

**IN THE FOURTH DISTRICT COURT OF APPEALS
ATHENS COUNTY, OHIO**

**STATE OF OHIO, ex rel. Jonathan R.
Flowers, *et al.*,**

Relators,

v.

City of Nelsonville, Ohio, *et al.*,

Respondents.

Case No. 26CA0003

Panel Not Yet Assigned

AFFIDAVIT OF RICK L. DOSTAL

Garry E. Hunter (0005018)
Garry E. Hunter Law Offices, Inc., LPA
26 S. Congress St.
Athens, Ohio 45701
Phone (740) 592-5580
Fax (740) 592-5390
ghunter@hunterlawoffices.us

Counsel for Relators

Jonathan E. Robe (100698)
Robe Law Office
14 W. Washington St.
Athens, Ohio 45701
Phone (740) 593-5576
Fax (740) 593-5280
Jonathan.Robe@robelaoffice.com

*Special Counsel for City of Nelsonville, Ohio and
Trial Counsel for Nelsonville Respondents*

**EXHIBIT
E**

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**STATE OF OHIO, ex rel. Jonathan R.
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AFFIDAVIT OF RICK L. DOSTAL

STATE OF OHIO)
)
COUNTY OF WASHINGTON) ss.

Rick L. Dostal, being first duly sworn, according to law, and states the following:

1. I am over the age of 18 and have personal knowledge of the matters contained within this affidavit.
2. I currently serve as Chief Building Official for the Southeast Building Department. I've served in this capacity for approximately 5 years.
3. The Southeast Building Department contracts with local governments throughout southeast Ohio to provide building inspection and related services to local governments who lack funding or resources to have their own internal building departments.
4. One of the local governments in southeast Ohio that the Southeast Building Department contracts with to provide building inspection and related services is the City of Nelsonville in Athens County.
5. I personally worked on negotiating the contract between Southeast Building Department and the City back in the summer of 2025. Those negotiations culminated in Nelsonville City Council enacting Ordinance 48-25, a copy of which the City has provided to me. A true and accurate copy of Ordinance 48-25 is attached and incorporated by reference as

Attachment 1. Ordinance 48-25 was passed on September 8, 2025 and shortly thereafter went into effect.

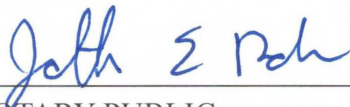
6. Since Ordinance 48-25 went into effect, the Southeast Building Department has provided building inspection and related services to the City of Nelsonville. I have worked closely with Mr. Austin Kelley, the Nelsonville Code Enforcement Officer. Mr. Kelley and I have maintained a good, professional working relationship as we provide building inspection and related services to the City.
7. On March 3, 2026 at 12:57 p.m., I received an email from Mr. Daniel Sherman from what appeared to be an official Nelsonville City email (councilmansherman@gmail.com). There followed a brief email exchange between myself and Mr. Sherman. A true and accurate copy of the email chain between myself and Mr. Sherman is attached and incorporated by reference as **Attachment 2** (which also includes an attachment Mr. Sherman sent to me). In the email chain, Mr. Sherman held himself out to me as “Nelsonville City Council President.” And Mr. Sherman told me, “the City of Nelsonville will no longer require your services.”
8. I was surprised to hear the City was canceling the contract with us because I was under the impression the City was pleased with our services. Thus, Mr. Sherman’s email was very confusing to me.
9. Because I couldn’t get an explanation from Mr. Sherman about why the City was canceling the contract with the Southeast Building Department, I reached out to the City’s administrative Assistant, Michele Preece, via email on March 3, 2026 at 3:16 p.m. A true and accurate copy of my email I sent to Ms. Preece is attached and incorporated by reference as **Attachment 3**.
10. Then, at 3:39 p.m. on March 3, 2026, I received an email from Mr. Kelley, the Nelsonville Code Enforcement Officer, with a building code question. There followed a brief email exchange between me and Mr. Kelley. A true and accurate copy of the email chain between myself and Mr. Kelley is attached and incorporated by reference as **Attachment 4**. I was very confused to receive this email after receiving what I had initially thought was notice the City was canceling its contract with the Southeast Building Department.
11. I later received clarification from Danette Miller, the Nelsonville City Manager, that the City was not canceling its contract with the Southeast Building Department but was rather continuing under the contract. She assured me the City would abide by its contractual obligations under the contract.

Further Affiant sayeth naught.



RICK L. DOSTAL

Sworn to before me and subscribed in my presence this 5th day of March, 2026.



NOTARY PUBLIC



Jonathan Edward Robe
Attorney At Law
Notary Public, State of Ohio
My commission has no expiration date
Sec. 147.03 R.C.

Ordinance No. 48-25Passed SEPTEMBER 8, 2005**ORDINANCE 48-25**

AN ORDINANCE ESTABLISHING THE NELSONVILLE BUILDING DEPARTMENT AND AUTHORIZING A REQUEST TO THE OHIO BOARD OF BUILDING STANDARDS FOR CERTIFICATION AS A SUB-DEPARTMENT OF WASHINGTON COUNTY BUILDING DEPARTMENT DBA SOUTHEAST OHIO BUILDING DEPARTMENT FOR ENFORCEMENT OF THE STATE OF OHIO BUILDING CODES FOR RESIDENTIAL AND NON-RESIDENTIAL CONSTRUCTION.

WHEREAS, Council finds the needs of the City of Nelsonville require establishment of local enforcement of the State of Ohio Building Codes;

WHEREAS, the City desires to enforce the State of Ohio Building Codes for the purpose of providing within the City uniform standards and requirements for the erection, construction, repair, alteration, and maintenance of buildings specified in Section 3781.06 of the Ohio Revised Code;

WHEREAS, the City requires the establishment of the Nelsonville Building Department to enforce the State of Ohio Building Codes within the City;

WHEREAS, Nelsonville City Charter, Section 6.02 provides: "The Council may, by ordinance or resolution, create, change or abolish any office, department, division, or subunit of any department or division, or agency, other than those established by the Charter. Council may assign additional duties to any department established by this Charter, but may not discontinue or assign to any other office, department, or agency, any function assigned by this Charter to a particular office, department, or agency;"

WHEREAS, Council finds it is necessary and in the best interest of the City to request certification from the Ohio Board of Building Standards for the Nelsonville Building Department to be a Sub-Department of Washington County Building Department dba Southeast Ohio Building Department to serve as the enforcement authority and accept and approve plans and specifications and make inspections in accordance with the Ohio Building Code for residential and non-residential construction within the City,

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NELSONVILLE, ATHENS COUNTY, OHIO, AS FOLLOWS:

1. The Nelsonville Building Department is hereby created and established.
2. The Nelsonville Building Department shall have full authority to enforce all laws, statutes, and regulations as provided for and authorized in the Ohio Revised Code and the Ohio Administrative Code, once certification has been approved by the Ohio Board of Building Standards.
3. Council hereby finds enforcement by the Nelsonville Building Department shall occur as a sub-department of the Washington County Building Department dba Southeast Ohio Building Department.
4. Ohio Administrative Code 4101:1 (the Ohio Building Code) and 4101:2 (the Ohio Mechanical Code) and 4101:3 (the Ohio Plumbing Code) as promulgated by the Ohio Board of Building Standards shall apply and be enforced within the City of Nelsonville, Ohio. However, the Athens County Board of Health may also enforce the Ohio Plumbing Code within the City.

RECORD OF ORDINANCES

GRAPHIC VILLAGE - CINCINNATI, OH

Form V6220S

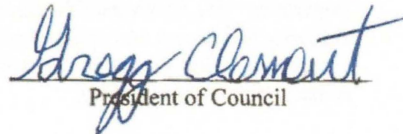
Ordinance No. 46-25

Passed SEPTEMBER 8, 2025

5. This Ordinance shall be in full force and effect from and after the earliest period permitted by law following promulgation of the Ohio Building Code and Ohio Mechanical Code, and Ohio Plumbing Code by the Ohio Board of Building Standards through the certification process, adoption and effective date of certification issued by the Ohio Board of Building Standards.
6. The City Manager is hereby authorized and directed to submit an application to the Ohio Board of Building Standards requesting the Board to certify the Nelsonville Building Department as a sub-department of Washington County Building Department dba Southeast Ohio Building Department for enforcement of the Ohio Building Code for residential and non-residential construction within the City, with the condition Southeast Ohio Building Department shall exercise the enforcement authority as necessary in accordance with the Ohio Building Code within the limits of the City.
7. Nothing in this Ordinance shall be construed as obligating payment of any funds by the City. Rather, this Ordinance shall not financially obligate the City of Nelsonville unless and until such financial obligation is approved by separate ordinance duly enacted by Council.
8. Council hereby finds and determines that all formal actions taken relative to the adoption of this ordinance were taken in an open meeting of the Nelsonville City Council, and that all deliberations of Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements.

Duly enacted by Council on second reading on the 8th day of September, 2025.

NELSONVILLE CITY COUNCIL


President of Council


Clerk of Council

First Reading: 08/11/2025
Second Reading: 09/08/2025



Rick Dostal <rdostal@wcgov.org>

Re: [External] Re: [External] Repealing ordinance 48-25

1 message

Rick Dostal <rdostal@wcgov.org>

Tue, Mar 3, 2026 at 3:59 PM

To: Daniel Sherman <councilmansherman@gmail.com>

Cc: Garry Hunter <ghunter@hunterlawoffices.us>

Mr Sherman,

Thank you sir, for your response.

SEOBD will not accept plan review applications after ordinance 08-26 dated 3/2/2026.

We will fulfill our responsibility to Nelsonville and provide services for plan approvals issued and/or applied for up to referenced date.

We wish you the very best best and are available for consultation or other at your request.

Respectfully,

Rick Dostal

Building Official ~ SEOBD

740.885.8151 ~ Mobile

740.374.4185 ~ Office

205 Putnam St.

Marietta, Ohio 45750

www.SEOBD.org

On Tue, Mar 3, 2026 at 3:39 PM Daniel Sherman
<councilmansherman@gmail.com> wrote:

Rick,

We feel it is in the best interest of the City of Nelsonville to return to the state for permitting and inspections.

Good Luck and thank you for your time

Nelsonville City Council
President
Daniel Sherman

On Tue, Mar 3, 2026 at 1:31 PM Rick Dostal <rdostal@wcgov.org> wrote:

Mr Sherman

Please allow me to ask why and how can I request reconsideration?

I was under the impression that Nelsonville was pleased with our services.

Rick Dostal
Building Official ~ SEOBD
740.885.8151 ~ Mobile
740.374.4185 ~ Office
[205 Putnam St.](#)
[Marietta, Ohio 45750](#)
www.SEOBD.org

On Tue, Mar 3, 2026 at 12:57 PM Daniel Sherman
<councilmansherman@gmail.com> wrote:

Mr. Rick Dostal

This is to inform you the City of Nelsonville will no longer require your services as we are returning back to the State for all permits and inspections. please see attached ordinance repealing ordinance 48-25. thank you for you time.

Nelsonville City Council
President
Daniel Sherman



Rick Dostal <rdostal@wcgov.org>

[External] Re: [External] Repealing ordinance 48-25

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thank you for you time.

Nelsonville City Council
President
Daniel Sherman

ORDANANCE 08-26

AN ORDINANCE REPEALING NELSONVILLE ORDINANCE 48-25 ESTABLISHING THE NELSONVILLE BUILDING, DEPARTMENT AND AUTHORIZING A REQUEST TO THE OHIO BOARD OF BUILDING STANDARDS FOR CERTIFICATION AS A SUB-1 DEPARTMENT OF WASHINGTON COUNTY BUILDING DEPARTMENT DBA SOUTHEAST OHIO BUILDING DEPARTMENT FOR ENFORCEMENT OF THE STATE OF OHIO BUILDING CODES FOR RESIDENTIAL AND NON-RESIDENTIAL CONSTRUCTION AND DECLARING AN EMERGENCY.

WHEREAS the creation of a Nelsonville Building department as a sub department of the Southeast Ohio Building Department is not in the best interest of Nelsonville;

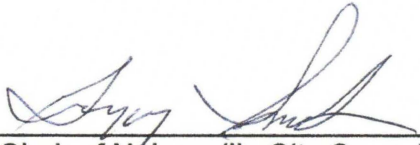
WHEREAS, Nelsonville should return to the State building standards and inspectors;

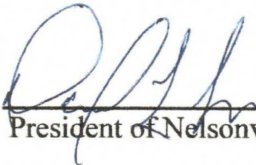
NOW THEREFORE, BE IT ORDAINED by the Council of the City of Nelsonville, Ohio, as follows:

1. Ordinance 48-25 adopted by Nelsonville Council, on September 8, 2025, is hereby repealed.
2. This Ordinance is being passed as an emergency measure pursuant to O.R.C. 731.30, as an emergency in the operation of the City government and is necessary because the City of Nelsonville must immediately return to utilizing the State of Ohio building Standards and this Ordinance shall be in full force and effect upon its adoption.

Duly enacted upon first reading under suspension of the rules on the 2nd day of March 2026

NELSONVILLE CITY COUNCIL


Clerk of Nelsonville City Council


President of Nelsonville City Council

Adopted under suspension of the Rules on first reading on March 2, 2026.



Rick Dostal <rdostal@wcgov.org>

Greetings

1 message

Rick Dostal <rdostal@wcgov.org>

Tue, Mar 3, 2026 at 3:16 PM

To: Michele Preece <administration@cityofnelsonville.com>

Michelle

I'm disheartened to read a letter from Mr Sherman canceling our association. Especially without any conversation to inform me of problems or reasons why. May I ask reasons City Council has chosen to go back to State. I was under the impression that we were providing quality service to Nelsonville. If not I'd be happy to learn of constructive criticism to do a better job.

Thank you very much

Rick Dostal
Building Official ~ SEOBD
740.885.8151 ~ Mobile
740.374.4185 ~ Office
205 Putnam St.
Marietta, Ohio 45750
www.SEOBD.org



Rick Dostal <rdostal@wcgov.org>

Re: [External] FEMA Guidelines

1 message

Rick Dostal <rdostal@wcgov.org>

Tue, Mar 3, 2026 at 7:10 PM

To: Code Enforcement <codeenforcement@cityofnelsonville.com>

Austin

Can you share with me what happened at Nelsonville that City Council has canceled out MOA?

I thought we were doing a good job?

Rick Dostal

Building Official ~ SEOBD

740.885.8151 ~ Mobile

740.374.4185 ~ Office

205 Putnam St.

Marietta, Ohio 45750

www.SEOBD.org

On Tue, Mar 3, 2026 at 3:29 PM Code Enforcement <codeenforcement@cityofnelsonville.com> wrote:

Good afternoon Rick,

Do you know any information pertaining to college regulations and exempts to FEMA?

Regards,

Austin Kelley

Nelsonville Code Enforcement Officer

211 Lake Hope Drive

Nelsonville, OH 45764

(740) 753-1314

codeenforcement@cityofnelsonville.com



CODE



ENFORCEMENT

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Rick Dostal <rdostal@wcgov.org>

Re: [External] RE: [External] FEMA Guidelines

1 message

Rick Dostal <rdostal@wcgov.org>

To: Code Enforcement <codeenforcement@cityofnelsonville.com>

You are welcome to stay in touch in regards to Code Enforcement should you have questions

*Rick L. Dostal*

Chief Building Official

340 Muskingum Dr.

Marietta, OH 45750

Office: (740) 374-4185

Cell: (740) 885-8151

On Wed, Mar 4, 2026 at 8:04 AM Code Enforcement <codeenforcement@cityofnelsonville.com> wrote:

I have no idea what happened. I don't follow what the council does on a regular basis. I'll forward this over to the city manager, she will be able to help

Regards,

Austin Kelley

Nelsonville Code Enforcement Officer

211 Lake Hope Drive

Nelsonville, OH 45764

(740) 753-1314

codeenforcement@cityofnelsonville.com

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From: Rick Dostal <rdostal@wcgov.org>

Sent: Tuesday, March 3, 2026 7:11 PM

To: Code Enforcement <codeenforcement@cityofnelsonville.com>

Subject: Re: [External] FEMA Guidelines

Austin

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I thought we were doing a good job?

Rick Dostal
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Austin Kelley

Nelsonville Code Enforcement Officer

[211 Lake Hope Drive](#)

[Nelsonville, OH 45764](#)

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codeenforcement@cityofnelsonville.com



CODE ENFORCEMENT

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