

NEW YORK STATE OF OPPORTUNITY | Division of Local Government Services

Intermunicipal Cooperation in Building Code Enforcement

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Municipal Responsibility to Enforce the Code

A Local Government May:

- **Staff:** Assemble necessary staff to perform the function
- **Opt Out:** Follow the procedure for passing enforcement onto the next level of government, often the county
- **Opt Back In:** Repeal previous law and adopt new one for administering the Code
- **Share:** Enter into an agreement with another municipality
- **Contract:** Retain a private firm or individual for inspection services

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The Code Enforcement Officer

- The Code Enforcement Officer (CEO) refers to the person who is qualified to enforce the NYS Uniform Fire Prevention and Building Code (Uniform Code)
- Often referred to as “building inspectors”
- The same local official often also enforces zoning and other local laws and ordinances

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Must the Local Government Hire a Certified Code Official?

- The code official must be certified as having completed a basic training course that includes 114 hours of instruction, or must obtain that certification within one year of his or her initial appointment.
- 24 hours of in-service training are required annually


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Hiring the Code Official

The NYS Department of Civil Service recommends that municipalities not make newly hired Code Enforcement Officers “permanent” until the candidate has fulfilled the training requirements



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Between Code Officials and for Conflicts

- When one municipality is without a code official or there’s a potential conflict of interest in an application, a code official from an adjacent municipality can fill in.
- Time and expense for required training and to obtain and maintain certification often results in sharing of code officials among smaller local governments

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Intermunicipal Cooperation

Why enter into a cooperative agreement?

- To share the costs of hiring a certified CEO
- To guard against possible problems with your municipal insurance coverage if a non-qualified individual issues a permit
- Alternative to opting out of local permitting



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Authority to Share Services

- Article 5-G of the General Municipal Law
- Article IX Section 1 of the NYS Constitution allows two or more municipalities to "join together pursuant to law in providing any municipal facility, service, activity or undertaking which each of such units has the power to provide separately."

Shared Services Benefits:

- Efficiency \$\$
- Creativity
- Fairness
- Consistency
- Expertise
- Possible Grant Opportunities


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The Process

- An agreement is not effective until each participating municipality approves it
- Agreements should always be in written form (the municipal attorney should review all agreements before they are signed)
- Approval requires a majority vote of the full voting strength of the governing board (action is by resolution)




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Types of Cooperative Agreements

Service Contract	Service Agreement
Where one municipality contracts with another to enforce the Uniform Code at a stated price	Two or more municipalities join together to enforce the Uniform Code


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Service Contract Should Specify

- Nature of agreement
 - parties, service, reasons, authority, terms
- Scope of service
 - service hours, limitations on service, prosecution of violations
- Service charge
 - amount, charge calculations, payment method, fee collection
- Liability of parties/insurance
- Contract term
 - negotiation process for amendments, termination
- Dispute settlement process

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Service Contract: Example

From the Niagara Frontier:

- Code official works full time for town for salary plus health, retirement, & workers compensation
- Code official works 6 hours/week for village; 1/5 of town salary plus retirement and workers compensation
- Town supplies car; bills village once a year for mileage
- Paperwork received and processed in town hall. Village paperwork and fees are later hand carried to village hall

Results:

- The combined town-village file system helps keep the town informed about village activities
- Village properties are kept up better, which results in better assessments and more tax revenues for the town

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Service Agreement: Example

From the Tug Hill Area:

- Code official time split half in village and town
- Salary slightly higher from town than from village
- Village bought car
- Town provides gas and car insurance
- Each pay workers' compensation and credit the State Retirement System

Results:

- Before sharing, the village lost several lawsuits because of incompetent code decisions. No litigation in the first 12 years of sharing
- The town supervisor reports that the town is cleaner now

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Service Agreement: Allegany Co. Munis

Towns:
 Angelica
 Belfast
 Birdsall
 Caneadea
 Centerville
 Hume
 New Hudson
 Rushford
 West Almond

Villages:
 Angelica
 Belmont (joined 2019)
 Cuba (joined 2019)




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Municipal Agreement for Code Enforcement (MACE)

- Since 2000. Two code officials for member municipalities.
- Single budget, paid pro-rata based on number of assessable parcels in municipality. \$7 per parcel in 2019 (~\$3,000 – 6,000 per municipality)
- Representatives of each member muni meet twice a year
- Caneadea maintains records and coordinates the program.
- Fees retained by town of Caneadea


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Determine the Employer

- Establish qualifications for enforcement personnel (contact your county civil service office)
 - Inspectors, Clerks, Secretaries
- Set a salary
- Determine who will provide benefits, workers compensation and State Retirement System credits
- Identify who will cover training costs

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Financing Enforcement

Address financial factors before they become issues

- How will budgets be set?
- Who will purchase and maintain shared equipment?
 - Who will pay for computers and code books?
 - Who will provide cars, car insurance and fuel?
- How will revenues be distributed?
- Who will have custody of funds and make payments?



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Liability

- Advise your municipal insurance carrier of intent to enter into a cooperative effort
- If both parties must be insured, obtain copies of the certificate of insurance
- In a service provider contract, consider adding an indemnification clause to insure that there will be no financial loss as a result of any legal action


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Residency

- Code officer is a public officer
- Code officer must be a resident of the municipality in which they serve unless properly exempted
- When acting under an Intermunicipal Agreement, the code officer must meet residency requirements of **one** of the participating municipalities



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Residency Exemptions

- **Cities** may, by local law, exempt code officials from residency as long as they reside in the same county
- **Villages** may, by resolution or local law, exempt code officials from residency as long as they reside in the same county
- **Towns** need State Legislature to pass a special law exempting CEOs from residency

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Private contractors for code enforcement

- When contracting for services, municipality must ensure provider meets training requirements
- They can't be designated public officers
- Municipal officer must be delegated authority to perform certain functions
- Non-public officer may not issue building permits, certificates, orders or appearance tickets
- Contract worker may not collect fees. Payment must be to the municipality


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Local Opt Out: County Code Enforcement

Several counties enforce the code for their local governments that opted out of administering the code in the 1980s when the Uniform Code was adopted in New York



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Countywide Code Enforcement

- Enables hiring of a larger, professional staff
- Code officials working county level that can reduce influence of local politics and friendship on public safety
- Opting out does NOT require an intermunicipal agreement

Wyoming County Codes

- Serves 16 towns and 7 villages—all munis except 1 village
- 6 staff with a variety of responsibilities

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Wyoming County Code Enforcement

- Costs not charged back to local governments
- Service is free but county keeps fee revenue
- Local governments have saved up to \$15,000 annually on code enforcement services
- Revenue for permits has steadily increased because of increased consistency
- Good for economic development: one-stop shop
- Department strategizing about how county staff can enforce zoning for local governments
- Local governments have requested county provide code enforcement services for them


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Some of the benefits of sharing

- In municipalities sharing multiple code officials
 - The code officials can achieve broader range of expertise
 - Staff can devote time and expertise to where it's needed
 - Expertise in plan review that a part-time code official would not have the opportunity to form
- Single municipalities with excess staff time could contract with a neighboring muni without sufficient activity to justify even a half-time code official
 - Two or more municipalities joining together may generate enough work to justify a full-time professional


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Local Government Efficiency (LGE) Program

- Helps local leaders identify best practices and implement actions focused on reducing municipal expenses and increasing efficiencies in service delivery.
- LGE funds are available annually to local governments through the New York State Consolidated Funding Application (CFA).
- All projects must demonstrate new opportunities for financial savings and operational efficiencies.

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Eligible Funding

Planning
 Capped at \$12,500 per municipality, per project
 Maximum of \$100,000 for a project
 50% State Funds/50% Local Funds

Implementation
 Capped at \$200,000 per municipality, per project
 Maximum of \$1,000,000 for a project
 90% State Funds/10% Local Funds

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Eligible Applicants

Local governments defined as

- towns, villages, cities, counties
- school districts, BOCES and public libraries
- fire and other special districts
- water and sewer authorities
- regional planning boards

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www.dos.ny.gov/lg/index.html

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