners. Pursuant to N.C.G.S. § 160D-402, all fees collected by the County may only be used to support the administration and activities of the inspections division.

3.02. Collection of Town Permit Fees: The County, at the request of the Town, shall collect other permit fees assessed by the Town with respect to zoning, transportation, landscaping, buffers, utilities, and other aspects of site development that are not governed by the North Carolina State Building Code. The County shall provide the total sum of the Town permit fees collected on a monthly basis for reimbursement to the Town.

ARTICLE IV Effective Date, Term & Termination

4.01. Effective Date: This Agreement shall become effective on July 1, 2021, subject to approval by the governing boards of each Party on or before this date.

4.02. Term: The term of this Agreement shall commence on July 1, 2021 and run for a period of ten (10) years, ending June 30, 2031. The term shall be automatically

extended for successive ten (10) year terms unless terminated in accordance with Section 4.03.

4.03. Termination: Any Party shall have the right to withdraw or terminate participation in this Agreement with or without cause upon 180-day's advance written notice to the other Party. The withdrawing party must give a concurrent electronic notice to the other party at the then current email address for that party/position.

4.04. Duties upon Termination. All duties under this Agreement shall continue in effect from the date of notice through the Effective Date of Termination (which shall be 180 days from notice of termination unless otherwise agreed by the parties in an amendment to this Agreement approved by the governing boards of each party). Upon the Effective Date of Termination, all responsibility for Building Permits, Building Plan Review and Building Inspections in progress shall transfer to the other Party. The parties shall cooperate to ensure a smooth transition of operations, with each party responsible for their own costs and personnel.

ARTICLE V Notice

5.01. Notice: Any written or electronic notice required by this Agreement shall be delivered to the Parties at the following addresses:

For the County: Planning Development & Inspections Director
Wake County Office Building
337 S. Salisbury St.
Raleigh, NC 27601

For the Town: Town Manager
Town of Wendell
15 E. Fourth St.
Wendell, NC 27591

ARTICLE VI Miscellaneous

6.01. Governing Law and Venue: The Parties agree that North Carolina law shall govern this Agreement. Venue for any disputes arising under this Agreement shall be in the courts of Wake County, North Carolina.

6.02. Severability: If any provision of this Agreement shall be determined to be unenforceable by a court of competent jurisdiction, such determination will not affect any other provision of this Agreement.

6.03. Entire Agreement, Amendments: This Agreement supersedes and replaces the Original Agreement and constitutes the entire Agreement between the Parties. This Agreement shall not be modified or amended except in writing signed by both Parties.

6.04. Liability of Officers and Agents: No officer, agent or employee of any Party shall be subject to any personal liability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute this Agreement in their official capacities only, and not in their individual capacities. This Section 6.04 shall not relieve any such officer, agent or employee from the performance of any official duty provided by law.

6.05. Counterparts: This Agreement may be executed in several counterparts, each of which shall be an original. Alternatively, each Party may execute an original of this Agreement and all individually executed originals shall constitute a single Agreement.

6.06. Assignment: No Party shall sell or assign or subcontract any interest in or obligation under this Agreement without the prior written consent of both Parties.

6.07. No Waiver Of Sovereign Immunity: Nothing in this Agreement shall be construed to mandate purchase of insurance by the County pursuant to N.C.G.S. § 153A-435 or by the Town pursuant to N.C.G.S. § 160A-485; or to be inconsistent with Wake County's "Resolution Regarding Limited Waiver of Sovereign Immunity" enacted October 6, 2003; or to in any other way waive any Party's defense of sovereign or governmental immunity from any cause of action alleged or brought against a Party for any reason if otherwise available as a matter of law.

6.08. Real Property: This Agreement does not involve the acquisition or ownership of real property.

6.09. Electronic Version of Agreement: To ensure compliance with the E-Verify requirements of the General Statutes of North Carolina, all contractors, including any subcontractors employed by the contract(s), by submitting a bid, proposal or any other response, or by providing any material, equipment, supplies, services, etc, attest and affirm that they are aware and in full compliance with Article 2 of Chapter 64, (N.C.G.S. § 64-26(a)) relating to the E-Verify requirements.

6.10. Breach and Default: In the event of breach of this Agreement, the Parties shall be entitled to such legal or equitable remedy as may be available, including specific performance.

6.11. Representations and Warranties: The Parties each represent, covenant and warrant for the other's benefit as follows:

(a) Each Party has all necessary power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement, and this Agreement has been authorized by resolution spread upon the minutes of each Party's governing body. This Agreement is a valid and binding obligation of each Party.

(b) To the knowledge of each Party, neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated by this Agreement, results in a breach of the terms, conditions and provisions of any agreement or instrument to which either Party

is now a Party or by which either is bound, or constitutes a default under any of the foregoing.

(c) To the knowledge of each Party, there is no litigation or other court or administrative proceeding pending or threatened against such Party (or against any other person) affecting such Party's rights to execute or deliver this Agreement or to comply with its obligations under this Agreement. Neither such Party's execution and delivery of this Agreement, nor its compliance with its obligations under this Agreement, requires the approval of any regulatory body or any other entity the approval of which has not been obtained.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties, pursuant to resolutions of their respective governing boards spread upon their minutes, have caused this Agreement to be executed in their corporate names by their duly authorized officers, all as of the date first above written.

COUNTY OF WAKE, NORTH CAROLINA

David Ellis
Wake County Manager

Frank Cope
Community Services Director

ATTEST:

By: _____
Matthew M. Calabria
Chair, Board of Commissioners

Clerk
County of Wake, North Carolina

This instrument is pre-audited in the manor required by the Local Government Budget and Fiscal Control Act

Finance Director, Wake County

TOWN OF WENDELL, NORTH CAROLINA

ATTEST:

By: _____
Virginia Gray
Mayor

Megan Howard, Clerk
Town of Wendell, North Carolina

This instrument is pre-audited in the manor required by the Local Government Budget and Fiscal Control Act

Finance Director, Town of Wendell

Appendix A

Wake County Cash Handling Procedures

Resources Needed

- Access to electronic permitting system
- Wake County deposit tickets, check endorsement stamp, deposit bags
- At least 2 staff members
 - Cashier – Accepts payments & provides receipts to customers. May also prepare deposit.
 - Supervisor (or other designated Cash Handler) – Verifies cashier collections. May prepare deposit **or** verify deposit, but not both.

Collecting Funds and Receipting Revenues

- Each cashier should have their own cash drawer or cash pouch. Funds collected by different cashiers should not be comingled.
- Checks must be made payable to Wake County and stamped “For Deposit Only” with a Wake County check endorsement stamp at the time of receipt.
- Payments must be entered in electronic permitting system at the time of receipt.
- A receipt must be given to the customer at the time of the transaction.

Daily Close Out & Balancing

- Cashier must close electronic permitting till session at the end of each day.
- A reconciliation to compare receipts to cash/check collections must be performed daily.
 - Run the electronic permitting **Daily Cashier Reconciliation Report** to include all users for your office.
 - Count cash & check totals and write at bottom of report.
 - Differences in the report total and the actual cash/check totals should be indicated in the Over/Short field.
- Cashier must sign the Daily Cashier Reconciliation report.
- Verifier must sign the Daily Cashier Reconciliation report.

Deposits

- Deposits must be prepared daily using Wake County issued deposit tickets.
- Prepared deposits must be delivered to the bank daily.
- The deposit ticket and the Daily Cash Reconciliation Report must be scanned and emailed to cs.deposits@wakegov.com daily.